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February 17, 2017

Mr. Fred Podesta
Director, Financial and Administrative Services
700 5th Avenue
Suite 5200
Seattle, WA 98104
Fred.Podesta@seattle.gov

Re: Application of Teamsters Local 117

Dear Mr. Podesta,

On or about February 16, 2017, the International Brotherhood of Teamsters Local 117 (“Applicant”) filed an application with the Department of Finance and Administrative Services to be certified as a qualified driver representative (“QDR”) pursuant to SMC 6.310.110 and .735. However, the *Applicant does not meet the requirements to become a QDR* developed by your office. Accordingly, for many reasons including those summarized below, its application for designation as a QDR must be rejected.

On behalf of the for-hire drivers covered by the Ordinance and members of Drive Forward, I am submitting this position and supporting material¹ to ensure your office has information necessary for proper review of the application.

1. The Applicant’s overt, deeply rooted and longstanding antagonism it has demonstrated to the now-targeted drivers demonstrates that that the Applicant *cannot and will not be able to meet the Ordinance’s requirement to represent drivers’ interests fairly and in good faith.*

The Applicant has fought diligently, firmly and directly in opposition to the very existence of the Transportation Network Company (“TNC”) drivers and work by union-free taxi cab drivers in this and other markets. It has done so directly and via affiliates which it supports economically, substantively and administratively. One of these is the Western Washington Taxicab Operators Association (“WWTOA” or “Association”) which the Applicant helped create and now actively supports. The WWTOA has affirmatively promoted the interests and welfare of unionized taxi cab companies and lobbies on their behalf—typically at the direct expense of TNC drivers.

The Applicant’s opposition to the interests and welfare of TNC and other union-free drivers has been consistent for many years in courts, before governmental administrative agencies, in regard to municipal and state

¹ Detailed citations and evidentiary support for the positions below are provided in the enclosed supplemental material.

legislative initiatives and in multiple public forums. So firm and deeply entrenched is the Application's opposition, it cannot now, with any credibility, attempt to simply "reverse field" by superficially embracing those drivers against whose very interests they have been fighting for so long. Now, in thinly-veiled, self-serving fashion, the Applicant wants to secure exclusive and total control over the rights these drivers currently have and value to speak on their own behalf--a maneuver that in light of both the letter and spirit of the Ordinance and Rules, the DFAS should not permit.

One motive is obvious. The Applicant now seeks to represent TNC drivers in order to expand its pool of new dues-payers in this important and growing segment of the industry.

Another motive is not as obvious, yet of greater concern. Since the Applicant has tried valiantly yet has been unable to stop the TNC drivers' entry into the industry, it can be expected to use its position as the exclusive, sole voice of the TNC drivers to achieve via collective bargaining to achieve what it tried but it was unable to accomplish via other means. If it achieves certification as QDR and subsequent designation as an EDR, the Applicant will have unfettered discretion and total control to bargain terms which are not in the best interests of the TNC drivers they would represent, but instead serve to benefit the Applicant's long-time, allied constituencies who compete with the independent TNC drivers. That cannot and should not be permitted.

Based upon its consistent history of political advocacy and representation in support of the taxi cab industry and *against* the presence and interests of TNC drivers which continues to this day, the *Applicant is substantively and irreversibly conflicted.*²

The past practices and aggressive positions of the Applicant and its representatives have been clear and consistent in purpose to drive the independent TNC drivers off the road—until it realized that its efforts had failed. At that point, its strategy and associated tactics shifted and the Applicant transparently, yet artificially, has shamelessly attempted to seek the support of individuals it had always viewed as an adversary and threat to the well-being of employees in its other bargaining units. Indeed, among the pre-Ordinance positions and actions of the Applicant:

- It opposed the very existence of TNCs at the Sea-Tac airport and elsewhere in this marketplace, and otherwise adopted positions consistently contrary to the best interests of the TNC and union-free taxi cab drivers.
- It filed a lawsuit in 2014 which attempted to ban TNC drivers from working in the market.
- The Applicant lobbied the Seattle City Council to impose a cap upon the number of app-based drivers who could operate in the city at any given time.

