

AGREEMENT FOR PURCHASE OF FLEXPASSES BETWEEN KING COUNTY FERRY DISTRICT AND KING COUNTY

This Agreement (the "Agreement") is made and entered into by and between King County Ferry District (hereinafter "KING COUNTY FERRY DISTRICT") and King County, a home rule charter county of the State of Washington, through its Department of Transportation, Metro Transit Division (hereinafter, "KING COUNTY").

RECITALS

- A. KING COUNTY FERRY DISTRICT and KING COUNTY share a desire to provide a comprehensive transportation pass program that will reduce single occupant vehicle (SOV) commute trips by and improve the mobility of KING COUNTY employees.
- B. KING COUNTY FERRY DISTRICT is authorized to provide public transportation and generally promote alternatives to SOV commuting, including King County Water Taxi.
- C. KING COUNTY is also authorized to promote alternatives to SOV commuting and has a desire to provide incentives to its employees which promote non-SOV commuting to its worksite.
- D. KING COUNTY FERRY DISTRICT and KING COUNTY desire to create a single pass medium that can be used to access a variety of services and benefits which enable KING COUNTY employees to commute by non-SOV modes.

AGREEMENTS

NOW, THEREFORE, in consideration of the terms, conditions and covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties hereto agree to the following:

1. PURPOSE

The purpose of this Agreement is to start a cooperative arrangement between KING COUNTY and KING COUNTY FERRY DISTRICT for the distribution and use of FlexPass Cards by KING COUNTY to KING COUNTY's eligible employees under the terms and conditions set forth herein.

2. DEFINITIONS

2.1 Eligible Employees

Eligible Employees shall mean only those employees of KING COUNTY who meet the following criteria: all benefits eligible employees, term limited positions, and interns. This does NOT include commissioned officers in the KING COUNTY Sheriff's office except limited and special commissioned officers.

2.2 FlexPass Card

A FlexPass Card is a pass that allows each Eligible Employee, as defined in Paragraph 2.1, to choose from the public transit options provided by KING COUNTY FERRY DISTRICT. KING COUNTY's Employee Identification/Pass Card shall bear the inscription "FlexPass", KING COUNTY's name, and photo identification of the employee.

3. KING COUNTY RESPONSIBILITIES

- 3.1 **Eligible Recipients of a FlexPass Card**
KING COUNTY shall ensure that only Eligible Employees, as defined in Paragraph 2.1, receive FlexPass Cards.
- 3.2 KING COUNTY shall provide the number of Employee ID/FlexPass Cards that the agency shall provide to Eligible Employees. .
- 3.3 **Receipt and Security of FlexPass Cards**
KING COUNTY agrees that it is solely responsible for providing proper storage and security measures for any and all FlexPass Cards.
- 3.4 **Reporting**
KING COUNTY shall issue a FlexPass to each new Eligible Employee as he/she is hired.
- 3.5 **Roster of FlexPass Card Recipients**
KING COUNTY shall maintain a roster of Eligible Employees who have been provided a FlexPass. Upon request, KING COUNTY shall provide to KING COUNTY FERRY DISTRICT a copy of the roster.

4. KING COUNTY FERRY DISTRICT RESPONSIBILITIES

- 4.1 **Transit Access**
KING COUNTY FERRY DISTRICT shall allow each KING COUNTY Eligible Employee displaying a KING COUNTY FlexPass Card to ride on all parts of the KING COUNTY FERRY DISTRICT regular route transportation system without additional charge. KING COUNTY FlexPass Cards are not valid on any special event transportation services provided by KING COUNTY FERRY DISTRICT. KING COUNTY FERRY DISTRICT shall honor each FlexPass Card issued under this agreement until this agreement is otherwise terminated.
- 4.2 **Confiscation of FlexPass Cards**
In addition to any other rights under law, KING COUNTY FERRY DISTRICT reserves the right to cancel and confiscate a FlexPass Card which is used out of date, altered, duplicated, counterfeited, transferred or distributed to unauthorized persons or otherwise invalid under the terms of this Agreement.
- 4.3 **Collection of Transit Ridership Data**
KING COUNTY FERRY DISTRICT will collect ridership data for KING COUNTY Eligible Employees' use of KING COUNTY FERRY DISTRICT services and will provide such data to KING COUNTY for purposes of determining the amount owed to KING COUNTY FERRY DISTRICT. The KING COUNTY FERRY DISTRICT will report such ridership data to KING COUNTY on a quarterly basis for the duration of the Agreement.

