

**DESIGN PHASE AGREEMENT NO. GCB 1951
FOR NEW PASSENGER-ONLY FERRY TERMINAL
AT SEATTLE MULTIMODAL TERMINAL**

1 This Design Phase Agreement ("Agreement") is made and entered into this 23rd day
2 of December, 2014 between the WASHINGTON STATE DEPARTMENT OF
3 TRANSPORTATION FERRIES DIVISION, operating as Washington State Ferries
4 ("WSF"), and the KING COUNTY FERRY DISTRICT, a municipal corporation of the
5 state of Washington ("DISTRICT"), (each a "Party" and collectively the "Parties").

6
7 **RECITALS**

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9 The State of Washington, operating through WSF owns and operates the Seattle Ferry
10 Terminal at Colman Dock / Pier 52 in Seattle, King County, Washington ("Pier 52
11 Terminal"); and

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13 WSF also owns and the DISTRICT operates the passenger-only ferry terminal at Pier 50 in
14 Seattle, King County, Washington ("Pier 50 POF Terminal"); and

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16 WSF and the DISTRICT entered into a Seattle and Vashon Island Passenger-Only Ferry
17 Terminal License Agreement No. GCA 6750, dated August 18, 2011, whereby WSF
18 authorized the DISTRICT to use the POF Terminal for the DISTRICT's water taxi and
19 Seattle to Vashon Island passenger-only ferry services; and

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21 WSF plans to replace the Pier 52 Terminal and the Pier 50 POF Terminal (jointly, the
22 "Seattle Ferry Terminal") with a new Seattle Multimodal Terminal requiring removal of the
23 current Pier 50 POF Terminal; and

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25 Pursuant to the provisions of Engrossed Substitute House Bill 2190, Chapter 86, Section
26 308(13) (2012), WSF shall ensure that multimodal access, including for passenger-only
27 ferries and transit service providers, is not precluded by any modifications at existing WSF
28 terminals; and

1 At the DISTRICT'S request, WSF has agreed to include a replacement passenger-only ferry
2 terminal element in the design for the Seattle Multimodal Terminal Project; and
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4 The Parties desire to enter into this Agreement to identify design and certain pre-construction
5 tasks, roles and responsibilities for the Seattle Multimodal Terminal Project, and to establish
6 certain key terms and conditions of a lease or other grant of property rights to use the WSF
7 property on which the new passenger-only ferry terminal will be located; and
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9 At the appropriate time, the Parties intend to enter into additional agreements regarding other
10 matters for the design and construction of the POF Terminal; and
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12 The Parties acknowledge development of the Seattle Multimodal Terminal is subject to
13 further design review and changes which may necessitate amendment to this Agreement,
14 some requiring approval by the appropriate legislative body; and
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16 The Parties acknowledge that pursuant to Chapter 36.150 RCW, King County may assume
17 the rights, powers, functions and obligations of the DISTRICT on January 1, 2015, including
18 but not limited to the rights and obligations of this Agreement; and
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20 The Parties acknowledge that the DISTRICT was awarded Federal Transit Administration
21 ("FTA") grant WA-90-X526 (CFDS number 20.507) to fund in part the DISTRICT's
22 reimbursement of WSF under this Agreement; and
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24 This Agreement is authorized by Chapter 39.34 RCW, the Interlocal Cooperation Act.
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27 **NOW, THEREFORE**, the Parties agree as follows:
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**I.
DEFINITIONS**

ADA means the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., as amended.

Colman Dock means Pier 52 in Seattle, King County, Washington.

Days means calendar days.

Design means the design and certain preconstruction activities for the Project, including but not limited to, environmental review, permitting, tribal consultation, ESA consultation, consultant contracting processes, etc.

Design Phase means each of the 30%, 60%, 90% and 100% or final stages of Design.

Disputes means disagreements, disputes and issues arising out of or relating to this Agreement.

GCCM means the general contractor / construction manager procedure of RCW 39.10.340 or the company selected by WSF to carry out the Seattle Multimodal Terminal Project pursuant to such procedure.

NEPA means the National Environmental Protection Act, 42 U.S.C. § 4331 et seq.

