

**Joint Board Meeting  
November 8, 2021**

**Operations Action Item:** Authorize the Regional Service Provider Agreement for administrative services with King County.

**Purpose:** To authorize the ORCA Agency parties to enter into a Regional Service Provider Agreement for administrative services (RSP Agreement for Admin. Services) with King County.

Under Section 4.4 of the Interlocal Cooperation Agreement for Implementation, Operation and Maintenance of the ORCA System, dated June 13, 2019, *the Joint Board is authorized to make decisions to:*

*4.4.6 Authorize the ROOT Agency to enter into contracts and make changes to the same for designated Regional Service Providers. Provided, however, the Joint Board may delegate to the ORCA Director the authority to enter into contracts and make changes to same, within the limits established by the Joint Board and subject to the adopted Budget.*

**Background:**

- This RSP Agreement for Admin. Services formalizes the services King County provides to the ORCA Agencies.
- The scope of this Agreement, unless otherwise modified, includes physical cardstock inventory, storage, and delivery; and mail center order processing, equipment, and supplies.
- The RSP Agreement for Admin. Services provides for a service level agreement with King County's business units to detail the responsibilities, processes, procedures, and service levels King County's business unit will provide during the term of this RSP Agreement for Admin. Services. The Agreement authorizes the ORCA Agency Business Managers to enter into the service level agreement.
- The ROOT will centrally manage the services of this agreement on behalf of the ORCA Agencies. This includes performance management and reporting, as well as overseeing the resolution of problems, some of which may be experienced by multiple ORCA Agencies.
- The Agency Business Managers approve the RSP Agreement for Admin. Services.

**Funding:** Each ORCA Agency is responsible for funding their portion of these services, and the ROOT will bill each ORCA Agency accordingly.

**Recommendation:** The ORCA Director and Agency Business Managers recommend that the Joint Board authorize the ORCA Agency parties to enter into the Regional Service Provider Agreement for Administrative Services with King County.

## Regional Service Provider Agreement

### Administrative Services

#### RSP4-00

This Regional Service Provider Agreement (this "Agreement") is made effective as of the \_\_\_\_ day of \_\_\_\_\_, 2021 (the "Effective Date") by and between the Snohomish County Public Transportation Benefit Area ("**Community Transit**"), the Kitsap County Public Transportation Benefit Area Authority ("**Kitsap Transit**"), the Central Puget Sound Regional Transit Authority ("**Sound Transit**"), the State of Washington, acting through the Washington State Department of Transportation, Ferries Division ("**Washington State Ferries**"), the Pierce County Public Transportation Benefit Area ("**Pierce Transit**"), the City of Everett ("**Everett**"), individually referred to as an "ORCA Agency" and collectively known as the "ORCA Agencies", and King County ("**King County**").

#### Recitals

WHEREAS, the ORCA Agencies wish to establish King County as the Regional Service Provider for certain services by way of this Agreement;

WHEREAS, a Regional ORCA Operations Team ("ROOT") was established by the Interlocal Cooperation Agreement, dated June 13, 2019, for implementation, operation and maintenance of the regional fare payment system ("ORCA System") for centralized management and operations of the ORCA System that is operated and maintained by a systems integrator;

WHEREAS, the ORCA Agencies have persons designated to act as the primary point of contact for the ORCA Agency and the persons authorized to speak for matters relating to the ORCA System ("Agency Business Managers");

WHEREAS, the ROOT monitors the performance and obligations of agreements with Regional Service Providers, in partnership with the Agency Business Managers; and

WHEREAS, the Parties hereto acknowledge and agree that the performances required by the provisions of this Agreement will be undertaken in good faith, and with all Parties dealing fairly with each other.

Now, therefore, in consideration of the covenants and promises contained in this Agreement, and other valuable consideration, the Parties agree as follows:

1. Service Level Agreement. The ORCA Agencies and King County will negotiate a Service Level Agreement ("SLA") to establish detailed roles, responsibilities, processes, procedures, and performance deliverables and requirements. The ORCA Director has the authority to centrally manage the SLA in coordination with the ORCA Agencies. The ORCA Agency Business Managers have the authority to execute and modify the SLA with King County.

2. Physical Cardstock (“cardstock”) Inventory Scope of Services. King County will ensure safe storage of and adequate levels of cardstock which includes the following responsibilities:
  - a. Inventory
    - i. Collect and provide data and forecasts to inform cardstock order quantities by card type.
    - ii. Request data from ORCA Agencies to inform cardstock orders.
    - iii. Work with the ROOT to recommend cardstock order quantities to ORCA Agencies.
    - iv. Maintain cardstock inventory sufficient to meet card distribution needs.
  - b. Storage and Delivery
    - i. Receive and store cardstock in secure location.
    - ii. Inspect card deliveries to ensure the correct quantity and type of card stock is received. This includes reconciling shipping paperwork and box labels with order information.
    - iii. Return defective cardstock or cardstock that does not match what was ordered.
    - iv. Fulfill and ship or deliver ORCA Agency cardstock orders.
  
