

**MERCER ISLAND ALTERNATIVE TRANSIT SERVICE
FUNDING AGREEMENT**

Between

THE CITY OF MERCER ISLAND

And

KING COUNTY

THIS MERCER ISLAND ALTERNATIVE TRANSIT SERVICE FUNDING AGREEMENT (“Agreement”) is made by and between the City of Mercer Island, a Washington municipal corporation (“City”), and King County, a home rule charter county of the State of Washington, through its Department of Transportation, Metro Transit Division (“County” or “Metro”), either of which may be referred to hereinafter individually as “Party” or collectively as the “Parties.”

WHEREAS, the County operates a public transportation system in King County, including Mercer Island; and

WHEREAS, in July, 2011, the King County council adopted the King County Metro Transit Strategic Plan for Public Transportation 2011-2021 (“Strategic Plan”) and the King County Metro Service Guidelines (“Service Guidelines”); and

WHEREAS, Strategies 2.1.1, 2.1.3, and 2.1.4 of the Strategic Plan encourage Metro to design and offer a variety of transportation products and services, including non-fixed-route transit service, that meet different mobility needs and provide value to all parts of King County; and

WHEREAS, Strategies 3.1.1 and 6.3.1 of the Strategic Plan identify partnerships with local jurisdictions and businesses as a potential source of the revenue necessary to provide transit service in support of a strong, sustainable economy; and

WHEREAS, Strategies 6.2.3 and 6.2.4 of the Strategic Plan call for Metro to develop and implement alternative public transportation services and delivery strategies; and

WHEREAS, in September 2012, the King County Council (“Council”), via Motion 13736, accepted the King County Metro Transit Five-Year Implementation Plan for Alternatives to Traditional Transit Service Delivery (“Five-Year Implementation Plan”), which calls for Metro to establish alternatives to traditional transit service as an integral part of a comprehensive transit system, and use it as an option to, among other things, meet unmet travel needs and to work in collaboration with jurisdictions who have secured funding for an alternative-service program to develop and implement that program; and

WHEREAS, on November 17, 2014, the Council, via Ordinance 17941, appropriated \$12 million for the 2015-2016 biennium to implement an alternative services demonstration program consistent with the Strategic Plan and Five-Year Implementation Plan that prioritizes mitigating significant impacts from the September 2014 service changes; and

WHEREAS, the City and the County share the desire to mitigate the significant impacts that resulted from the September 2014 service changes, and improve mobility and access to public transportation on Mercer Island; and

WHEREAS, the City and the County have determined to address this mitigation through the transit service operation and funding plan described in this Agreement;

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to establish the terms and conditions under which the City will provide funding in support of an alternative transit service demonstration project for Mercer Island.

2. DEFINITIONS

- 2.1 **Alternative services program.** A program consisting of demonstration projects designed to provide non-fixed-route public transportation service to areas of King County that lack the infrastructure, density, or land use to support traditional fixed-route transit service, or that have been significantly impacted by fixed-route service reductions.
- 2.2 **Flexible service area.** A designated area in which limited, off-route deviations may be made upon request and with advance notice.
- 2.3 **Level of service.** The total number of trips provided while a specified route is in operation.
- 2.4 **ORCA.** Acronym for "One Regional Card for All," a regional fare payment system using smart card technology.
- 2.5 **Peak service.** Transit service operated between the hours of 5:00 AM and 9:00 AM and between 3:00 PM and 7:00 PM on weekdays.
- 2.6 **Portable FTP.** A fare transaction processor used to accept ORCA cards and that is capable of being removed from a transit vehicle for purposes of downloading data.

- 2.7 **Service frequency.** The number of trips in the same direction of travel within a specified time frame, usually expressed as the number of trips per hour.
- 2.8 **Service quality.** Transit service on-time performance, which may be affected by numerous variables including traffic congestion and increased ridership per trip.
- 2.9 **Service span.** The amount of time each day in which a specified route is operating.

3. DUTIES AND RESPONSIBILITIES OF THE PARTIES FOR THE OPERATION AND FUNDING OF A MERCER ISLAND ALTERNATIVE TRANSIT SERVICE DEMONSTRATION PROJECT

- 3.1 **Mercer Island Shuttle Service Description.** The County will provide a peak service commuter shuttle that will operate generally between the intersection of SE 46th Street and Island Crest Way on Mercer Island and downtown Seattle via First Hill, with a flexible service area located generally in the Shorewood neighborhood of Mercer Island (“Mercer Island Shuttle”). The Mercer Island Shuttle will be operated for an initial demonstration period beginning on or about June 8, 2015 and ending on or about September 11, 2017.

