

ATTACHMENT G

WSDOT Terms and Conditions

Section 5

General Compliance Assurance

The CONTRACTOR agrees to comply with all instructions as prescribed in the WSDOT Public Transportation State Grant Programs Guidebook, hereinafter referred to as the "Guidebook", and any amendments thereto, found at <https://wsdot.wa.gov/business-wsdot/grants/public-transportation-grants/manage-your-grant> which by this reference is incorporated herein as if fully set forth in this AGREEMENT.

Section 8

Assignments and Subcontracts

A. The CONTRACTOR shall submit to WSDOT a copy of any contract, amendment, or change order thereto pertaining to this Project for review and documentation. This includes any completed Project facilities and/or infrastructure under this AGREEMENT, or other actions obligating the CONTRACTOR in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT, including any leasing and/or lending the Project or any part thereof to be used by anyone, not under the CONTRACTOR's direct supervision.

B. The CONTRACTOR agrees to include Section 5, Sections 8 through 20, and Section 27 of this AGREEMENT in each subcontract and in all contracts it enters into for the employment of any individuals, procurement of any materials, or the performance of any work to be accomplished under this AGREEMENT.

Section 9

Reports

A. The CONTRACTOR shall prepare quarterly reports regarding services provided pursuant to this AGREEMENT and other related information as prescribed in the Guidebook, and any amendments thereto, whichever is applicable, or as requested by WSDOT. Due to Legislative and WSDOT reporting requirements, any required quarterly progress reports shall be submitted for the duration of the AGREEMENT period regardless of whether the underlying funding sources have been exhausted. Post-grant annual performance reporting may also be required as prescribed in the aforementioned guidebook. Those reports include, but are not limited to:

1. Project Passenger Trips Provided
2. Project Service Hours Provided
3. Project Revenue Service Miles Provided
4. Narrative Progress Report
5. Financial Status/Summaries of the Project.

B. Failure to meet any of the above-identified report submittal timelines may result in the CONTRACTOR being considered to be in breach of contract and "Not In Good Standing" as defined in the Guidebook referenced in Section 5 - General Compliance of Agreement of this agreement. Failure to meet the above-identified report submittal timelines may also prevent the CONTRACTOR from receiving future PT Rideshare grant funds in the next biennium.

Section 10

Energy Credit

If CONTRACTOR receives any monies from the sale or disposition of energy credits, decarbonization credits, environmental credits, or any other monies through its participation of a

like program, in relation to assets acquired or constructed with funding from this AGREEMENT, as public transportation is vital in reducing the carbon intensity of Washington's transportation system by providing alternative travel options and providing a cost-effective means to reduce greenhouse gas emissions, the CONTRACTOR agrees to reinvest those monies into service, projects or programs that support public transportation and the reduction of greenhouse gas emissions. Such investments will be consistent with the state's public transportation grant programs.

Section 11

No Obligation by the State Government

No contract between the CONTRACTOR and its subcontractors shall create any obligation or liability for WSDOT with regard to this AGREEMENT without WSDOT's specific written consent, notwithstanding its concurrence in, or approval of, the award of any contract or subcontract or the solicitations thereof.

Section 12

Personal Liability of Public Officers

No officer or employee of WSDOT shall be personally liable for any acts or failure to act in connection with this AGREEMENT, it being understood that in such matters they are acting solely as agents of WSDOT.

Section 13

Ethics

A. Relationships with Employees and Officers of WSDOT. The CONTRACTOR shall not extend any loan, gratuity or gift of money in any form whatsoever to any employee or officer of WSDOT, nor shall CONTRACTOR rent or purchase any equipment and materials from any employee or officer of WSDOT.

B. Employment of Former WSDOT Employees. The CONTRACTOR hereby warrants that it shall not engage on a full-time, part-time, or other basis during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of WSDOT without written consent of WSDOT.

Section 14

Civil rights

The CONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any WSDOT-assisted contract or in the administration of its public transportation services.

Section 15

Compliance with Laws and Regulations

A. The CONTRACTOR agrees to abide by all applicable state and federal laws and regulations including but not limited to, those concerning employment, equal opportunity employment, nondiscrimination assurances, project record keeping necessary to evidence compliance with such federal and state laws and regulations, and retention of all such records. The CONTRACTOR will adhere to all of the nondiscrimination provisions in chapter 49.60 RCW.

B. Additionally, the CONTRACTOR agrees to comply with the following as applicable:

1. SB 5974 Move Ahead Washington
2. RCW 70A.02 Healthy Environmental for All (HEAL) ACT, and
3. RCW 70A. 65.260 Climate Commitment ACT.

C. Except when a federal statute or regulation preempts state or local law, no provision of the AGREEMENT shall require the CONTRACTOR to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of state or local law. If any provision or compliance with any provision of this AGREEMENT violates state or local law or would require the CONTRACTOR to violate state or local law, the CONTRACTOR agrees to notify WSDOT immediately in writing. Should this occur, WSDOT and the CONTRACTOR agree to make appropriate arrangements to proceed with or, if necessary, expeditiously, terminate the AGREEMENT.