3. Mail Center Scope of Services. King County will provide card order fulfillment on behalf of all the ORCA Agencies, which includes the following responsibilities:
  - a. Order Processing
    - i. Process card orders received via the ORCA website, the ORCA CRM, ORCA mobile application including verifying proper eligibility when necessary.
    - ii. Mail cards to customers or arrange for pick-up or delivery.
    - iii. Process mailed in orders including card orders, revalue payments and autoloading setup requests.
    - iv. Process credit card and check payments associated with mail in orders.
    - v. Maintain PCI compliance for all customer credit card transactions handled for work described in this section.
  - b. Equipment and Supplies
    - i. Ensure there are adequate Customer Service Terminals (CSTs) and printers to complete the work outlined in this section. King County will not be held liable for inability to meet any agreed upon service levels if the SI vendor is unable to deliver or repair said equipment.
    - ii. CSTs and printers will be replaced on a regular asset replacement schedule.
    - iii. Maintain sufficient supplies of customer information materials to be distributed with card orders.

- a. Work with ROOT to forecast customer information material needs for printing purposes.
  - b. Maintain sufficient levels of cardstock to meet daily orders.
  - c. The cost of the equipment and supplies will be shared by the ORCA Agencies and King County based on ORCA operating or capital budget shares.
4. Out of Scope Services.
- a. Sales at customer service offices shall be fulfilled by the ORCA Agency that operates the customer service office. King County will be responsible for sales at their own customer service office.
  - b. Services not explicitly described in this agreement are considered out of scope.
5. Costs of Services. The ORCA Agencies will compensate King County for Services rendered pursuant to this Agreement. A budget is summarized in Exhibit A. Services provided will be invoiced based on costs incurred by King County. The Parties may evaluate the services and pricing on an annual basis, taking into consideration actual year-to-year costs and may renegotiate no more often than annually at either Party's request.

King County will submit an annual budget for these services as part of the annual Joint Board operating budget approval process.

6. Payment Procedure. On a quarterly basis or at other intervals mutually agreed to by the parties, and unless the Parties agree to a different payment procedure, King County will submit to the ROOT an invoice for the amounts due for services rendered under this Agreement with the supporting documentation agreed to by the Parties. The ROOT will utilize its established regional billing process to bill each ORCA Agency and remit payment to King County. At the request of the ORCA Agencies or the ROOT, King County will submit supporting documentation including, but not limited to documentation of materials and services satisfactorily rendered, copies of original bills, invoices, expense accounts, and other supporting data retained by King County. Each invoice will reference this Agreement and Agreement numbers.

<b>Attention of</b>	<b>Preferred invoicing method</b>
<b>ROOT</b> Ashley Bowman, Business Manager – Regional Fare Systems	<a href="mailto:invoices@myorca.com">invoices@myorca.com</a>

Payments will be made to King County at the address shown in the invoice or via another agreed upon payment method.

7. Designated Representatives. The ORCA Agencies and King County will each designate a representative (“Designated Representative”) who will be responsible for coordination of communications between the Parties and will act as a central point of contact for the performance of the obligations of this Agreement. The Designated Representatives may

be changed by written notice to the other Parties during the term of this Agreement. Each Party's Designated Representative is named below with the individual's contact information.

ORCA Agencies:

Ashley Bowman, Business Manager – Regional Fare Systems  
Regional ORCA Operations Team (ROOT)  
401 S. Jackson St.  
Seattle, WA 98104  
Phone: 206-903-7780  
Email: ashley.bowman@soundtransit.org

King County:

Sunny Knott, ORCA Business Operations  
King County, Customer Communications and Services Section  
201 S. Jackson St.  
Seattle, WA 98104  
Phone: 206-477-5812  
Email: sunny.knott@kingcounty.gov

8. Term. This Agreement shall be for a term beginning on the Effective Date and shall remain in effect thereafter unless the Parties mutually agree otherwise; provided, however, that either Party may terminate this Agreement in accordance with the provisions of Paragraph 9 below.
9. Termination.
  - a. Termination for Convenience. Any Party may terminate this Agreement for convenience. The Party terminating the Agreement will give written notice of intent to terminate at least 6 months prior to the date of termination.
  - b. Termination for Non-Appropriation of Funds. Upon written notice, any Party may terminate this Agreement for non-appropriation if expected or actual funding is withdrawn, reduced or limited in any way. The terminating Party shall be liable only for payment for services provided prior to the date of termination.
10. Rights and Duties of Parties Upon Termination. Any costs incurred by King County prior to the date of termination will be borne by the ORCA Agencies in accordance with the terms of this Agreement. The right of entry and permitted use granted under this Agreement will terminate upon termination of this Agreement by expiration or for Termination for Convenience of a party.
11. Indemnification. The Parties have established Regional Service Provider indemnification in the 2019 ILA.

