

**CONTRACTUAL SERVICE AGREEMENT**  
**UNARMED SECURITY SERVICES**

This CONTRACTUAL SERVICE AGREEMENT (Agreement) is made and entered into between WHATCOM TRANSPORTATION AUTHORITY (WTA), a Washington Public Transportation Benefit Area, and KAEKA GROUP, INC., a Washington state corporation (CONTRACTOR).

WTA and CONTRACTOR agree as follows:

CONTRACTOR hereby agrees to provide WTA with unarmed security services, for an initial term of one (1) year to commence on October 1, 2021, pursuant to the following agreed terms and conditions:

1. The Agreement documents in order of precedence, and the terms and conditions that will govern this Agreement, are set out herein, and in the following documents, which are attached hereto and incorporated by reference:
  - This agreement
  - Scope of Work, Exhibit A
  - WTA Rider Suspension Policy, Exhibit B
  - Unlawful Transit Conduct RCW 9.91.025, Exhibit C
  - WTA Process of Appeals, Exhibit D
  - CONTRACTOR Pricing submitted August 9, 2021, Exhibit E
  - Washington State Contract 03818
  - Washington State Request for Proposal 03818
  - CONTRACTOR completed Exhibits from Request for Qualifications 2020 - 308
2. CONTRACTOR shall perform all the work required by Exhibit A.
3. WTA may, at its option, renew the agreement in conjunction with any renewal opportunities set out in the State of Washington Contract. Renewal will be by amendment executed by both parties.
4. 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 WTA's General Manager. Oral changes, amendments or agreements are not permitted and shall not be paid for by WTA. Prior to becoming a contract modification, all changes must be prepared in writing and executed by the Parties. Only WTA's General Manager shall have the express, implied, or apparent authority to alter, amend, modify, add, or waive any section or condition of this Agreement on behalf of WTA.
5. Notices will be provided to:

WTA ATTN: Procurement 4011 Bakerview Spur Bellingham, WA 98226 <a href="mailto:procurement@ridewta.com">procurement@ridewta.com</a> 360-788-9332	CONTRACTOR ATTN: David Kaeka, CEO 4338 Clearwater Loop SE Lacey, WA 98503 <a href="mailto:dkaeka@kaekagroup.com">dkaeka@kaekagroup.com</a> 253-279-5292
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6. WTA shall pay CONTRACTOR in US funds for goods & services provided to the address below. CONTRACTOR rates and fees established at time of initial contract award will be fixed and effective for the duration of the first year of the agreement.
7. Invoices will be sent to [ap@ridewta.com](mailto:ap@ridewta.com) or ATTN: Accounts Payable at the WTA address below. Payment will be made in Net 30 Terms from the date of invoice acceptance. WTA reserves the right to refuse payment on invoices for work that completed sixty (60) days prior to the invoice receipt.
8. CONTRACTOR shall throughout the term of this Agreement, be a registered with the Washington State Secretary of State as a corporation doing business within the State of Washington and maintain a registered agent in the state of Washington.

9. CONTRACTOR shall, throughout the term of this Agreement and any extensions, maintain insurance. Insurers must be licensed to conduct business in the State of Washington (or issued as a surplus line by a Washington Surplus lines broker) and approved by the State Insurance Commissioner<sup>1</sup>. Insurers must have a minimum rating of A- and a financial rating of Class VII or higher in the most recently published edition of the A.M. Best's Key Rating Guide.

WTA its officials, officers, agents, and employees must be listed as additional insureds.

By requiring minimum insurance, WTA shall not be responsible for assessing the risk applicable to the CONTRACTOR. The CONTRACTOR shall assess its own risks and if it deems appropriate and prudent, maintain higher limits and/or broader coverages. The CONTRACTOR is not relieved of any liability or other obligations assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

1. Coverages

a. *Commercial General Liability*. Coverage to include:

- Property damage, including Premises and Operations, fire damage and medical expense
- Bodily injury/death
- Liability assumed under an Insured Contract (including defense costs assumed under contract)
- Broad Form Property Damage
- Independent CONTRACTORS
- Personal/Advertising Injury
- Stop Gap Liability
- Protective Liability

b. *Automobile Liability* including all

- Owned Vehicles
- Non-Owned Vehicles
- Hired Vehicles
- Stop Gap Liability

*Workers Compensation*

- As required by the State of Washington Labor & Industries
- Stop Gap Liability

c. *Umbrella Liability*

- Excess of Commercial General Liability, Automobile Liability Limits

d. CONTRACTOR and Sub-CONTRACTORS must furnish the following endorsements separate of the Certificate of Liability:

- Additional Insured Endorsement naming "WTA Agents & Employee's" for Ongoing Operations. Endorsement should be on Accord© form CG20100704 or equivalent.
- Additional Insured Endorsement naming "WTA Agents & Employee's" for Completed Operations. Endorsement should be on Accord© form CG20370704 or equivalent.
- Waiver of Subrogation naming "WTA Agents & Employee's". Endorsement should be on Accord© form CG24041093 or equivalent.
- Cancellation Endorsement providing thirty (30) days advance written notice to be received by WTA.

2. Minimum Required Limits

The CONTRACTOR shall carry the following minimum limits of liability:

**Commercial General Liability**

General Aggregate <sup>2</sup>	\$	2,000,000
Products/Completed Operations Aggregate	\$	1,000,000
Each Occurrence Limit	\$	1,000,000
Personal/Advertising Limit	\$	1,000,000
Fire Damage (Any One Fire)	\$	100,000

<sup>1</sup> RCW 48

<sup>2</sup> General Aggregate to apply per project (ISO Form CG2503 or equivalent).

