City of Seattle

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Finance and Administrative Services

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Approved:

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Rule FHDR-6, Approval of an Agreement, Changes to an Existing Agreement and Withdrawal of an Existing Agreement (SMC 6.310.735.H, .I and .J)

This Rule establishes the Director's processes for (1) approving an agreement negotiated by an Exclusive Driver Representative (EDR) and Driver Coordinator or produced through interest arbitration, (2) approving changes to an existing agreement and (3) withdrawing approval of an existing agreement, as authorized by the Seattle Municipal Code (SMC).

Director Review and Approval of an Agreement

Transmittal

Once an EDR and Driver Coordinator have reached a proposed agreement, they will transmit it to the Director for review and approval. If a driver vote is required for an EDR's approval of an agreement, any such vote must occur prior to the agreement's transmittal to the Director.

A proposed agreement reached through interest arbitration will be transmitted to the Director by the arbitrator after the arbitrator has considered the criteria specified in the SMC and issued a final proposal. In addition to the proposed agreement, the arbitrator will submit a report that describes the basis for the arbitrator's resolution of any disputed issues.

The Director will issue the determination of whether a proposed agreement will be approved within 60 calendar days of the receipt of that agreement. The Director may extend the deadline for good cause.

Review

The Director will review a proposed agreement for compliance with SMC Chapter 6.310, and to ensure that the substance of the agreement promotes the provision of safe, reliable and economical for-hire transportation services and otherwise advances the public policy goals set forth in the SMC Chapter 6.310 and Ordinance 124968. Factors the Director could consider during a review include, but are not limited to, the following:

1. Safety: the agreement's effect on drivers' training and/or knowledge, compliance with background checks and regulatory requirements, inspections of and safety standards for vehicles and scheduling and hours.

2. Reliability: the agreement's effect on vehicle and/or driver supply, geographic areas and groups served and customer service standards.

3. Economical: the agreement's effect on the affordability of rates for customers, operating costs incurred by drivers and the return on investment for drivers and driver coordinators.

In conducting this review, the Director need not limit the record to the submissions of the EDR, Driver Coordinator and interest arbitrator, nor to the terms of the proposed agreement alone. The Director will have the authority to gather and consider any necessary additional evidence, including by conducting public hearings and obtaining requested information and/or data from the EDR, Driver Coordinator and/or (if applicable) interest arbitrator. Information and evidence must be submitted to the Director within 15 calendar days of the Director's receipt of the agreement, the public hearing (if any) or the Director's request for additional information (if any), whichever is the latest.

For a proposed agreement reached through interest arbitration, to promote efficiency and the timely resolution of all issues, the Director may determine whether to consider objections raised under Director's Rule *FHDR-5, Interest Arbitration* and the review provided for under this Rule through a single consolidated process or through separate processes.

The Director will require each agreement to specify a fixed expiration date in order for it to be approved, subject to the proviso that the agreement will remain in effect until a successor agreement is reached and approved.

Approval
A proposed agreement will not go into effect until the Director affirmatively deems the agreement final and binding pursuant to the SMC. If the Director finds that the agreement is compliant with SMC Chapter 6.310; that it promotes the provision of safe, reliable, and economical for-hire transportation services; that it otherwise advances the public policy goals set forth in SMC Chapter 6.310 and Ordinance 124968 and, for a proposed agreement reached under interest arbitration, that no challenges raised under Director's Rule *FHDR-5* should be sustained, the Director will deem the agreement final and binding on all parties and provide written notice of such via email sent on the date of the Director's determination. The Director will include with the notice a written summary of the reasons behind the approval.

Rejection
The process for rejecting a proposed agreement reached through interest arbitration based on objections of bias, exceeding authority, or arbitrariness and capriciousness is set forth in Director's Rule *FHDR-5*.

If the Director finds a proposed agreement fails to comply with the requirements of SMC Chapter 6.310 or that the proposed agreement's substance fails to promote the provision of safe, reliable, and economical for-hire transportation services or to advance the public policy goals of SMC Chapter 6.310 and Ordinance 124968, then the Director will return it to the EDR and Driver Coordinator with a written explanation of the failure(s) and, at the Director's discretion, recommendations to remedy the failure(s) and deadlines for initiating further negotiations to seek to reach a compliant agreement.