12. Insurance.

The ORCA Agencies acknowledge and accept that King County is self-insured for its liability exposures. King County agrees, at its own expense, to maintain through its self-insurance program coverage for all possible liability exposures related to or arising out of its activities contemplated by this Agreement for the duration of this Agreement. If requested by an ORCA Agency in writing during the term of the Agreement, King County will provide a letter of self-insurance as adequate proof of coverage.

13. Assignment. This Agreement and the rights, duties and obligations hereunder may not be assigned, transferred, or otherwise conveyed by any Party, without the prior written consent of the other Parties.

14. Availability of Records. King County will provide all accounting records or other documents needed to satisfy requests from the ORCA Agencies for information to comply with the ORCA Agencies' audit requirements. All records in support of all costs incurred and actual expenditures kept by King County will be maintained in accordance with procedures prescribed by the Washington State Auditor's Office. The records will be open to inspection by the ORCA Agencies during normal business hours and will be retained and made available for such inspection for a period of not less than three years from the final payment of any funds under this Agreement. Copies of said records will be furnished to the ORCA Agencies upon request.

15. Audit. If an audit is requested by any of the ORCA Agencies or required by any applicable federal, state or local agency requirements, King County will cooperate fully with the ORCA Agency's auditor or an independent auditor chosen and retained by the ORCA Agency.

16. Disputes. The Parties will work collaboratively in accordance with the following steps to resolve disagreements arising from activities performed under this Agreement. Disagreements will be resolved promptly and at the lowest level of authority appropriate. The Designated Representatives will use their best efforts to resolve disputes and issues arising out of or related to this Agreement.

Each Designated Representative will notify the other Parties and the other Designated Representative in writing of any problem or dispute the Designated Representative believes needs formal resolution. This written notice will include: (1) a description of the issue to be resolved; (2) a description of the difference between the involved Parties on the issue; and (3) a summary of steps taken by the Designated Representative(s) to resolve the issue. The Designated Representatives for the Parties involved in the dispute will meet within three (3) business days of receiving the written notice and attempt to resolve the dispute. In the event the Designated Representatives cannot resolve the dispute (and that dispute is not subject to some other formal appeal process), the ORCA Director of Regional Fare Systems or his/her designee and the Director of Metro's Mobility Division at King County or his/her designee of the King County Mobility Division or his/her

designee will meet within seven (7) business days of receiving notice from a Designated Representative and engage in good faith negotiations to resolve the dispute.

The Parties agree that they will have no right to seek relief under this Agreement in a court of law until and unless each of these procedural steps is exhausted; provided that if any applicable statute of limitations will or may run during the time that may be required to exhaust the procedural steps set forth above, an action may be filed.

17. Notice. All notices or requests required or permitted under this Agreement will be in writing, will be personally delivered by email, or sent by certified mail, return receipt requested, postage prepaid, and will be deemed received three business days following the date when mailed or on the date when delivered or emailed. All notices or requests will be sent to the ORCA Agencies or King County addressed to the attention of the named Designated Representative.
18. Inclement Weather, "Acts of God" and Other Force Majeure Events. King County reserves the right to determine appropriate working conditions for staff and adjust service response times to a reasonable timeframe due to inclement weather, pandemic, Acts of God, strikes and other labor disruptions, and civil or public disturbances which are not reasonably within King County's control.
19. Good Faith. The Parties hereto acknowledge and agree that the performances required by the provisions of this Agreement will be undertaken in good faith, and with all Parties dealing fairly with each other.
20. Miscellaneous.
  - a. Rights and Remedies. The rights and remedies of the Parties to this Agreement are in addition to any other rights and remedies provided by law, except as otherwise provided in this Agreement.
  - b. No Agency. No joint venture or partnership is formed because of this Agreement. No employees, agents, or subcontractors of one party will be deemed, or represent themselves to be, employees of any other party.
  - c. No Third Party Rights. It is understood and agreed that this Agreement is solely intended for the benefit of the Parties hereto and gives no right to any other third party. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the Parties.
  - d. Compliance with Laws. King County will comply, and to the best of its ability will ensure, that its employees, agents, and representatives comply with all federal, state, and local laws, regulations, and ordinances applicable to the work and services to be performed. The work performed by King County under this Agreement will comply with all applicable public works and procurement laws and regulations, including but not limited to bonding, prevailing wage, nondiscrimination, retainage, insurance, and workers compensation requirements.

