

MEMORANDUM

TO: Chairman and Members of the Board of Directors

FROM: Tim Wilder, Planning Director
Tami Coleman, Revenue Manager
Magan Waltari, Purchasing & Contracts Manager

DATE: June 16, 2022

SUBJECT: Consideration of Approval of a Contract for a Student and Employee Bus Pass Program with Western Washington University

RECOMMENDATION

That the Board of Directors approve a one (1) year contract with Western Washington University (WWU) for WTA to provide WWU with a Student and Employee Bus Pass enabling Students and Employees of WWU access to all of WTA's service at a reduced fare and authorize the General Manager to execute any optioned extensions without further Board Approval.

BACKGROUND

In June 2021, the Board approved an extension and modification to WTA's agreement with WWU to provide a Student Bus Pass program. The modification changed the invoicing model from a bulk rate to a per tap model and added WWU Staff to the program. The extension to the agreement was designed to be the final one to get the agencies through the uncertainty with the ongoing COVID-19 pandemic and allowed the agencies to collaboratively test the new pricing model.

This new agreement mimics the extension and modification previously approved by the board. The per tap invoicing method ties payment directly to the amount of service used by WWU staff and students. Similarly, it allows a more responsive solution to changing campus activity, ensures WTA receives reasonable fare recovery for its service, and allows WWU to budget for the next fiscal year.

As with the June 2021 extension, the new agreement includes a cap that is equal to or slightly greater than the largest amount WTA had budgeted for in previous academic years. This new agreement requires the agencies to review the cap annually as part of the term extension process and provides the option to increase it in the event WWU use of WTA's system grows as anticipated.

Total term for the agreement, with all renewal options, is four (4) years.

FISCAL IMPACT

The per tap price is \$0.50 which is equal to WTA's Reduced Fare. WWU will also pay WTA a per ride fare equal to fifty percent (50%) of WTA's County Connector fare on the 80X bus route. The contract cap for year one (1) of this agreement is one million and no/100 dollars (\$1,000,000).

INTERAGENCY AGREEMENT
STUDENT and EMPLOYEE BUS PASS AGREEMENT

This INTERLOCAL AGREEMENT ("Agreement") is made and entered into between WESTERN WASHINGTON UNIVERSITY, 516 High St., Bellingham, WA 98225, hereinafter referred to as "WWU", and WHATCOM TRANSPORTATION AUTHORITY ("WTA"), a Public Transportation Benefit Area operating under the authority of RCW Chapter 36.57A and located at 4011 Bakerview Spur Road, Bellingham, WA, 98226, hereinafter referred to as "WTA".

WHEREAS WWU manages its pass program through its Alternative Transportation Fee Committee; and

WHEREAS WWU must present any fare increase over 5% to its student body for vote; and

WHEREAS Students who are not enrolled in classes and inactive WWU employees are not eligible for a bus pass and must pay the applicable full cash fare; and

WHEREAS The parties are governed by Washington State Constitution Article VIII, Section 7, "Gifting of Public Funds"; and

WHEREAS WWU will implement Umo (formerly TouchPass). Exhibit A contained herein describes a temporary process for accurate Program Cost reporting; and

WHEREAS WWU ridership will be tracked using Umo enabled Western cards or a phone app.

THEREFORE, WWU and WTA agree as follows:

WTA hereby agrees to provide WWU with a Pass program where students and employees have unlimited access to use all routes operated by WTA fixed route and paratransit service for an agreed set fare per ride.

1. **TERM AND TERMINATION:** The term of this agreement shall commence July 1, 2022 and be in effect until June 30, 2023. The parties, through written mutual agreement, may extend this Agreement three (3) additional terms of one (1) year each.

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 WWU up to the date of termination shall remain due and owing by WWU, which amounts shall be invoiced by WTA within ten (10) business days following the effective termination of the Agreement. After such termination, WWU students and employees will be required to pay full price for cash fares and purchase bus passes directly from WTA.

2. **PROGRAM COST:** WWU 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.

WWU will pay WTA a per ride fare equal to fifty percent (50%) of WTA's County Connector fare on the 80X bus routes that WTA operates that run between Whatcom and Skagit County. WTA will bill these rides as a separate line item each month.

Payments made in agreement with Skagit Transit are separate from this Agreement.

Total value of the program cost and the cap on the amount WTA can invoice WWU for rides taken by students and employees will not exceed One Million and No/100 Dollars (\$1,000,000.00) for the first Agreement year.

WTA and WWU will review and may increase the cap annually by mutual agreement no later than March 31 each year this Agreement is in effect. Any renegotiated cap will become effective upon the date of the contract modification.

WTA will invoice WWU within ten (10) business days following the end of each month during the Agreement term(s) for the total number of rides taken by WWU students and employees during the prior month and provide supporting documentation with each invoice. WWU 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
Western Washington University
PO Box 218
Bellingham, WA 98227-1420
Accounts.payable@wwu.edu

3. **WTA FARE INCREASES:** WTA will notify WWU of any applicable fare increases no later than six (6) months before implementation of the fare increase. WWU fare increases will be effective at the same time as any WTA fare increase issued to the general public.
4. **WWU STUDENT AND EMPLOYEE BUS PASS:** WWU will be responsible for monitoring and controlling student and employee access via WWU's card system.
5. **ONGOING EVALUATION:** The parties shall work cooperatively to monitor performance of this Agreement and the delivery of service.

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

6. **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.

7. 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 WWU's Vice President of Business/Financial Affairs, 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.

8. Notices will be provided to:

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

WWU
ATTN: Pete Heilgeist, Chief Procurement
Officer/Director of Business Services
Pete.heilgeist@wwu.edu
360-650-3127

9. **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.
10. **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.
11. **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.
12. **EXECUTION:** The parties hereby execute and authorize this Agreement to be effective July 1, 2022 regardless of the date of execution.

WTA:

WWU:

Les Reardanz, General Manager
Whatcom Transportation Authority

Andrea Rodger, Assistant Director
Business Services
Western Washington University

EXHIBIT A

Move Ahead Washington provides individuals 18 and under \$0 fares on public transit ("EXEMPT STUDENTS"). WTA and WWU agree to use the following deadlines and procedures while WWU is implementing Umo and in the event of any system issues preventing WTA from properly invoicing WWU.

1. Within five (5) business days of the end of the previous month, WTA will provide a full ridership list to WWU that will include all students and faculty.
2. WWU will remove all EXEMPT STUDENTS from the list and return both the original list and the edited list within five (5) business days of receiving the original list.
3. Within five (5) business days of receiving the edited list from WWU, WTA will invoice WWU the difference between the full ridership and the ridership less exempted students.
4. WWU shall pay such invoice within net thirty (30) calendar days of its issuance by WTA and make all payments to the addresses in #2 of the original agreement.

For Summer Quarter 2022, WTA will provide WWU students 18 years and under with a Youth Umo card and a 92-Day pass at no charge. WTA will work with WWU's Alternative Transportation Office to facilitate providing cards to students.