

**CONTRACTOR AGREEMENT
MASON TRANSIT AUTHORITY
AND**

This Agreement is made and entered into this [REDACTED] day of [REDACTED], 2013, by and between Mason Transit Authority (hereafter called Transit Agency), a municipal corporation of the State of Washington providing provides public transportation services located at 790 E Johns Prairie Rd., Shelton WA. 98584 (address) and providing public transportation in Mason County and between Mason County and [REDACTED] (area); AND [REDACTED] (hereafter called Service Provider), a non-profit organization providing services to youth located at: [REDACTED].

Now, therefore, in consideration of the terms and conditions set forth herein, the parties agree to the following:

Section 1. Services Provided

Service Provider shall provide the following public transportation services: Not Applicable.

Section 2. General Responsibilities of the Service Provider including Conditions of Vehicle Use

General Responsibilities

- A. Prior to any delivery of service, Service Provider will define the transportation services to be provided, set guidelines and schedules for use of the vehicle, and have such reviewed and approved by the Transit Agency. Once approved, ensure all transportation is consistent with purpose and intent established.
- B. Solicit and obtain adequate numbers of drivers to operate the vehicle(s). Conduct initial screening of proposed drivers including conducting criminal background checks in accordance with RCW 43.43.730-845 if the Service Provider is transporting passengers with special needs, senior citizens, or children.
- C. Provide additional training to drivers once approved by the Transit Agency. This additional training shall include, but is not limited to:
 - a. Emergency and accident protocols
- D. Oversee the distribution of vehicle keys.
- E. Ensure only Transit Agency-approved drivers operate the vehicle(s).
- F. Establish a plan to deal with transportation during inclement weather.
- G. Immediately report the following to the Transit Agency:
 - a. Vehicle accidents, passenger injuries, or vehicle damage immediately on notification of the vehicle accident or passenger injury or on discovery of vehicle damage to the Transit Agency,
 - b. If the Service Provider becomes aware that any Service Provider's driver receives a vehicle citation,
 - c. If there is any report of vehicle not operating properly, or
 - d. If the Service Provider becomes aware the vehicle is not being operated in accordance with Service Provider established policies or procedures, or policies and procedures established by this Agreement.

- H. Establish, publish, and distribute guidelines for appropriate ridership behavior. These guidelines must be approved by the Transit Agency and shall include language that addresses the following:
 - a. Proper use of seat belts at all times,
 - b. Being courteous to other passengers and the driver,
 - c. No smoking or eating while in the vehicle,
 - d. No open or closed containers containing alcohol, illegal drugs, or weapons of any sort,
 - e. Ways to notify the Service Provider and/or the Transit Agency regarding any unsafe operation of the vehicle, or to provide commendations to the driver,
 - f. Removal of personal items, garbage, or other materials brought into the vehicle
 - g. Service animals
- I. Establish policies and a procedure regarding the transportation of children, including under what age the child needs an adult or guardian, and addressing car seats and booster seats.
Under no circumstances are children to be transported to/from a school or school-based activities in vehicles provided under this Agreement.
- J. Establish policies or procedures to investigate and respond to grievances or complaints by passengers concerning the vehicle's operation.

Conditions of Vehicle Use

- A. The vehicle may only be used only in the following service area within Mason County and transportation out of county must be preapproved prior to traveling :
- B. The vehicle may only be used to the capacity established by manufacturer guidelines. There may be no more people allowed in the vehicle than available seat belts, or the load capacity of the vehicle, whichever is lower.
- C. The Service Provider shall insure all child passengers use appropriate car seats and boosters seats.
- D. The Service Provider shall insure no one uses the vehicle for personal use.
- E. The Service Provider will bring the vehicle in for routine maintenance as determined by the Transit Agency. No one other than the Transit Agency may perform mechanical work on the vehicle without the Transit Agency's expressed permission.
- F. The Service Provider will regularly fuel the vehicle and provide routine exterior and interior cleaning.
- G. The Service Provider shall insure that no items are removed or added to the vehicle without prior permission of the Transit Agency.
- H. Determine a location to keep the vehicle(s) overnight where vehicle(s) will be reasonably secure. Location should be approved by the Transit Agency.