Outside Communications means any communication with Outside Parties.

Outside Parties means any regulatory agencies, tribes and contracting parties other than the Parties.

Pier 50 means the location of the current passenger-only ferry terminal in Seattle, King County, Washington.

Pier 52 means the location of the current vehicle and passenger ferry terminal in Seattle, King County, Washington.

1 **POF** means passenger-only ferry.

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3 **POF Terminal** means the POF Terminal Element within the completed Seattle Multimodal
4 Terminal Project.

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6 **POF Terminal Element** means the elements of the Project related solely to passenger-only
7 ferry facilities.

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9 **Project** means the design and construction phases for the Seattle Multimodal Terminal,
10 including the POF Terminal Element.

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12 **Reimbursable Costs** means those costs recoverable by WSF from the DISTRICT pursuant
13 to the Reimbursement Plan.

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15 **Reimbursement Plan** means that plan, as approved by the District Board of Supervisors and
16 WSF representatives, regarding all cost allocation after July 7, 2014 for design of the POF
17 Terminal Element. All such design costs incurred before and including July 7, 2014 are
18 covered by a separate cost reimbursement agreement between the Parties.

19
20 **Seattle Ferry Terminal** means collectively Piers 50 and 52 in Seattle, Washington.

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22 **Seattle Multimodal Terminal** means the remodeled Seattle Ferry Terminal at Pier 52,
23 including the vehicle / passenger ferry facilities and the POF Terminal Element.

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26 **II.**
27 **PURPOSE**
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29 The purpose of this Agreement is to describe the obligations, rights, roles and responsibilities
30 of the Parties for design and certain pre-construction activities related to the Project, and to
31 establish key terms and conditions of a lease or other right to use the WSF property on which
32 the POF Terminal will be located. The Parties intend to enter into future agreements or
33 amendments to this Agreement regarding the Project and use of WSF property on which the
34 POF Terminal will be located.

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**III.
TERM**

Subject to appropriation by the relevant governing bodies, this Agreement shall commence on the date first written above (the "effective date") and shall expire on the earlier of: (i) completion of all performance obligations and payment of Reimbursable Costs through one hundred percent (100%) Design of the Project; or (ii) January 31, 2018.

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**IV.
SEATTLE MULTIMODAL TERMINAL**

A. General Description

Within the next three to five years, WSF anticipates remodel of the current Seattle Ferry Terminal. The remodel will require demolition of the current POF terminal at Pier 50 to allow for the reconfiguration and to meet the "Purpose and Need," as described in the "Seattle Multimodal Terminal at Colman Dock Project, NEPA Environmental Assessment" for the Project. Consistent with legislative direction for WSF to maintain multimodal access for POFs, WSF shall include the POF Terminal Element in the design for the Project. Drawings and diagrams depicting the contemplated conceptual design of the Project, including the POF Terminal Element, are attached hereto and incorporated herein as Exhibit A.

B. Objectives

The Parties' objectives for the Project and the guidelines upon which WSF will design the Project, include but are not limited to the following:

1. Preserving the functionality, safety, and security of the Seattle Multimodal Terminal as a regional multimodal transportation hub;
2. Enhancing multimodal connections;
3. Designing a facility that is well integrated with the pedestrian-oriented environment envisioned by The City of Seattle for the downtown waterfront;

4. Minimizing impacts to near-shore habitat;
5. Delivering the Project in a fiscally responsible manner;
6. Maintaining a schedule consistent with legislative expectations;
7. Preserving the continued existence of and capacity for passenger-only ferry facilities in the Seattle Multimodal Terminal;
8. Developing pedestrian connectivity between the Seattle Multimodal Terminal, the POF Terminal and other transportation connections;
9. Providing for a POF Terminal and facilities that do not preclude future expansion of POF services;
10. Ensuring POF vessel landing locations that are operationally effective and provide safe clearance from Colman Dock while limiting environmental exposure; and
11. Meeting United States Coast Guard security requirements.