The anticipated frequency and span of Mercer Island Shuttle service is identified in Exhibit A, which is attached hereto and incorporated herein by this reference. The County will monitor the level of service and may adjust the frequency and span of service to respond to use and changing needs on Mercer Island. The Mercer Island Shuttle will be open to the general public.

- 3.2 **Service Operations.** The County retains responsibility for scheduling and operating the Mercer Island Shuttle and will manage the service in accordance with its standard procedures. The County will monitor service quality in accordance with its established standards and policies. As an alternative transit service demonstration project, the Mercer Island Shuttle will be designated as Metro route number 630 and be included in Metro’s Online Trip Planner. The vehicles will be branded consistent with the County’s alternative services program guidelines. The Mercer Island Shuttle will be part of the ORCA regional fare system and regular Metro fares will be charged for the service.

The Parties agree to meet as needed and in a timely manner to address any operational or service issues that arise, including capacity or performance issues.

- 3.3 **Mercer Island Shuttle Service Funding.** The City will contribute a total of \$80,000 annually to the County to support the Mercer Island Shuttle service, minus any lease lot costs incurred by the City in accordance with Section 3.7. The City’s funding contribution will be made in four (4) quarterly payments of approximately \$20,000 each and will be paid directly to the County, as provided for in Section 4 of this Agreement,

over the term of the Agreement. The County will use the payments from the City in support of its direct costs of providing the Mercer Island Shuttle service and for no other purposes.

- 3.4 Communication and Service Information Procedures. The County will follow its standard procedures for developing and distributing Mercer Island Shuttle service information to the public using its existing communications tools and activities. No printed timetable will be produced for Route 630 to allow more flexibility in making adjustments to the service schedule. If the Parties determine there is an additional communication need related to the Mercer Island Shuttle service, the Parties will coordinate that effort through their respective transit communications and marketing staff. The City will, in cooperation with the County, use reasonable efforts to communicate and promote the Mercer Island Shuttle service to the public.
- 3.5 Mercer Island Shuttle Service Evaluation. The County will include an evaluation of the Mercer Island Shuttle service in its annual Service Guidelines Report. Evaluation criteria will include, but not be limited to:
- a. Cost per rider;
 - b. Trip utilization rate;
 - c. Daily ridership; and
 - d. Rider and stakeholder satisfaction survey results.

The evaluation data will be used as part of the Service Performance Review and taken into consideration when determining any proposed extension or modifications to this Agreement.

- 3.6 Service Performance Review. The Parties' designated contact staff will meet two (2) times a year to review the financial expenditures and service operating performance of the Mercer Island Shuttle service. The purpose of these meetings will be to identify any issues which may have a budget impact and discuss any potential changes to service operations. These meetings will take place at least 180 days prior to a scheduled service change.
- 3.7 Leased Park-and-Ride Spaces. The City will contract directly with the Congregational Church on Mercer Island to secure additional park-and-ride spaces near the intersection of SE 46th Street and Island Crest Way for the duration of the demonstration program. Metro will be responsible for reimbursing the City for all rental costs associated with this leased lot agreement, including an administration fee of fifty dollars (\$50.00) per month for managing the contract and providing any additional insurance coverage directly related to the leased lot agreement. Following the first year of this Agreement, the Parties may evaluate the actual costs incurred by the City for administration and management of the lease lot agreement and mutually agree to adjust the administration

fee accordingly. These leased lot costs will be deducted from the amount owed (\$20,000) each quarter by the City. The City will help coordinate any additional efforts to secure such additional leased park-and-ride spaces and will support the ongoing management of the leased spaces by providing and maintaining amenities such as waste receptacles or wayfinding signs.

4. INVOICES/PAYMENT PROCEDURE

For the term of the Agreement, the County will invoice the City quarterly for its financial contribution as provided for in Subsection 3.3 of the Agreement. The invoices will be issued within fifteen days of the end of each quarter. Upon receipt of each quarterly invoice from the County, the City shall make payment in the amount due within thirty (30) days of receipt of a billing invoice. Each quarterly invoice will be in the amount of \$20,000, minus any lease lot costs incurred by the City per Section 3.7. Should the City fail to pay the County the amount due within thirty (30) days of the receipt of an invoice from the County, interest will be applied to any outstanding balance due for that invoice. Interest will be assessed at the maximum rate allowable under Washington state law.

