

**INTERAGENCY AGREEMENT
BETWEEN
WHATCOM COMMUNITY COLLEGE
AND
WHATCOM TRANSPORTATION AUTHORITY**

THIS AGREEMENT is made and entered into by and between Whatcom Community College (“WCC”) and Whatcom Transportation Authority (“WTA”) pursuant to the authority granted by RCW Chapter 39.34.

- WHEREAS**, this agreement will outline responsibilities, organization, and administration of the Orca Express Bus Pass program;
- WHEREAS**, this agreement establishes a program allowing authorized by WCC students to have prepaid access to WTA’s system wide service;
- WHEREAS**, WCC makes a Whatcom Community College ID Card (“ORCA CARD”) available to students upon their paid WCC registration that functions as a WTA Bus Pass;
- WHEREAS**, WCC assumes the expense of the card and administers the activation and deactivation of the ORCA CARD;
- WHEREAS**, The Intellectual Property Agreement (Exhibit A), and the Letter of Agreement (Exhibit B) outlining expectations associated with upholding the Family Educational Rights and Privacy Act (FERPA) are incorporated through reference and required as part of this Agreement;
- WHEREAS**, WTA will provide public transportation services at no additional cost to WCC students who use the ORCA CARD on any WTA Fixed-Route Service (including 80X – Mt. Vernon) or Paratransit (consistent with WTA Paratransit eligibility);
- WHEREAS**, rides taken using the ORCA CARD will be billed to WCC on a quarterly basis;
- WHEREAS**, WTA provides free rides for youth 18 years of age and under through Move Ahead Washington legislation;
- WHEREAS**, WTA will partner with WCC to create and provide promotional and educational materials related to the ORCA CARD program;

NOW THEREFORE, the parties agree to the following terms and conditions:

1. SCOPE OF WORK

The parties shall furnish the necessary personnel, equipment, material and/or service(s) and otherwise do all things necessary for or incidental to the performance of the work set forth in this agreement.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable State and Federal statutes and rules:

- b. Statement of Work; and
- c. Any other provisions of the agreement, including materials incorporated by reference.

2. TERM AND TERMINATION

Subject to its other provisions, the initial term of the Agreement shall commence on September 1, 2022 and expire on August 31, 2023.

Either party may renew the contract for four (4) additional terms of one (1) year each. The renewal will be in writing and executed by both parties.

Either party may terminate this agreement with thirty (30) calendar day written notice for any reason. All amounts due and owing for all uses of WTA's services by WCC up to the date of termination shall remain due and owing by WCC, which amounts shall be invoiced by WTA within ten (10) business days following the effective termination of the Agreement. After such termination, WCC students will be required to pay full price for cash fares and purchase bus passes directly from WTA.

If for any reason, either party does not fulfill in a timely and proper manner, its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within fifteen (15) working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

3. PAYMENT

WCC will pay WTA a fare per ride equal to WTA's "Reduced Fare" for single ride fixed route fares which is a fifty percent (50%) fare discount.

WTA will invoice WCC within ten (10) business days following the end of each quarter during the Agreement term(s) for the total number of rides taken by eligible WCC students during the prior quarter and provide supporting documentation with each invoice.

WCC shall pay such invoice within net thirty (30) calendar days of its issuance by WTA and make all payments to:

Whatcom Transportation Authority
4011 Bakerview Spur
Bellingham, WA 98226

Invoices shall be sent to:

Accounts Payable Department
Whatcom Community College
237 W. Kellogg Road
Bellingham, WA 98226
nlangstraat@whatcom.ctc.edu

Each party is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

4. WTA FARE INCREASES

WTA will notify WCC of any applicable fare increases no later than six (6) months before implementation of the fare increase. WCC fare increases will be effective at the same time as any WTA fare increase issued to the general public.

5. WCC STUDENT BUS PASS

WCC will be responsible for monitoring and controlling student access via WCC's card system. WCC will be responsible for monitoring student eligibility and ensuring that each student is on the correct list, as defined in Section 6, Student Eligibility.

6. STUDENT ELIGIBILITY

WCC and WTA agree to maintain two (2) separate student lists for the purpose of this agreement. These are defined as:

1. WCC Student – Regular, enrolled WCC Student
2. WCC Youth - Student 18 years old or younger

WTA will only charge WCC for students in the WCC Student category. WTA will provide ridership information for all categories of students.

7. ONGOING EVALUATION

The parties shall work cooperatively to monitor performance of this Agreement and the delivery of service.

WTA will provide WCC statistics on boardings and from any available passenger surveys, when requested in writing by WCC.

8. INDEMNIFICATION

The parties agree to indemnify, defend and hold harmless all agents, officers and employees, from and shall process and defend at their own expense all claims, demands, or suits at law or equity arising out of performance or failure to perform any

and all duties prescribed by this Agreement; provided that nothing herein shall require a party to indemnify and hold harmless the other from claims demands, or suits based upon the conduct of the party seeking indemnity, its agents, officers or employees.