C. Estimated Project Milestones – Design and Construction

WSF estimates that construction of the Project will be completed in 2023. The estimated Design schedule and Project milestones are described in Exhibit B attached hereto and incorporated herein. The Parties may update Exhibit B from time to time as it pertains to the POF Terminal Element, upon mutual agreement of the Parties' Representatives. The DISTRICT acknowledges that WSF intends to utilize the general contractor / construction manager procedure for the Project pursuant to the authorization of RCW 39.10.340.

V.
PASSENGER – ONLY FERRY TERMINAL

A. POF Terminal Element Design

WSF shall include a POF Terminal Element in the Design for the Project. Diagrams, depictions and descriptions of the current contemplated layout of the POF Terminal Element are shown in Exhibit C attached hereto and incorporated herein. If the DISTRICT desires to revise the layout of the POF Terminal Element in Exhibit C, it shall give at least thirty (30) days' notice to WSF of the proposed revision.

If the proposed revision will affect materially or substantially the scope, schedule or budget of the Project, the Parties must approve a revision to the layout of the POF Terminal Element through an amendment of Exhibit C.

If the proposed revision will not affect materially or substantially the scope, schedule or budget of the Project, the revision shall become effective at the expiration of the thirty (30) day notice period, without amendment of Exhibit C.

The DISTRICT'S design for the POF Terminal Element shall be in the same increments as the Design Phases for the Project. Currently, the POF Terminal Element design is less than 30% complete. The DISTRICT will complete the 30% design of the POF Terminal Element. Upon prior consultation with WSF, the DISTRICT may elect to complete any subsequent POF Terminal Element Design Phase with its own staff and/or consultants, with WSF staff and/or consultants, or a combination of such staff and consultants. However, if the DISTRICT takes over all the Design Phase work for any subsequent POF Terminal Element Design Phase during this Agreement, the Parties will promptly negotiate the impact of such take over.

1 **B. POF Float (Barge) and Gangway**

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3 The Parties agree that the condition and life-expectancy of the POF float (barge)
4 ("Float") must be evaluated prior to a decision by the Parties of the future ownership
5 and maintenance of the Float. WSF shall hire a marine surveyor with experience in
6 steel hulled vessels to perform an exterior topside and interior void space inspection
7 of the Float, including hull gauging along the waterline with no fewer than one
8 hundred (100) shots of hull gauging. The surveyor shall prepare a condition report
9 with photographs. WSF also shall hire a diver to inspect the underwater condition of
10 the Float, including an assessment of the anode protection and replacement of any
11 anodes that are more than fifty percent (50%) wasted. The diver shall prepare a
12 condition report with photographs. Both reports shall be prepared within sixty (60)
13 days of the effective date of this Agreement, or such other time as the Parties may
14 agree. The Parties shall share equally the cost of the surveyor and diver inspections
15 and reports. In conjunction with lease of or grant of a property interest for the POF
16 Terminal to the District, as addressed in Article XVIII, the Parties shall negotiate the
17 terms and conditions for transferring ownership of the Float, gangway and fenders to
18 the DISTRICT no later than the Final Completion of the POF Terminal Element.

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21 **VI.**
22 **COORDINATION AND NOTICE**

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24 **A. Design of POF Terminal Element**

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26 WSF shall integrate the Design of the POF Terminal Element into the Design of the
27 Project. As part of such process, the Parties have entered into a Reimbursement
28 Agreement No. GCB 1934 covering the DISTRICT'S 100% reimbursement of
29 WSF'S POF-related pre-construction work and design costs for the initial portion of
30 the 30% Design Phase of the POF Terminal Element, through July 7, 2014. After
31 such date, the DISTRICT will complete the 30% Design Phase of the POF Terminal
32 Element with its own design consultant. WSF shall include the existing POF terminal
33 float, gangway, and fenders in the Design of the POF Terminal Element, if requested
34 by the DISTRICT.