5. PAYMENT AND BILLING

5.1 Payment for This Agreement

KING COUNTY agrees to pay KING COUNTY FERRY DISTRICT the total amount stated in Attachment A for participation in this FlexPass program. KING COUNTY FERRY DISTRICT shall present invoices for amounts due to KING COUNTY's representative identified in Section 15. Payment shall be made in full by KING COUNTY according to the terms listed on the invoice, unless a different payment schedule is mutually agreed upon by the Parties in writing and incorporated into this Agreement.

5.2 Late Payment Penalty

If any scheduled payments that are not made by their due date the entire amount due under this Agreement shall become immediately due and payable. Any late payment shall be subject to a penalty accruing at the maximum rate allowable by State law for each month that the payment remains due. If any check made payable to KING COUNTY FERRY DISTRICT by KING COUNTY is returned for insufficient funds in KING COUNTY's checking account, then KING COUNTY shall be assessed a twenty five dollar (\$25.00) penalty by KING COUNTY FERRY DISTRICT.

6. TERM OF AGREEMENT

6.1 This Agreement shall take effect upon the exact day and expire on the exact day specified in this paragraph, unless terminated with the terms set forth in Section 7. This Agreement shall take effect at 12:01 AM on February 1, 2011 and shall expire at 11:59 PM on December 31, 2011.

7. TERMINATION

7.1 Termination for Cause

Either Party may terminate this Agreement in the event the other fails to perform its obligations as described in this Agreement by providing written notice not less than fourteen (14) days prior to the effected date of termination.

7.2 Termination for Convenience

Either Party may also terminate this Agreement for convenience and without cause by providing the other Party with written notice not less than sixty (60) days in advance. If KING COUNTY has made payments in advance, KING COUNTY shall be entitled to reimbursement from KING COUNTY FERRY DISTRICT based on a prorated value of the monthly rate set forth in Attachment A for the full months remaining in the term of the Agreement. If KING COUNTY has accrued additional financial obligations to KING COUNTY FERRY DISTRICT as a result of the provisions of this agreement prior to termination, KING COUNTY agrees to pay any outstanding amounts due KING COUNTY FERRY DISTRICT. KING COUNTY FERRY DISTRICT will invoice KING COUNTY for this amount according to the procedures outlined in Section 5.

8. RECORDS

8.1 Both KING COUNTY FERRY DISTRICT and KING COUNTY shall retain the right to review records and documents related to this Agreement. If a records review is commenced more than sixty (60) days after the termination of the Agreement, KING COUNTY FERRY DISTRICT shall give ten (10) days notice to KING COUNTY of the date on which the records review will begin.

9. SUCCESSORS AND ASSIGNS

9.1 This Agreement and all terms, provisions, conditions and covenants hereof shall be binding upon the Parties hereto and their respective successors and assigns. Both Parties, however, agree they will not assign or delegate the duties to be performed under this Agreement without prior written approval from the other Party.

10. LEGAL RELATIONS

10.1 No Partnership and No Third Party Beneficiaries

It is agreed by KING COUNTY FERRY DISTRICT and KING COUNTY that this Agreement does not create a partnership or joint venture relationship between the Parties, and does not benefit or create any rights in any other person or entity.

10.2 Force Majeure

KING COUNTY FERRY DISTRICT shall be excused from performance of any responsibilities and obligations under this Agreement for causes not under its control including but not limited to incidence of fire, flood, snow, earthquake, or other actions of nature, riots, insurrection, accident, order of any court or civil authority, and strikes or other labor actions.

