

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

RESOLUTION APPROVING A PILOT PROGRAM TO  
EVALUATE ELECTRONIC HAIL APPLICATIONS

December 13, 2012 as amended on February 21, 2013

The New York City Taxi and Limousine Commission (the "Commission") hereby approves by resolution ("Resolution") a pilot program ("Pilot Program"), pursuant to section 52-27(a) of the Commission's rules to test and evaluate smartphone electronic hail applications that can be used to request taxicab service.

In recent months a number of companies have approached the Taxi and Limousine Commission ("TLC") about introducing services that would allow taxicab passengers ("Passengers") within New York City to arrange on-demand taxi service through an electronic hail application ("E-Hail App") resident on a smartphone, and services allowing Passengers to pay for their fare using a smartphone ("E-Payment"). Passenger survey data obtained by the TLC indicates that more than 50% of those questioned were interested in both the ability to use E-Hail Apps (57%), and the ability to use E-Payment (55%). TLC's current governing regulations, many of which predate E-Hail technology, do not clearly authorize such services.

As E-Hail Apps have emerged, TLC has undertaken serious diligence in exploring options that will encourage innovation and provide new and desired services to taxi passengers. TLC held numerous meetings with over fifteen separate industry groups and E-Hail App providers. The TLC has determined that a live study would be valuable in order to more fully evaluate the benefits and costs of allowing E-Hail Apps and E-Payment. Therefore, the TLC will authorize E-Hail Apps which meet the operational and security standards as set forth by the TLC to operate for a limited duration on a pilot basis. The Pilot Program is solely for purposes of assisting the TLC in learning about the feasibility of E-Hail Apps and E-Payment and participation in the Pilot Program does not signal authorization to operate beyond the guidelines of the Pilot Program.

Participating E-Hail Apps may allow Passengers to identify the location of taxicabs, allow licensed TLC taxicab drivers ("Drivers") to identify the location of Passengers, allow a Passenger to hail a taxicab electronically and allow a Driver to receive and accept a hail request. Additionally, participating E-Hail Apps may also allow E-Payment, the ability for Passengers to pay for their taxi fare, tip and extras through the E-Hail App.

As set forth more fully below, Drivers who choose to use a participant's E-Hail App during the term of the Pilot Program will be exempted from certain Commission rules.

Pursuant to section 52-28(a) of the Commission's rules each participant in the Pilot Program ("Participant") must enter into a binding Memorandum of Understanding ("MOU") with the Chair on behalf of the Commission which approved as to form by the New York City Law Department obligating the Participant to adhere to all requirements of this Resolution and

setting forth additional specifications for each requirement. This Resolution contains a summary of the major MOU terms and does not include each and every term. The MOU cannot conflict with any provision of this Resolution.

Pursuant to section 52-27 (b) of the Commission's rules, this approval is subject to the following terms:

1. Commencement and Duration:

a. The Pilot Program will commence on the date on which the first Participant's application is approved by the Chair but no earlier than February 15, 2013 and will continue for twelve consecutive months thereafter.

2. Means of Public Notice

a. Notice of opportunity to participate in the Pilot Program will be published in the City Record and on the Commission's website.

3. Applications

a. The TLC will begin accepting applications for participation in the Pilot Program ten days after the date on which a template MOU setting forth the specific terms of participation is published on the TLC website.

b. TLC will accept applications throughout the duration of the Pilot Program, but an authorization to participate in the Pilot Program ends when either the Pilot Program is terminated in whole or as to a particular Participant or the term of the Pilot Program has expired.

c. Each candidate applying must:

- Submit an acceptance test plan demonstrating that its E-Hail App and related services comply with the technical standards and service level requirements set forth in the MOU.
- Submit documentation demonstrating that an independent third party with relevant expertise has performed acceptance testing consistent with the acceptance testing plan, and certified the successful results of the acceptance testing;
- Submit documentation demonstrating independent third party certification of security testing of the E-Hail App and related services to determine compliance with the security standards set forth in the MOU.
- Enter into a binding MOU with the Chair on behalf of the Commission which is approved, as to form, by the New York City Law Department.