1 **B. Selection of Design Consultant**

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- 3 1. Except as provided otherwise in Article VI.A above, WSF will select and
- 4 contract with a Design consultant for final Design of the Project. Upon
- 5 request, WSF shall provide to the DISTRICT a copy of the Design
- 6 consultant's contract. Final Design shall include the POF Terminal Element,
- 7 unless requested otherwise by the DISTRICT.
- 8
- 9 2. WSF shall allow the DISTRICT to participate fully in the selection of the
- 10 Design consultant, pursuant to a participation plan and schedule agreed to by
- 11 the Parties' Representatives. Such participation shall include, but not be
- 12 limited to, attendance at all WSF meetings or interviews concerning selection
- 13 of a Design consultant or involving Design consultant candidates. WSF shall
- 14 give the DISTRICT at least three (3) days' advance notice of a meeting or
- 15 interview.
- 16
- 17 3. WSF shall give to the DISTRICT the names of and information for all
- 18 finalists for Design consultant at least seven (7) days before the first interview
- 19 of a finalist or before selection of the Design consultant, whichever occurs
- 20 first.
- 21
- 22 4. The Parties shall collaborate and coordinate with the Design consultant as
- 23 described below.
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25 **C. Selection of GCCM**

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27 If the GCCM procedure is utilized by WSF for the Project, WSF shall involve the

28 DISTRICT in the selection of the GCCM in the same manner as the DISTRICT's

29 participation in the selection of the Design consultant. WSF shall select and contract

30 with a GCCM. Upon request, WSF shall provide to the DISTRICT a copy of the

31 GCCM contract.

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1 **D. Notice and Other Communications**

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- 3 1. All notices or requests required or permitted under this Agreement shall be in
- 4 writing, shall be personally delivered or sent by certified mail, return receipt
- 5 requested, postage prepaid, electronic mail or by facsimile transmission and
- 6 shall be deemed received on either the date when delivered, e-mailed or faxed,
- 7 subject to confirmation of receipt; or three (3) business days following the
- 8 date of mailing if there is no confirmation of delivery. All notices or requests
- 9 shall be sent to the Party's designated Representative.
- 10
- 11 2. WSF shall give the DISTRICT advance notice of any deliberations or
- 12 decisions relating to the design of the POF Terminal Element so that the
- 13 DISTRICT will be able to participate fully in such deliberations or decisions.
- 14 WSF shall provide the DISTRICT with drafts of all relevant documents
- 15 reasonably in advance to allow the DISTRICT to participate fully.
- 16
- 17 3. In addition to the formal notice procedure of Article VI.D.1 above, WSF shall
- 18 communicate regularly with the DISTRICT at a frequency and in a form
- 19 determined by the Parties' Representatives. Such communication shall
- 20 include periodic status reports, as determined by the Parties' Representatives,
- 21 regarding the Project, as reasonably related or relevant to the Design of or
- 22 GCCM for the POF Terminal or POF Terminal Element.
- 23
- 24 4. Upon notice received by the DISTRICT at least three (3) business days in
- 25 advance, WSF shall allow the DISTRICT to participate in any and all
- 26 meetings with Outside Parties that are reasonably related or relevant to the
- 27 POF Terminal or POF Terminal Element. WSF shall not agree upon or
- 28 resolve matters with Outside Parties that are reasonably related to the POF
- 29 Terminal or POF Terminal Element without prior consent of the DISTRICT.
- 30
- 31 5. The Parties, through their designated Representatives, commit to make good
- 32 faith efforts to mutually and satisfactorily resolve and agree upon all Design
- 33 and GCCM decisions and pre-construction agreements related or relevant to
- 34 the POF Terminal or POF Terminal Element.
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1 **E. Review and Approval of Project Specifications**

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- 3 1. Within three (3) business days of receipt from the Design consultant, or the
- 4 the GCCM if applicable, and upon request by the DISTRICT at other times,
- 5 WSF shall provide the DISTRICT with copies (electronic or otherwise as
- 6 requested by the DISTRICT) of all initial or modified Design Phase drawings,
- 7 diagrams, layouts, designs, and plans and specifications , whether draft or
- 8 final, prepared by the Design consultant or the GCCM, and all other
- 9 documents reasonably related or relevant to the POF Terminal Element.
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- 11 2. The DISTRICT may provide comments to WSF on each submitted document,
- 12 within a time period and in a manner agreed upon by the Parties'
- 13 Representatives. The time period and manner shall include a process for the
- 14 DISTRICT to request additional time for comment, on a case-by-case basis.
- 15
- 16 3. WSF must obtain DISTRICT consent to any Design drawings, diagrams,
- 17 layouts, designs, and plans and specifications that are relevant to the POF
- 18 Terminal Element.
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21 **VII.**