- e. Governing Law and Venue. This Agreement will be governed by, and construed and enforced in accordance with, the laws of the State of Washington. Any legal action brought resulting from this Agreement will be brought in the Superior Court of King County.
- f. No Employee Relationship. In performing work and services hereunder, King County and its employees, agents, consultants and representatives will be acting as independent contractors and will not be deemed or construed to be employees or agents of any of the ORCA Agencies in any manner whatsoever. No employee of any Party will hold himself / herself out as or claim to be an officer or employee of the other Party by reason of this Agreement and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the other Party. Each Party will be solely responsible for any claims for wages or compensation by its employees, agents, and representatives and will hold the other Party harmless there from.
- g. Waiver of Default. Waiver of any default will not be deemed to be a waiver of any subsequent default. Waiver of breach of a provision of this Agreement, including failure to require full and timely performance of any provision, will not be deemed to be a waiver of any other or subsequent breach and will not be construed to be a modification of the terms of this Agreement unless stated to be such in writing, signed by authorized parties, and attached to the original Agreement.
- h. Severability. If any term or condition of this Agreement or the application hereof to any person(s) or circumstances is held invalid, such invalidity will not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application; to this end the terms and conditions of this Agreement are declared severable.
- i. Exhibits. All exhibits referenced in and attached to this Agreement are incorporated herein, except to the extent otherwise provided herein.
- j. Amendments. The Parties hereto reserve the right to make amendments or modifications to this Agreement by written amendment signed by authorized representatives of both parties. No addition or modification to this Agreement will be binding upon the Parties unless reduced to writing and signed by an authorized representative of each of the Parties.
- k. Entire Agreement. This Agreement, including its Recitals and Exhibits, embodies the Parties entire Agreement on the matters covered by it, except as supplemented by subsequent amendments to this Agreement. All prior negotiations and draft written agreements are merged into and superseded by this Agreement.
- l. Section Headings and Paragraphs. The headings and sections and paragraphs of this Agreement are for convenience of reference only and are not intended to restrict, affect or be of any weight in the interpretation of construction of the provisions of such sections or paragraphs.
- m. Authority to Sign. Each of the persons signing below on behalf of any party hereby represents and warrants that they are signing with full and complete authority to bind the party on whose behalf of whom they are signing, to each and every term of this Agreement

**[SIGNATURES APPEAR ON THE NEXT PAGE]**



IN WITNESS WHEREOF the Parties hereto have signed this Agreement as of the day and year first above written.

**COMMUNITY TRANSIT**

By:

\_\_\_\_\_  
Name: Ric Ilgenfritz

Title: Chief Executive Officer

Date:  
\_\_\_\_\_

**KING COUNTY**

By:

\_\_\_\_\_  
Name: Terry White

Title: Metro General Manager

Date:  
\_\_\_\_\_

**PIERCE TRANSIT**

By:

\_\_\_\_\_  
Name: Mike Griffus

Title: Chief Executive Officer

Date:  
\_\_\_\_\_

**WASHINGTON STATE FERRIES**

By:

\_\_\_\_\_  
Name: Patty Rubstello

Title: Assistant Secretary

Date:  
\_\_\_\_\_

**EVERETT TRANSIT**

By:

\_\_\_\_\_  
Name: Tom Hingson

Title: Transportation Services Director

Date:  
\_\_\_\_\_

**KITSAP TRANSIT**

By:

\_\_\_\_\_  
Name: John W. Clauson

Title: Executive Director

Date:  
\_\_\_\_\_

**SOUND TRANSIT**

By:

\_\_\_\_\_  
Name: Mary Cummings

Title: Deputy Chief Executive Officer

Date:  
\_\_\_\_\_

## Exhibit A – Budget

<b>Category</b>	<b>Budget</b>
Mail Center – Wages, Benefits and Supplies	\$377,106
Cardstock Inventory – Wages, Benefits and Supplies	\$5,876
Overhead	\$51,375
<b>Total KCM Services</b>	<b>\$434,357</b>

### Notes:

- As described in Section 6, expenses will be invoiced based on actual services rendered so exact invoice amounts may vary slightly from the budget.
- The budget is based on transition to the new ORCA system in mid-February. The services provided by King County for both the old system and the new one could be affected by a change in implementation date and both budgets would be pro-rated during the first year of implementation to acknowledge and account for that factor.
- The budget amount is considered to be a not-to-exceed amount. Any charges in excess of this budget amount will need to be agreed to in writing by all parties.