4. Selection

a. Selection of Participants will be made by the Chair.

b. Criteria for selection will include responsiveness to the public notice including adherence to technical, security and testing requirements, demonstrated capacity to deliver the proposed service and ability to meet the requirements set forth in this Resolution and the MOU.

c. The Chair may ask any candidate to supplement an application as necessary to complete the evaluation of applications and selection of participants.

d. The number of Participants in the Pilot Program is not limited

## 5. Use Restrictions

a. E-Hail Apps authorized under the Pilot Program must not allow a Passenger to submit a request for a hail at John F Kennedy International Airport or LaGuardia Airport or any other geographic area specified by the TLC, including, as appropriate, areas with taxi lines or taxi staging areas.

b. E-Hail Apps authorized under the Pilot Program and which allow a Driver to accept an E-Hail from a Passenger must ensure that:

- An E-Hail request submitted from a location within the Manhattan Central Business District (defined as Manhattan south of 59<sup>th</sup> Street) can only be accepted by a Driver who is within 0.5 miles of such location.
- An E-Hail request submitted from a location outside of the Manhattan Central Business District can only be accepted by a Driver who is within 1.5 miles of such location.

c. E-Hail Apps authorized under the Pilot Program must ensure that an E-Hail request transmitted to a Driver does not reveal the Passenger's desired destination.

d. E-Hail Apps authorized under the Pilot Program and which allow a Driver to accept an E-Hail from a Passenger must ensure that no information about the Passenger is transmitted to a Driver, except that a Passenger's trip identification number or E-Hail App user name may be transmitted to the Driver after the Driver has accepted the Passenger's E-Hail request.

e. E-Hail Apps authorized under the Pilot Program and which allow a Driver to accept an E-Hail from a Passenger must ensure that E-Hail requests are transmitted only to validly licensed Drivers using validly licensed taxicabs.

f. E-Hail Apps authorized under the Pilot Program and which allow a Driver to accept an E-Hail from a Passenger must ensure that Drivers cannot use the E-Hail App while driving a vehicle that is in motion, except that an E-Hail App may permit a Driver to accept an E-Hail request with a single touch.

g. An E-Hail App authorized under the Pilot Program must not remit to a Driver payment for a trip arranged by the E-Hail App that exceeds the fare for the trip as displayed on the taximeter plus tips, and extras if any.

## 6. Fares and Passenger Fees

- a. Participant may not charge a Passenger a fee for tip or gratuity unless the Driver receives the full amount, and the amount is determined by the Passenger. Participant cannot require a Passenger to pay a tip to the Driver.
- b. Participant must provide reasonable and effective notice to Passengers of all fees and rates charged by the Participant prior to a Passenger's use of the E-Hail App.
- c. Participant cannot charge a Passenger a fare for a trip that exceeds the fare as calculated by the Taximeter. Any amount charged by the Participant in excess of the fare and the tip must be clearly identified to the Passenger.

## 7. Integration with Taxi Passenger Enhancement Program (“TPEP”)

- a. A Participant with an E-Hail App that permits E-Payment must be integrated with TLC-authorized TPEP providers to ensure that the fare charged for any trip is calculated by the taximeter, is processed by a TLC-authorized TPEP provider, and that the E-Hail App provides to the TPEP providers relevant payment information necessary to display total charges including fare, tip and extras on the Passenger Information Monitor and on the printed receipts; provided, however, that the Chair may waive this integration requirement if the TLC-authorized TPEP system cannot adequately support integration and that Participant has developed alternative means to protect Passengers against overcharging, ensure that all trip related data is reported to the TLC and ensure that all trip based taxes and fees are collected.

## 8. Security and Safety Requirements and Evaluation

- a. Participants providing E-Payment must comply with all Payment Card Industry Data Security Standards (“PCI”) issued by the Payment Card Industry Security Standards Council as they may change from time to time. Until the point at which PCI Standards are formally adopted for mobile payments, an E-Hail App which contains E-Hail Payment must comply with all guidelines dictated by the PCI Security Standards Council.
- b. Participants must not store credit, debit and prepaid card magnetic strip information made through the E-Hail App after the Driver has received authorization for use of the card.
- c. Participant must inform the TLC if it is required to make disclosures under State or Federal law regarding security breaches, including the New York State Information Security Breach and Notification Act (General Business Law section 899-aa).
- d. Participant must immediately notify the TLC if it makes any material modifications to its TLC authorized E-Hail App or E-Payment service and cannot use the modified service until such modification has been approved by the TLC.

e. In addition to the initial security and safety evaluation performed by TLC prior to implementation of the Program, Participant must ensure that during implementation of the Program, the E-Hail App can be inspected and accessed by the TLC, including TLC ordered testing and the Participant will cooperate with the TLC regarding any demonstration of the E-Hail App and E-Payment.