22 **ENVIRONMENTAL COORDINATION**

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24 **A. SEPA**

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26 WSF shall be the lead agency responsible for obtaining environmental review and

27 permits for the Project in accordance with the State Environmental Policy Act

28 (SEPA). For any environmental review and any mitigation costs related or relevant to

29 the POF Terminal Element, WSF shall obtain DISTRICT consent as required by

30 Article VI.

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32 **B. NEPA Document**

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34 Both permanent and temporary POF Terminal facilities have been analyzed in the

35 National Environmental Policy Act (NEPA) document developed by WSF; and will

36 be addressed in the final decision by Federal Highway Administration (FHWA) and

1 Federal Transit Administration (FTA). Communication and coordination among the
2 Parties regarding the NEPA document, including any DISTRICT consent, shall be
3 consistent with Article VI.
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6 **VIII.**
7 **TRIBAL AND PERMITTING COORDINATION**
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9 **A. Tribal Coordination**
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11 WSF shall be responsible for coordinating with FHWA and FTA regarding tribal
12 outreach and negotiations for the Project. If WSF and a tribe anticipate entering into
13 an agreement regarding issues, mitigation or costs related or relevant to the POF
14 Terminal Element or POF Terminal, or affecting the DISTRICT'S costs or payments
15 as may be agreed to in the Reimbursement Plan, WSF shall first obtain the
16 DISTRICT'S prior consent consistent with Article VI.
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18 **B. Permitting Coordination**
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20 Consistent with the DISTRICT consent requirements of Article VI, and subject to the
21 Reimbursement Plan provisions, WSF shall be responsible for obtaining all necessary
22 permits for the Project. The DISTRICT shall be responsible for any costs of
23 mitigating environmental impacts of the POF Terminal Element if those impacts
24 result from the design of the POF Terminal Element.
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27 **IX.**
28 **POF TERMINAL SERVICE INTERRUPTION**
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30 WSF, WSF'S Design consultant and WSF's GCCM, if applicable, shall use best efforts to
31 avoid disruptions to or impacts on the DISTRICT'S operation of the POF terminal at Pier 50.
32 If any Design consultant or GCCM work or activities will disrupt or impact the DISTRICT'S
33 operation of the POF terminal at Pier 50, WSF shall give the DISTRICT at least thirty (30)
34 days' notice of such work or activities. The notice shall include a description of the work or
35 activities in such detail as will allow the DISTRICT to plan and respond appropriately. If the
36 work or activities will require suspension of ongoing DISTRICT operations or closure of all

1 or a part of the existing POF terminal at Pier 50, WSF shall give the DISTRICT at least
2 ninety (90) days advance notice of such work or activities.

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5 **X.**
6 **PARTIES' REPRESENTATIVES**

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8 **A. DISTRICT Representative**

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10 By notice as provided in Article VI.D.1, the DISTRICT shall designate a
11 representative for this Agreement ("DISTRICT Representative") who shall facilitate
12 all POF Terminal Element related communication and coordination between the
13 Parties. In this Agreement, the term "DISTRICT Representative" shall include the
14 Representative's designee.

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16 **B. WSF Representative**

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18 By notice as provided in Article VI.D.1, WSF shall designate a Project Engineer for
19 this Agreement ("WSF Project Engineer") who shall facilitate all POF Terminal
20 Element related communication and coordination between WSF staff and the
21 DISTRICT Representative and provide POF Terminal Element related submittals to
22 the DISTRICT Representative. In this Agreement, the term "WSF Project Engineer"
23 shall include the Engineer's designee.

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25 **C. Change in Representatives**

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27 The Parties may change their designated Representative by giving notice as provided
28 in Article VI.D.1.
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**XI.
FUNDING**

A. DISTRICT Reimbursement

1. The DISTRICT shall reimburse WSF for Reimbursable Costs incurred before and including July 7, 2014 as provided in Reimbursement Agreement No. GCB 1934 between the Parties. The District shall reimburse WSF for Reimbursable Costs incurred after July 7, 2014 pursuant to the Reimbursement Plan attached hereto and incorporated herein as Exhibit D, and in accordance with the payment procedure of Article XII.
2. The Parties agree to fund and be responsible for their own respective costs associated with staff time and consultant time necessary to fulfill their roles and responsibilities as identified in this Agreement, except as otherwise agreed to in the Reimbursement Plan.