Medical Payments (Any One Person)	\$	5,000
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*Note, Pollution extension is required (CG 2415 or Equivalent); However, a separate pollution policy is acceptable. Indicate this coverage on the Certificate of Insurance.*

**Automobile Liability**

Bodily Injury/Property damage (Each Accident)	\$	1,000,000
Personal Injury Protection (if applicable)	Statutory	

**Worker's Compensation**

Show Worker's Compensation L&I Number

**Umbrella Liability**

Each Occurrence	\$	1,000,000
General Aggregate Limit	\$	1,000,000
Products/Completed Operations Aggregate	\$	1,000,000

Required insurance coverages shall be maintained throughout the term of this Contract and, except for Automobile Liability and Worker's Compensation, a period of three (3) years after the date of substantial completion of the entire project. The CONTRACTOR shall promptly advise WTA in the event any general aggregates or other aggregate limits are reduced below the required per occurrence limit. At their own expense the CONTRACTOR will reinstate the aggregate limits to comply with the minimum requirements and shall furnish WTA a new Certificate of Insurance showing such coverage is in force.

The CONTRACTOR is required to ensure any sub-CONTRACTORS and sub-sub-CONTRACTORS are insured under the CONTRACTOR'S policy(ies) or forward separate Certificate of Insurance and mandatory endorsements reflecting the same coverages. Any sub-CONTRACTORS and sub-sub-CONTRACTORS are required to comply with the coverages and limit requirements outlined in this document.

**LITIGATION EXPENSES**

In any legal action arising from the CONTRACTOR'S obligations under this Agreement or asserting claims that the CONTRACTOR has not met the requirements of the Agreement, the prevailing party shall recover, in addition to any other allowed damages, its reasonable attorneys' fees and litigation costs.

**LIABILITY OF CONTRACTOR, INDEMNITY, DUTY TO DEFEND AND HOLD HARMLESS**

The CONTRACTOR shall be liable for any and all losses or damages from whatever cause occurring on or to any part of the work. The CONTRACTOR shall not be liable for losses or damages caused solely by the act of WTA.

The CONTRACTOR shall be liable for damages and injury to persons arising from any services provided under the Agreement. The CONTRACTOR'S liability shall not be dependent upon whether or not such damage or injury is caused by CONTRACTOR negligence, or whether or not such damage or injury is caused by the inherent nature of the work as specified.

WTA is unable to agree to any limitation of liability in the event of a claim or issued judgment through the performance of a contract. This is considered a gift of public funds and is unenforceable by the Washington State Constitution<sup>3</sup>.

The CONTRACTOR shall defend, indemnify, and hold harmless the WTA its officers, employees, and agents from any and every claim and risk and all losses, damages, demands, suits, judgments, and attorneys' fees, and other expenses of any kind, on account of injury to or death of any and all persons(s) and on account of all damages of any kind, whether tangible or intangible, real and/or personal including loss of use resulting in connection with work performed by the CONTRACTOR or its sub-CONTRACTORS, employees or agents, or caused in whole or in part by the CONTRACTOR or its sub-CONTRACTORS, or their property, employees, or agents, upon or in proximity to the property, or

<sup>3</sup> Washington State Constitution, Article VIII, Section 7 "Credit Not to be Loaned"

any other property upon which the CONTRACTOR is performing any work in connection with this Contract, except only for those losses resulting solely from the negligence of WTA its officers, employees, and agents. It is further specifically and expressly understood that the indemnification provided extends to any claim and risk and all losses, damages, demands, suits, judgments made by an employee of CONTRACTOR or its sub-CONTRACTORS, and such constitutes CONTRACTOR'S waiver of immunity and for exclusivity under Washington State Industrial Insurance Act, RCW Title 51, solely for the purpose of the indemnification. This waiver has been mutually negotiated by the parties.

If a lawsuit that falls within the terms of the indemnity, duty to defend and hold harmless provision ensues, WTA is entitled to select counsel to represent it, and the CONTRACTOR shall pay directly all costs, attorneys' fees, and expenses associated with the representation and defense, and if judgement is rendered or settlement made requiring payment of damages by the WTA, its officers, agents, employees, and volunteers, the CONTRACTOR shall pay the same.

If legal proceedings are brought against WTA or their officers, principals, agents, sub-CONTRACTORS, or employees, on account of loss or damage sustained by person(s) or property as a result of the performance of the Work, the CONTRACTOR agrees to defend, hold harmless, indemnify, and pay, in full, all expenses incurred and all judgments against WTA, the Project Manager, the Architect, or their officers, principals, agents, sub-CONTRACTORS, or employees, in such proceedings.

10. Any action to enforce or interpret this Agreement shall be commenced in the Superior Court of Washington, Whatcom County.
11. 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. If there is any conflict between the terms and conditions as set out in these paragraphs 1-12 herein, and Washington State Contract 03818 or Washington State Request for Proposal 03818, then the terms and conditions set out in paragraphs 1-12 shall control.
12. 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.

WTA:

***Les Reardanz***

Signed: Thursday, October 28, 2021

Les Reardanz, General Manager  
Whatcom Transportation Authority  
4011 Bakerview Spur  
Bellingham, WA 98226

CONTRACTOR:



David Kaeka, CEO  
4338 Clearwater Loop SE  
Lacey, WA 98503  
dkaeka@kaekagroup.com  
253-279-5292