10.3 Cost of Legal Action

KING COUNTY shall be responsible for any and all reasonable attorney fees, court costs and other expenses incurred by KING COUNTY FERRY DISTRICT in the event KING COUNTY FERRY DISTRICT pursues legal action to obtain the return of any FlexPass Cards or amount owing under this Agreement.

11. APPLICABLE LAW, FORUM

11.1 Terms

This Agreement shall be governed by and construed according to the laws of the State of Washington. Nothing in this Agreement shall be construed as altering or diminishing the rights or responsibilities of the Parties as granted or imposed by state law. In the event that any litigation may be filed between the Parties regarding this Agreement, KING COUNTY FERRY DISTRICT and KING COUNTY agree that personal jurisdiction and venue shall rest in the Superior Court of King County, Washington.

12. DISPUTES

12.1 Terms

All claims or disputes arising out of or relating to this Agreement shall be referred to a panel consisting of KING COUNTY FERRY DISTRICT's Administrator and KING COUNTY's Director, Department of Transportation. If this panel is unable to reach a mutually acceptable resolution, it will appoint another person to serve as a mediator in the effort to resolve the claim or dispute. Such mediation shall be required before an action may be filed to adjudicate the claim or dispute in a court of law.

13. ENTIRE AGREEMENT AND AMENDMENT

13.1 Entire Agreement

This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, representations and agreements between the Parties relating to the subject matter hereof.

13.2 Amendments and Modifications

This Agreement may be amended or modified only by written instrument signed by the Parties hereto.

14. SAVINGS

14.1 Should any provision of this Agreement be deemed invalid or inconsistent with any federal, state or local law or regulation, the remaining provisions shall continue in full force and effect. Both Parties agree to immediately attempt to renegotiate such provision that is invalidated or superseded by such laws or regulations.

15. CONTACT PERSONS

15.1 Definition

KING COUNTY FERRY DISTRICT and KING COUNTY shall designate a contact person for purposes of sending inquiries and notices regarding the execution and fulfillment of this Agreement.

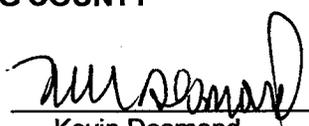
15.2 Designated Contact Persons

	KING COUNTY FERRY DISTRICT - Primary Contact	KING COUNTY - Primary Contact
Name	Anne Noris	David Dunneback
Title	Clerk to the Ferry District	Senior Transportation Planner
Address	King County Ferry District	King County Metro Transit
	516 Third Avenue	KSC-TR-0411
	Room 1200	201 South Jackson Street
	Seattle, WA 98104	Seattle, WA 98104
Telephone	206-296-0364	206-684-1858
Cell Phone		
Fax		206-263-4809
E-Mail	anne.noris@kingcounty.gov	david.dunneback@kingcounty.gov

16. EXECUTION OF AGREEMENT

16.1 Definition

This Agreement shall be executed in two (2) counterparts, each one of which shall be regarded for all purposes as one original.

<p>KING COUNTY FERRY DISTRICT</p> <p>BY: <u></u> Joe McDermott</p> <p>Title: <u>Chairman</u></p> <p>Agency: <u>King County Ferry District</u></p> <p>Date: <u>9/27/2011</u></p>	<p>KING COUNTY</p> <p>BY: <u></u> Kevin Desmond</p> <p>Title: <u>General Manager, King County Metro Transit</u></p> <p>Agency: <u>King County</u></p> <p>Date: <u>10/19/11</u></p>
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FLEXPASS ATTACHMENT A AGREEMENT COSTS

King County Ferry District Products

- Access to regular service on King County Water Taxi.
 - Vashon and
 - West Seattle routes

Pricing

King County Ferry District	
Transit Trips (Source: 2010 boardings)	= 14,937
Transit rate per trip	x \$3.48
Total Transit cost	= \$51,979.84
Total Cost	= \$51,979.84
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Payment Terms and Other Items

- Payment Terms: 1 payment. Net 60 days from Agreement start date.
- Invoice provided at least 30 days prior to the due dates.