²The Applicant's inherent conflict extends beyond independent TNC drivers and renders it unqualified to represent independent taxi cab drivers as well. Its unabashed, partisan perspective favoring its dues-paying constituency is reflected in the Applicant's opposition to union-free competitors including Eastside for Hire and E-Cab—which secured a contract as the exclusive service-provider at the Sea-Tac airport over the incumbent, Teamster-represented Yellow Cab. The award was made after a competitive bidding process conducted by the Port and despite the Applicant's opposition to the change. The Applicant's antagonism toward the current service provider and to the detriment of its independent drivers is demonstrated in its attempts to delay finalization of the contract with the Port, and has continued since the contract was awarded. The Applicant recently declared that a "labor harmony" agreement would not be agreed with Eastside for Hire unless and until Eastside agreed to full collective bargaining rights regarding its drivers—a condition Eastside appropriately was unwilling to concede.

- While publicly supporting a limit on TNC drivers, Applicant-representative Dawn Gearhart accused TNC drivers of competing illegally with taxi cab drivers.
- Ms. Gearhart told the Port Commission that app-based drivers pose a public safety threat and argued they should not have access to the airport *because they were hurting the earnings of taxi cab drivers*.
- Its activity *against* the best interests of the drivers it now seeks to represent is ongoing. Earlier this month, representatives of the Applicant testified in opposition to legislation now pending in the Washington state legislature which would expand opportunities for drivers by eliminating the patchwork system of local state regulations which limits where they may pick up riders. Many drivers testified in favor of the legislation at a state Senate hearing, calling upon the state to simplify the current maze of local requirements which limits the economic opportunity available to drivers and forces them to “dead head” back whenever a rider takes them to a destination outside their home area.

The Applicant’s representation of unionized taxi cab drivers and its *de facto* subsidiary Western Washington Taxicab Operators Association underscores the inherent conflict here as the Teamster-represented taxi cab drivers and TNC drivers compete directly with each other. The Association has a clear history of representing the interests of Yellow Cab drivers and owners and fighting *against* the flat rate for hire industry. As far back as 2012, the Association’s newsletter said “(t)he City isn’t doing enough to protect us from For Hire vehicles. They are taking our business.”

The Applicant and its affiliated entities have provided financial contributions and met frequently with its political allies in trying to influence positions and legislation which conflict with the best interests of TNC drivers.³ The Applicant has long supported, represented, and continues to represent the interests of unionized taxi cab drivers who are in direct competition and opposition to the work, hours, income and very presence of TNC and work by union-free taxi cab drivers. The Applicant’s parent organization, the International Brotherhood of Teamsters (IBT) consistently has adopted and vigorously pursued similar positions contrary to the interests of TNC drivers across the country.

This history and its aggressive positions renders the Applicant incapable of fairly and in good faith representing the drivers it has targeted to become new, dues-paying members in place of others whose jobs it was unable to protect. It cannot simply declare its alleged support now when the documented and consistent positions it has taken—in the Seattle political arena and other venues nationally—are entirely contrary to the best interests of TNC and other union-free drivers.

Accordingly, the Applicant has rendered itself incapable of proper representation of the targeted unit. The record clearly reflects a significant, overt and insurmountable conflict of interest which would preclude the Applicant from meeting its obligations to represent independent contractor drivers fairly and in good faith, even if approved as QDR and certified as an EDR.

³ Indeed, the Applicant is represented by the same law firm as that which advised the City and its Department of Finance and Administrative Services in adopting the Rules related to the Ordinance in pending litigation which challenges the Rules under the Ordinance. This alliance underscores our potential concern regarding the requisite objectivity and fairness with which the qualifications of the Applicant must be assessed.

Thus, and for the additional reasons set forth in Section 2 below, the Applicant fails to satisfy the requirements of **Qualification 3**.

2. The Applicant also fails to meet **Qualification 3** because *it has not demonstrated a commitment to the fair and effective representation of independent contractor drivers*, and certainly has no record of doing so.