In the case of the rejection of a proposed agreement reached through interest arbitration, the Director will return the agreement to the arbitrator, who will allow the parties to

negotiate in good faith and attempt to reach a compliant agreement without further interest arbitration. If either party elects at any time to return to interest arbitration instead of negotiating in good faith, however, interest arbitration will resume and the interest arbitrator will establish new deadlines.

Successor Agreements
Unless specifically stated otherwise, the same provisions of this Rule also apply to any successor agreements. Negotiation of a successor agreement will begin 90 calendar days before expiration of the current agreement. The existing agreement will remain in effect until a new agreement is reached and approved by the Director.

Challenges to a Director's Approval of an Agreement
An EDR or Driver Coordinator may obtain judicial review of the Director's final determination approving an agreement rendered pursuant to the SMC, this Rule and Director's Rule *FHDR-5*. That review may be obtained by applying for a Writ of Review in the King County Superior Court within 14 calendar days of the date of the Director's determination, in accordance with the procedure set forth in Chapter 7.16 RCW, other applicable law and court rules.

The Director's final determination will not be stayed pending judicial review unless a stay is ordered by the court. If review is not sought in compliance with the SMC, the Director's determination regarding the agreement will be final and conclusive.

Changes to an Existing Agreement
If during the term of an approved agreement the parties reach agreement on any proposed amendments, the parties will submit those proposed amendments to the Director. If a driver vote is required for an EDR's approval of an amendment to an agreement, any such vote must occur prior to the amendment's transmittal to the Director.

The Director will review the amendment for compliance with SMC Chapter 6.310, and to ensure that the substance of the amendment, in the context of the agreement as a whole, promotes the provision of safe, reliable, and economical for-hire transportation services and otherwise advances the public policy goals set forth in SMC Chapter 6.310 and Ordinance 124968.

For approving proposed amendments, the Director will follow the process outlined in this Rule for approving a proposed agreement.

Withdrawal of an Existing Agreement
Per the procedures and standards set forth in the SMC and this Rule, the Director may withdraw approval of an agreement between an EDR and a Driver Coordinator if the Director determines that the agreement no longer adheres to the provisions of SMC Chapter 6.310 or that it no longer promotes the provision of safe, reliable and economical for-hire transportation services or furthers the public policy goals set forth in SMC Chapter 6.310 and Ordinance 124968.

In deciding whether to investigate the potential withdrawal of approval of an agreement, the Director may consider any documents, complaints, data audits or any other evidence or information giving the Director reason to believe that there is a problem with the agreement. The Director may decide whether to investigate any complaint received; the Director may disregard any complaint that appears frivolous and/or lacks verifiable evidence.

If the Director determines that an agreement no longer adheres to the provisions of SMC Chapter 6.310 or that it no longer promotes the provision of safe, reliable and economical for-hire transportation services or furthers the public policy goals set forth in SMC Chapter 6.310 and Ordinance 124968, the Director will issue a written notice of intent to withdraw the agreement. Unless the Director concludes that attempts to negotiate an amendment to the agreement to address the identified problem(s) would be futile, the Director will provide the EDR and Driver Coordinator with an opportunity to negotiate an amendment to the agreement to remedy the problem(s) identified by the Director within a specified deadline.

If the parties are unable to negotiate an amendment within the specified deadline, the Director determines that the proposed amendment does not remedy the identified problem(s) or the Director declines to provide the parties with an opportunity to negotiate an amendment to remedy the problem(s), then the Director will provide the parties with written notice of the proposed withdrawal of approval and the grounds therefor and an opportunity to provide written responses and/or live testimony regarding the proposed withdrawal.

Following the notice and opportunity to be heard, the Director may withdraw approval of an agreement. If that occurs, approval of the entire agreement, not just a particular provision, must be withdrawn. The withdrawal of approval will be effective only upon the Director's issuance of a written explanation of the reasons why the agreement no longer adheres to the provisions of this Chapter 6.310 or no longer furthers the provision of safe, reliable, and economical for-hire transportation services or the public policy goals set forth in SMC Chapter 6.310 and Ordinance 124968.

If the Director withdraws approval of an agreement, the agreement is no longer effective and the EDR and Driver Coordinator will be required to meet and negotiate in good faith to reach a new agreement under the SMC and any rules and deadlines that apply to negotiations of successor agreements.

Public Availability of an Existing Agreement

The Director will make all approved agreements between an EDR and Driver Coordinator publicly available on a City website.