5. EFFECTIVE DATE AND DURATION

This Agreement will become effective upon signing by the Parties and will expire on September 11, 2017, unless extended or earlier terminated pursuant to the terms of this Agreement. If, after the initial Agreement period, the Mercer Island Shuttle service is deemed viable by Metro, and both County and City funds are available, the Agreement may be extended for up to an additional two (2) years. Any such mutually acceptable extension must be in the form of a written amendment to this Agreement signed by authorized representatives of the Parties.

6. TERMINATION

6.1 Termination for Convenience. This Agreement may be terminated by either Party for convenience, for any reason including but not limited to a determination that the continuation of the Mercer Island Shuttle service would not be likely to produce beneficial results commensurate with the further expenditure of funds, upon written notice to the other Party at least 180 calendar days prior to the County's next scheduled service change date.

6.2 Termination for Non-Appropriation. Performance of any tasks undertaken by the County pursuant to this Agreement is conditional upon the appropriation by the Council of sufficient funds to support the undertakings provided for in this Agreement. Should such an appropriation not be approved, the Agreement shall terminate at the close of the County's current appropriation period.

6.3 Termination for Default or Failure to Perform. Either Party may terminate this

Agreement in the event that the other Party substantially fails to fulfill any or all of its obligations under this Agreement through no fault of the other; provided, however, that the defaulting Party shall be provided at least fourteen (14) calendar days to cure any such default after receipt of written notice of such default.

- 6.4 Pro-rated Payment upon Termination. If either Party terminates the Agreement, the City will pay the County a pro-rated amount for services performed in accordance with the Agreement to the date of termination.

7. AMENDMENTS AND MODIFICATIONS

Either Party may request changes to the provisions of this Agreement. Proposed changes shall not be effective unless and until they are mutually agreed upon and incorporated by written amendment signed by authorized representatives of the Parties.

8. DISPUTE RESOLUTION

The Parties shall use their best efforts, through good faith discussion and negotiation, to resolve any disputes pertaining to this Agreement that may arise between them. If the Parties' informal dispute resolution efforts fail, the Parties agree to engage in mediation, with each Party bearing its own costs of mediation, before seeking to resolve disputes in a court of law or any other forum.

9. LEGAL RELATIONS

- 9.1 No Third Party Beneficiaries. It is understood that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other person or entity.

- 9.2 No Partnership or Joint Venture. No joint venture, agent-principal relationship, or partnership is formed as a result of this Agreement. All persons employed by or providing paid or volunteer services to either Party shall be considered the employees, volunteers, agents or representatives of that Party and shall not be deemed, nor represent themselves, to be the employees, volunteers, agents or representatives of the other Party.

- 9.3 Applicable Law. This Agreement shall be interpreted in accordance with the laws of the State of Washington.

- 9.4 Jurisdiction and Venue. The Superior Court of King County, Washington, situated in Seattle, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

- 9.5 Mutual Negotiation and Construction. This Agreement and each of the terms and provisions herein shall be deemed to have been explicitly negotiated among, and mutually drafted by the Parties, and the language in all parts of this Agreement shall, in all cases, be construed

according to its fair meaning and not strictly for or against either Party.

- 9.6 **Severability.** If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives originally contemplated by the Parties.
- 9.7 **Waiver of Default.** Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing, signed by duly authorized representatives of the Parties, and attached to the original Agreement.
- 9.8 **Assignment.** Neither this Agreement, nor any interest herein, may be assigned by either Party without the prior written consent of the other Party.
- 9.9 **Binding on Successors and Assigns.** This Agreement and all of its terms, provisions, conditions, and covenants, shall be binding on the Parties and their respective successors and assigns.
- 9.10 **Rights and Remedies.** The Parties' rights and remedies in this Agreement are in addition to any other rights and remedies provided by law.
- 9.11 **Entire Agreement.** This Agreement embodies the Parties' entire understanding and agreement on the issues covered by it, except as may be supplemented by subsequent written amendment to this Agreement, and supersedes any prior negotiations, representations or draft agreements on this matter, either written or oral.
- 9.12 **Survival.** The provisions of this Section 9 (Legal Relations) shall survive the expiration or termination of this Agreement.