In the event any such claim or suit is caused by a result from the concurrent acts, omissions or failure to perform any and all duties prescribed by this agreement by either party, their agents, officers, or employees, then this indemnity provision with respect to such claims or suits shall be valid and enforceable only to the extent of each party's respective negligent conduct or omissions. The obligation to provide indemnity set out above shall extend to any claim made by an employee of the indemnitor, and to this limited extent to any claim made by an employee of the indemnitor, and to this limited extent the indemnitor hereby waives any protection afforded by the Washington State Worker' Compensation Act RCW Title 51.

9. CHANGES

No alterations or variation of any of the terms, conditions, prices, quantities, or specifications of this Agreement shall be effective without prior written consent of the parties. Oral changes, amendments or agreements are not permitted. Prior to becoming a contract modification, all changes must be prepared in writing and executed by the Parties. Only WTA'S General Manager and WCC's President, or their designees, shall have the express, implied, or apparent authority to alter, amend, modify, add, or waive any section or condition of this Agreement.

10. NOTICES

Notices will be provided to:

WTA
ATTN: Tami Coleman, Revenue Manager
tamic@ridewta.com
360-788-9333

WCC
ATTN: Nate Langstraat
nlangstraat@whatcom.ctc.edu
360-383-3350

11. ENTIRE AGREEMENT

The parties agree that this Agreement is the complete expression of the terms. Any oral representation or understandings not incorporated are excluded. Failure to comply with any of the provisions shall constitute material breach of the Agreement and be cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. The forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of all provisions.

12. VENUE AND ATTORNEYS' FEES

Any action to enforce or interpret this Agreement shall be commenced in the Superior Court for the State of Washington, Whatcom County. In any action to enforce or interpret this Agreement, the prevailing party shall recover from the other party its attorneys' fees and costs.

13. DISPUTES

In the event of a dispute under this Agreement, it shall be determined by a Dispute Board in the following manner:

Each Party shall appoint one (1) member to the Dispute Board. The members so appointed shall jointly appoint an additional member. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process either of the parties may request intervention by the Governor, as provided by RCW Chapter 43.17.330, in which event the Governor's process will control.

14. INDEPENDENT CAPACITY

The employees or agents of each party engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

15. RECORDS MAINTENANCE

The parties shall each maintain books, records, documents and other evidence which sufficient and properly reflect all direct and indirect costs expended by either party in the performance of the service described herein. These records shall be subject to inspection, review or audit by personnel of parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents and other material relevant to this Agreement will be retained for six (6) years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to the other will remain the property of the furnishing party, unless otherwise agreed to. The parties are required to comply with any Public Disclosure request under RCW Chapter 42.56, subject to any exception that may apply to WTA or WCC. Nonetheless, any information labeled "Confidential" or "Proprietary" but does not, fall into an exception from public disclosure, will be initially withheld and the requested party will notify the other party of the request. The requesting party will continue to withhold the materials for a total of

fourteen (14) days after providing notice. Thereafter, the requested party shall release the confidential or proprietary materials pursuant to the public records request, subject to any court order or injunction that the other party may obtain.

The other party assumes all costs of any legal actions, and shall reimburse the requested party for administrative, expert and costs and attorneys' fees it incurs arising from dealing with any legal action commenced by the other party.

16. SEVERABILITY

If any portion of this Agreement is legally unenforceable or invalid, that portion may be renegotiated by the parties. The remaining portions of the Agreement shall remain in full force and effect.

17. WAIVER

Either party's failure to immediately enforce any of its rights shall not be a waiver of its rights to seek enforcement of such right, or to enforce any other rights or remedy under the Agreement for any other breach.

18. POSTING OF AGREEMENT

Pursuant to RCW Chapter 36.34.040, WCC and WTA shall list the existence of this Agreement on their websites by Subject, or alternatively file the Agreement with the County Auditor.

19. ASSIGNMENT

This Contract may not be assigned to a third party without the prior written consent of the other party which shall be in its sole discretion, which consent shall not be unreasonably withheld.

20. RIGHTS IN DATA

Unless otherwise provided, data which originates from the Agreement shall be "works for hire" as defined by the US Copyright Act of 1976 and shall be owned by WCC or WTA depending on from where the data originated. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes and or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

21. COUNTERPARTS

Original signatures transmitted and received via electronic transmission of a scanned document (e.g. PDF or similar format) are true and valid signatures for all purposes of this Agreement and shall bind the parties to the same extent as that of an original signature. Signatures submitted electronically must be fully legible to be valid.

EXECUTION The parties hereby execute and authorize this Agreement to be effective September 1, 2022 regardless of the date of execution.

Les Reardanz

Signed: Monday, August 1, 2022

Les Reardanz, General Manager
Whatcom Transportation Authority

Kathi Hiyane-Brown

Kathi Hiyane-Brown, President
Whatcom Community College