Responsibilities of Service Provider's Drivers

- A. The Service Provider's driver shall participate in, and meet, all of the Transit Agency's guidelines, criteria, standards, and requirements for the selection and retention of volunteer drivers.
- B. The Service Provider's driver shall inspect the vehicle daily to make sure all the vehicle equipment is in good working order. FOR VANS, the Service Provider's driver shall monitor and maintain the vehicle's tire pressure.
- C. The Service Provider's driver shall operate the vehicle and conduct themselves in a manner complimentary to the public nature of the Transit Agency, and in a safe and legal manner in compliance with regulations and rules of the road.
- D. The Service Provider's driver shall not use a cell phone while operating the vehicle.

- E. The Service Provider's driver shall only operate the vehicle on paved streets, improved or maintained roads, and highways. Driving on the beach, into the mountains, or in fields is prohibited.
- F. The Service Provider's driver shall insure all passengers, and themselves, wear seatbelts.
- G. The Service Provider's driver shall insure all child passengers use appropriate car seats and boosters seats.
- H. The Service Provider's driver shall load the vans front to back.
- I. The Service Provider's driver will report any incidences of disruptive, illegal, or unsafe behavior in the vehicle to Mason County Transit Authority.
- J. The Service Provider's driver shall return the vehicle to its approved parking place after each use.
- K. The Service Provider's driver will not park by a tavern, adult entertainment establishment, or any other inappropriate locale, including gambling facilities.
- L. The Service Provider's driver shall lock the vehicle when not in use.
- M. The Service Provider's driver shall keep the inside and outside of the vehicle clean.
- N. The Service Provider's driver shall not use the vehicle for hire, to haul garbage or debris, tow anything, or remove any of the seats.
- O. The Service Provider's driver shall not place any loads on top of the vehicle.
- P. The Service Provider's driver shall observe all width and height restrictions or clearances.
- Q. The Service Provider's driver shall immediately report any vehicle accidents, passenger injuries, or vehicle damage immediately to Mason County Transit Authority.
- R. The Service Provider will provide original copies of driver's motor vehicle record to Mason County Transit Authority on an annual basis.

Section 3. General Responsibilities of the Transit Agency.

- A. Work with the service provider to define the transportation services to be provided, and set guidelines and schedules for use of the vehicle.
- B. The Transit Agency will provide a vehicle or vehicle(s) with (or without) wheelchair lifts, perform routine and preventative maintenance and repair, and pay for all licensing of the vehicle(s).
- C. The Transit Agency will train all approved Service Provider drivers in the operation of the motor vehicle and defensive driving. The Transit Agency will conduct an annual review of each Service Provider's driver's motor vehicle record at the Service Providers cost. The Transit Agency will provide refresher training for the Service Provider's drivers every three years.
- D. The Transit Agency will maintain the vehicle(s) on a regular maintenance schedule as pre-determined by the Transit Agency. The Transit Agency will make reasonable efforts to provide a back-up vehicle(s), if available, when the vehicle(s) is in for maintenance or unavailable for service.
- E. The Transit Agency will provide accident investigation for any reported accident involving the vehicle(s).
- F. The Transit Agency will establish an account for fueling and car wash locations. Such services shall only be used for the vehicles provided under this Agreement. Fueling at other locations will not be reimbursed.

Section 4. Approved Driver Training

The Transit Agency will train all approved Service Providers drivers in the operation of the vehicle and defensive driving. The Transit Agency will follow established standards provided by the Washington State Transit Insurance Pool. It is important to note these standards are set by the Transit Agency's public insurance pool and change from time to time. If the standards change, the Transit Agency will implement such changes in order to maintain insurance coverage.

- A. The Transit Agency will provide the Service Provider with driver application packets.
- B. The Transit Agency will review the driver application and driving record of the Service Provider's proposed driver. If the Transit Agency approves the driver, the driver will attend a training program at the Transit Agency's expense. This training program will include defensive driving, information regarding the vehicle's handling characteristics, and an in-vehicle driving check.
- C. The Transit Agency will conduct an annual review/approval of the driver's driving record.
- D. The Transit Agency will provide refresher training for Service Provider's drivers every three years.

Section 5. Insurance Requirements

The Service Provider shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damage to property that may arise from or in connection with the Service Provider's own work including the work of the Service Provider's agents, representatives, employees, sub-Service Providers or sub-contractors.

Before beginning work on the project described in this Agreement, the Service Provider shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

- 1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit including coverage for non-owned vehicles.
- 2. Commercial general liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employer's liability.
- 3. Professional liability insurance with no less than \$1,000,000 occurrence or claims made basis.