10. INDEMNIFICATION

Each Party shall protect, defend, indemnify and save harmless the other Party, its elected officials, officers, officials, employees and agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from each Party's own negligent acts or omissions. Each Party agrees that it is fully responsible for the acts and omissions of its own subcontractors, their employees and agents, acting within the scope of their employment as such, as it is for the acts and omissions of its own employees and agents. Each Party agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees or agents. The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the other

Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them. The provisions of this Section 10 (Indemnification) shall survive the expiration or termination of this Agreement.

11. FORCE MAJEURE

Either Party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incidence of fire, flood, earthquake or acts of nature; strikes or labor actions; commandeering material, products, or facilities by the federal, state or local government; and/or national fuel shortage; when satisfactory evidence of such cause is presented to the other Party, and provided further that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing. In no event, however, shall this provision eliminate the City's obligation to make payment to the County for work performed in accordance with this Agreement.

12. NOTICE REQUIREMENTS

Any notice given under this Agreement shall be in writing and given by sending such notice by registered mail, return receipt requested, with postage prepaid, addressed as follows, or at such other address as the Party to be notified shall have last directed in writing, or by serving said notice personally.

KING COUNTY: Transit General Manager
Department of Transportation – KS-TR-0415
King Street Center
201 S. Jackson Street
Seattle, WA 98104-38565

MERCER ISLAND: City Manager
City of Mercer Island
9611 SE 36th St
Mercer Island, WA 98040

The effective date of notice shall be the date of personal service or the date of receipt as shown on the return receipt, as applicable.

IN WITNESS WHEREOF, each Party hereto has caused this Agreement to be executed by a duly authorized representative as of the latest date written below.

CITY OF MERCER ISLAND



BY: Steve Lancaster
Interim City Manager

Date: 3-30-2016

KING COUNTY



Rob Gannon, Interim General Manager
King County Department of Transportation,
Metro Transit Division

Date: 26 Apr 2016

EXHIBIT A
SERVICE DESCRIPTION

Mercer Island Commuter Shuttle	
General Service Information	Description
Route Number	Route 630
Co-Branding Name	Mercer Island Commuter
Contract Service Provider	Hopelink
Official start date	Monday, June 8, 2015
Service description	Peak-only service operating between 46th/Island Crest Way and downtown Seattle via First Hill with flexible service area
Flexible Service Area	Bounded by Island Crest Way to the west, SE 47th St to the south, Shorewood Dr. to the north and 88th Ave SE to the east
Service frequency	About 30 minutes frequency between 6:15-8:15 AM and 4:00-6:30 PM
Total number of trips	5 AM trips / 5 PM trips
Service type description	One-way, peak only route
Fare collection method	ORCA Reader – portable FTP
Number of vehicles	(3 vehicles in the AM and 3 vehicles in the PM)
Vehicle type	19-passenger vehicle

Designated Contact Staff for on-going Operations

KING COUNTY: Cathy Snow
 Alternative Services
 King Street Center
 201 S. Jackson Street
 Seattle, WA 98104-38565
cathleen.snow@kingcounty.gov
 206.477.5760

MERCER ISLAND: Kirsten Taylor
 Assistant City Manager
 City of Mercer Island
 9611 SE 36th St
 Mercer Island, WA 98040
kirsten.taylor@mercergov.org
 206.275.7661

Service Map

(Insert Map)



Over the last few months the City of Mercer Island has worked closely with King County Metro to design and implement alternative transportation services that will help mitigate for service lost on routes 202 and 205, including a community shuttle and innovative ridesharing solutions.

That effort has resulted in the creation of the Route 630, a new community shuttle connecting Mercer Island with Seattle's First Hill and downtown neighborhoods.

- Route 630 will begin service on June 8th, 2015
- Shuttle operates peak-only service Monday-Friday between 46th/Island Crest Way and downtown Seattle
- Operates 5 morning trips and 5 evening trips
- 30 minute frequencies between 6:15-8:15 AM and 4:00-6:30 PM
- Standard Metro fares—ORCA equipped
- Integrated into the overall transit system, including Metro's Trip Planner and real-time apps
- 19 person vehicle. Lift-equipped. Rack for 2 bikes in front
- Scheduled marked stops along route, plus flexible service area in Shorewood. Riders call ahead for a ride off the route