Section 16

Environmental and Regulatory Requirements

The CONTRACTOR agrees to secure any necessary local, state, and federal permits and approvals, and comply with all applicable requirements of Chapter 43.21C RCW State Environmental Policy Act (SEPA). The CONTRACTOR agrees to comply with all applicable requirements of Executive Order 21-02, Archaeological and Cultural Resources, for all capital construction projects or land acquisitions not undergoing Section 106 review under the National Historic Preservation Act of 1966 (Section 106).

Section 17

Accounting Records

A. **Project Accounts.** The CONTRACTOR agrees to establish and maintain for the Project(s) either a separate set of accounts or separate accounts within the framework of an established accounting system that can be identified with the Project(s). The CONTRACTOR agrees that all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project(s) shall be clearly identified, readily accessible and available to WSDOT upon request, and, to the extent feasible, kept separate from documents not pertaining to the Project(s).

B. **Documentation of Project Costs and Program Income.** The CONTRACTOR agrees to support all allowable costs charged to the Project(s), including any approved services contributed by the CONTRACTOR or others, with properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. The CONTRACTOR also agrees to maintain accurate records of all program income derived from implementing the Project.

Section 18

Audits, Inspection, and Retention of Records

A. **Submission of Proceedings, Contracts, Agreements, and Other Documents.** During the performance period of the Project(s) and for six (6) years thereafter, the CONTRACTOR agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to the Project(s) as WSDOT may require. Project closeout does not alter these recording and record-keeping requirements. Should an audit, enforcement, or litigation process be commenced, but not completed, during the aforementioned six-year period then the CONTRACTOR's obligations hereunder shall be extended until the conclusion of that pending audit, enforcement, or litigation process.

B. **General Audit Requirements.** The CONTRACTOR agrees to obtain any other audits required by WSDOT at CONTRACTOR's expense. Project closeout will not alter the CONTRACTOR's audit responsibilities.

C. **Inspection.** The CONTRACTOR agrees to permit WSDOT and the State Auditor, or their authorized representatives, to inspect all Project work materials, payrolls, and other data, and to audit the books, records, and accounts of the CONTRACTOR and its subcontractors pertaining to the Project. The CONTRACTOR agrees to require each third party to permit WSDOT, and the State Auditor or their duly authorized representatives, to inspect all work, materials, payrolls, and other data and records involving that third party contract, and to audit the books, records, and accounts involving that third party contract as it affects the Project.

Section 19

Labor Provisions

Overtime Requirements. No CONTRACTOR or subcontractor contracting for any part of the Project(s) work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek. CONTRACTOR will comply with Title 49 RCW, Labor Regulations.

Section 20

Changed Conditions Affecting Performance

The CONTRACTOR hereby agrees to immediately notify WSDOT of any change in conditions or law, or of any other event, which may affect its ability to perform the Project(s) in accordance with the provisions of this AGREEMENT.

Section 27

Limitation of Liability

A. The CONTRACTOR shall indemnify and hold harmless WSDOT, its agents, employees, and officers and process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs (hereinafter referred to collectively as "claims"), of whatsoever kind or nature brought against WSDOT arising out of, in connection with or incident to the execution of this AGREEMENT and/or the CONTRACTOR's performance or failure to perform any aspect of this AGREEMENT. This indemnity provision applies to all claims against WSDOT, its agents, employees and officers arising out of, in connection with or incident to the negligent acts or omissions of the CONTRACTOR, its agents, employees, officers and subcontractors. Provided, however, that nothing herein shall require the CONTRACTOR to indemnify and hold harmless or defend the WSDOT, its agents, employees or officers to the extent that claims are caused by the sole negligent acts or omissions of the WSDOT, its agents, employees or officers; and provided further that if such claims result from the concurrent negligence of (a) the CONTRACTOR its employees, agents, officers or contractors and (b) the STATE, its employees or authorized agents, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of the PARTY, its employees, officers, authorized agents, and/or contractors. The indemnification and hold harmless provision shall survive termination of this AGREEMENT.

B. The CONTRACTOR shall be deemed an independent contractor for all purposes, and the employees of the CONTRACTOR or its subcontractors and the employees thereof, shall not in any manner be deemed to be the employees of WSDOT.

C. The CONTRACTOR specifically assumes potential liability for actions brought by

CONTRACTOR's employees and/or subcontractors and solely for the purposes of this indemnification and defense, the CONTRACTOR specifically waives any immunity under the State Industrial Insurance Law, Title 51 Revised Code of Washington.

D. In the event either the CONTRACTOR or WSDOT incurs attorney's fees, costs or other legal expenses to enforce the provisions of this section of this AGREEMENT against the other PARTY, all such fees, costs and expenses shall be recoverable by the prevailing PARTY.