Many drivers work for multiple TNC's. While it may appear that they work "part time" with an individual company, they often accumulate full-time hours across multiple sources. The Applicant has not only tried to block this group's participation in the certification process under the Ordinance, it cannot effectively represent their needs and interests with a single entity among the many with which they work.

Furthermore, *many employees represented by the Applicant have become so dissatisfied with the Applicant in recent years, they petitioned the government to have it removed* as their collective bargaining representative. The decertification process is a challenging one, and often subjects the petitioner to risk of harassment and retaliation by union leadership. The fact that over 30 bargaining units have attempted to do so since 1993 illustrates the Applicant's failure to effectively represent and reach agreements satisfactory to its membership.

As additional support for its disqualification under this standard, we note that the *Applicant also has been subject of federal charges alleging unlawful action and other misconduct related to its collective bargaining and work stoppages which it initiated involving Seattle area employers*. These unfair labor practice claims reflect an unwillingness and/or inability of the Applicant to meet its legal obligations related to negotiations and failure to establish or maintain consensus agreements with its bargaining units' employers.

Finally, the Applicant has *failed to reach agreement with Seattle-area employers through the collective bargaining process and instead resorted to strikes* on at least 15 reported occasions in recent years, including one work stoppage which lasted more than a year.

For these and, most significantly, the reasons noted in Section 1 above regarding the Applicant's overt and insurmountable conflict of interest in representing the TNC drivers who often compete for the same work with drivers in bargaining units who previously were and/or are now represented by the Applicant, the Applicant fails to satisfy the requirements of **Qualification 3**.

3. The Applicant's organizational by-laws expressly demonstrate its *subservience to the discretion and control of the parent IBT*, a relationship expressly confirmed in the by-laws and Constitution of the IBT. Among the control over the Local specifically reserved to the parent International Union, the Local must carry out the objectives of the International (Section 4) and the International may disapprove execution of a collective bargaining agreement by the Local (Article XII.)

This relationship and waiver of local control stands directly in conflict with the requirement that represented drivers would be afforded a meaningful opportunity to participate in democratic control of the organization should the Applicant be certified as an EDR.

Furthermore, the *IBT's long and consistent record of leadership misconduct, abuse of discretion, and legal violations including corruption and mismanagement* is counter to any reasonable belief that this standard can or will be met by its affiliated Local 117. In fact, the IBT leadership has been charged with misconduct and interference with the 2016 election results and an investigation now is being conducted.

Thus, the Applicant fails to meet **Qualification 2**.

4. The Applicant has faced over 100 charges of unlawful action and other misconduct by its leadership in violation of federal law over the past 25 years. Thus, it fails to meet the standard set forth in **Qualification 4** which requires that the organization not interfere with, restrain or coerce represented individuals in the exercise of their protected rights.

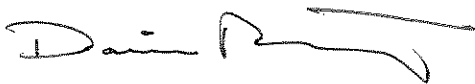
Most of these charges were filed by disgruntled bargaining unit employees who alleged the *Applicant failed to meet its legally-mandated "duty of fair representation"* in violation of the National Labor Relations Act.

Other unfair labor practice charges allege *discrimination by the Applicant against represented individuals in retaliation for their failure to join and pay dues to the organization or support leaders* of the Applicant.

The Applicant's parent organization (*IBT*) was subject of a federal lawsuit alleging *institutional corruption and widespread leadership misconduct*. While this was addressed by a longstanding consent decree, the IBT currently remains under direct scrutiny for violating that decree.

The Director has the duty and responsibility to assess an applicant's qualifications as a QDR. For the many reasons noted, we urge the Director to conclude that the Applicant has failed to meet all requisite qualifications. At a minimum, the Director should withhold approval unless and until the issues identified here have been fully investigated and assessed. In that regard, we are prepared and would be pleased to provide additional insight or support for the concerns identified.

Very truly yours,



Daniel Ruttenberg

Enclosures

cc: Mayor Ed Murray (via hand-delivery)