The Service Provider is responsible for the payment of any deductible or self-insured retention that is required by any of the Service Provider's insurance. If the Transit Agency is required to contribute to the deductible under any of the Service Provider's insurance policies, the Service Provider shall reimburse the Transit Agency the full amount of the deductible.

The Transit Agency shall be named as an additional insured on the Service Provider's commercial general liability and business auto policies. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage previously outlined. The Transit Agency reserves the right to receive a certified and complete copy of all of the Service Provider's insurance policies.

It is the intent of this contract for the Service Provider's insurance to be considered primary in the event of a loss, damage or suit. The Transit Agency's own comprehensive general liability policy will be considered excess coverage in respect to the Transit Agency. Additionally, the Service Provider's commercial general liability policy must provide cross-liability coverage as would be achieved under a standard ISO separation of insureds clause.

The Service Provider shall request from his insurer a modification of the ACORD certificate to include language that written notification will be given to the Transit Agency for any cancellation, suspension or material change in the Service Provider's coverage at least 30 days in advance of such cancellation, suspension or material change.

Section 6. Obligations in Event of Claim or Loss.

In the event of a claim or loss against Service Provider for which the Pool may be obliged to provide coverage, the Service Provider shall notify their own insurance provider and the Transit Agency,

Section 7. Hold Harmless by Service Provider.

The Service Provider shall defend, indemnify and hold the Transit Agency, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney's fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the Transit Agency.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Service Provider and the Transit Agency, its officers, officials, employees, agents and volunteers, the Service Provider's liability hereunder shall be only to the extent of the Service Provider's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE SERVICE PROVIDER'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER.

Section 8. Compliance with Laws.

The parties to this Agreement shall comply with all local, state, and federal laws, rules, and regulations.

Section 9. Mediation.

In the event a dispute shall arise between the parties to this Agreement, the parties agree to participate in at least four hours of mediation in accordance with the mediation procedures of the Washington Arbitration & Mediation Service (WAMS). The parties agree to share equally in the costs of the mediation. The mediation shall be held in WAMS Tacoma offices.

Section 10. Arbitration.

Any controversy or claim arising out of or relating to this Agreement, or its breach, not settled by mediation, shall be settled by binding arbitration in accordance with Chapter 7.06 RCW and the Rules of Mandatory Arbitration for the Superior Court of the State of Washington. The Parties specifically agree that the arbitrator shall have injunctive powers and that the arbitrator's decision shall be final. The Parties hereby waive the right to request trial de novo. The prevailing party in any arbitration shall be entitled to recover their costs including reasonable attorney fees.

Section 11. Litigation.

In the event of litigation by either party concerning this Agreement, venue shall be laid in Mason County or federal district in which Transit Agency has its principal place of business. The prevailing party in such litigation shall be entitled to its reasonable attorneys' fees and costs.

Section 12. No Assignment.

This Agreement may not be assigned without the written Agreement of the parties and, if any assignment contemplates the transfer of the Pool's coverage obligations, the concurrence of the Pool.

Section 13. Term.

This Agreement shall commence August____, 2013 and shall terminate August-____, 2014. Mason Transit Authority will review this contract on an annual basis or as needed.

Section 14. Termination

The Transit Agency may temporarily suspend, and/or terminate this Agreement if it determines that there has been a breach of the Agreement. Such suspension or termination shall be effective immediately upon written notice sent by certified mail to the Service Provider. The Service Provider may also terminate this Agreement by providing written notice to the Transit Agency via certified mail. Upon termination of the Agreement by either party, the vehicle associated with this Agreement shall be returned to the Transit Agency immediately.

Section 15. Administration of the Agreement

The Transit Agency appoints the Vanpool Coordinator or designee as the Transit Agency's representative for the purpose of administering this Agreement. The Service Provider appoints the Executive Director or designee for the purpose of administering this Agreement.

Section 16. Accounting and Audit

The Service Provider agrees to keep records of all financial matters pertaining to this Agreement in accordance with Generally Accepted Accounting Principles (GAAP). These records may be reviewed at any time with prior notice by the Transit Agency or representatives of WSDOT, FTA, USDOT, or WSTIP. At any time, given 24 hours notice, the Transit Agency may review all files, trips, accounts, and records and conduct interviews with passengers, drivers, and the Service Provider's employees to determine the Service Provider's compliance with this Agreement.

Dated this ____ of ____, 20__.

Service Provider

Dated this ____ of ____, 20__.

Transit Agency

Signature of General Manager