## 9. Data

a. Participant must be capable of automatically collecting and transmitting to the TLC authorized TPEP provider data pertaining to the taxicab trip including but not limited to Participant identifier, payment type, and total fare, last four digits of the credit card or debit card number, tip amount and extras if any.

b. Participant must be capable of generating and providing in a form acceptable to the Commission, data, including but not limited to, number of payment transactions, credit card information for each transaction, summary of fares and extras if any.

c. Participants must maintain all of the above required data for at least three years after the date on which the Participant commences providing E-Hail services, including E-Payment pursuant to the Pilot Program.

d. Participants must submit to the TLC each month a summary of all Passenger complaints received in the prior month.

## 10. Insurance/Indemnification

a. Each Participant must provide the Commission with proof of primary insurance as required by the MOU, including but not limited to Commercial General Liability Insurance; Professional Liability Insurance and Crime Insurance.

b. Each Participant is responsible for conduct of its employees, contractors, and agents, and must familiarize each with relevant regulatory rules and regulations.

c. Participant must defend, indemnify and hold harmless the City of New York, its officers and employees from all claims arising from participation in the Pilot Program

## 11. Damages

a. Participants shall be responsible to pay Drivers, other TLC licensees, Passengers and the TLC, restitution and liquidated damages, as applicable, for any harm caused by unauthorized use of their E-Hail App or E-Payment during the duration of the Pilot Program, as specified in the MOU.

## 12. Compliance

- a. Participant is prohibited from engaging in any electronic hail service or electronic payment service not authorized under the Pilot Program.
- b. Participant must comply with all applicable state and federal and local laws, including but not limited to Occupational Health and Safety Administration (OSHA) standards and requirements, all laws regarding workers compensation, disability benefits and tax withholding, and payment of all fees and fines owed to state, federal or local government jurisdictions when they are due.
- c. Participant must not file with the Commission any statements that he or she knows or reasonably should know to be false, misleading, deceptive or materially incomplete.
- d. Participant must not accept, request, give or offer gifts or gratuities to or from a licensee for the purpose of violating any of the requirements of the Pilot Program or applicable state, federal and local law, and must report to the TLC and the New York City Department of Investigations request or offers for the same.
- e. Participant must not commit fraud, misrepresentation and larceny, willful acts of omission and commission; and must not act against the best interests of the public, such as acts of threats, harassment, abuse, use or threat of physical force, or failure to cooperate with law enforcement or the Commission.
- f. Participant must notify the TLC in writing of any suspension or revocation of any license granted to the Participant by any local, state or federal agency.

### 13. Exemption

- a. Drivers who use an E-Hail App authorized under the Pilot Program are exempt from section 54-14 (e) of the Commission's rules, provided that:
  - the device containing such E-Hail App is mounted in the taxicab vehicle;
  - the Driver enters "off duty" in the TPEP system once he or she has accepted an E-Hail request

### 14. Use Optional

- a. Drivers can choose whether or not they would like to use a Participant's E-Hail or E-Payment service. Participation in the Pilot Program does not create an obligation on Drivers to use these services.

### 15. Reporting and Evaluation

- a. Participants must submit a report to the TLC every other month summarizing data including but not limited to, pick up and drop off locations and times, fares, and fees.

b. No later than two months after a Participant ceases to operate under the Pilot Program, it must submit to the Chair a program summary report including data set forth in the MOU.

c. TLC staff shall prepare and transmit to TLC Commissioners quarterly reports throughout the duration of the Pilot Program. Such reports shall include data about the use of E-Hail Apps and shall evaluate:

- whether and to what extent E-Hail Apps assist Passengers in arranging on-demand service by taxicabs;
- whether and to what extent the use of E-Hail Apps affects the income of TLC licensees, including taxi drivers and owners, livery drivers, owners and bases, and black car drivers, owners and bases.
- to the extent possible, data on the effect of E-Hail Apps on TLC licensees and passengers.
- to the extent possible, the impact on taxicab service including passenger refusals and on passengers who do not own a smartphone device.

d. The final quarterly report, including data for the period up to and including the ending date of the Pilot Program shall be deemed the final report and will include findings based on the last quarter and the duration of the Pilot and a recommendation as to whether or not to continue the program or undertake rule-making. If the recommendation is to undertake rule-making, the TLC will initiate rule-making within 8 months following submission to the Commission of the final report.

## 16. Termination

a. If the TLC determines a Participant has violated or not complied with any provision of this Resolution or the MOU it may immediately terminate approval to participate in the Pilot Program.

b. The TLC can cancel the Pilot Program if it receives corroborated evidence that an E-Hail or E-Payment application authorized for use in the Pilot Program creates a security, safety or other unacceptable risk to owners, passengers or Drivers.