B. District Lack of Funding

If the DISTRICT does not appropriate funds for Reimbursable Costs pursuant to the Reimbursement Plan, the DISTRICT shall promptly provide notice to WSF. Upon receipt of such notice, WSF may, at its discretion and unless prohibited by law, eliminate the POF Terminal Element from the Design of the Project. In such event, this Agreement shall terminate in accordance with Article XVII.

C. WSF Lack of Funding

If the Washington state legislature does not appropriate funds to complete any Design Phase, or withdraws funding for a Design Phase, WSF shall give notice of such lack of appropriation or withdrawal of funding to the DISTRICT, as soon as reasonably possible. Upon receipt of the notice, the DISTRICT may request WSF to terminate all or part of the Design Phase work on the POF Terminal Element.

XII.
PAYMENT PROCEDURE AND RECORD KEEPING

A. Invoices

On a monthly basis, and consistent with the requirements of the Reimbursement Plan, WSF shall send an invoice to the DISTRICT for Reimbursable Costs that are incurred by WSF for the invoice period. The invoices shall be in such detail and shall contain such information as may be requested by the DISTRICT.

B. Review and Payment of Invoices

Within forty-five (45) days following receipt of an invoice from WSF, the DISTRICT shall pay any Reimbursable Costs that are authorized by the Reimbursement Plan. If the DISTRICT disagrees with or questions any of WSF's invoiced Reimbursable Costs, the DISTRICT shall notify WSF of the disagreement or question within ten (10) days of receipt of the invoice. The Parties shall review the dispute or question within ten (10) days of notification to WSF. After discussion by the Parties, any unresolved disputed costs shall be subject to Dispute resolution under Article XV.

C. Recordkeeping – As-Built Plans and Drawings

During the progress of the Design and for a period of not less than six (6) years from final payment by the DISTRICT, WSF shall keep all records and accounts related to the POF Terminal Element available for inspection and audit by the DISTRICT. WSF shall provide to the DISTRICT copies of all records, accounts, documents or other data pertaining to the Design of and GCCM procedure for the POF Terminal Element upon request. If any litigation, dispute resolution process claim or audit is commenced, WSF shall retain all records and accounts, along with supporting documentation, until all litigation, dispute resolution process, claim or audit finding has been resolved, even though such litigation, dispute resolution process claim or audit continues past the three-year retention period. This section shall not apply to engineering and architectural plans and drawings, which WSF shall keep for a period of time consistent with WSDOT policy for retention of such records. Upon

1 completion of the POF Terminal Element, WSF shall provide to the DISTRICT as-
2 built plans and drawings for the POF Terminal.

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5 **XIII.**
6 **NON-DISCRIMINATION**
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8 **A.** In the performance of this Agreement, the Parties shall comply with the provisions of
9 Title VI of the Civil Rights Act of 1964 (42 USC 200d), Section 504 of the
10 Rehabilitation Act of 1973 (29 USC 794) and Chapter 49.60 RCW, as now or
11 hereafter amended. The Parties shall not discriminate on the grounds of race, color,
12 national origin, sex, religion, marital status, age, creed, sexual orientation, Vietnam-
13 Era and Disabled Veterans status, or the presence of any sensory, mental, or physical
14 handicap in:

- 15
16 1. Any terms or conditions of employment, to include taking affirmative action
17 necessary to accomplish the objectives of this Article; and
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19 2. Offering individuals or firms the opportunity to participate in described work
20 or services through a contract, subcontract or consultant selection process (if
21 any) in the performance of this Agreement.
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23 **B.** In the event of a Party's non-compliance or refusal to comply with this Article, this
24 Agreement may be rescinded, canceled or terminated in whole or in part.
25
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XIV.
INDEMNIFICATION AND INSURANCE

A. Mutual Indemnification

Each Party shall defend, indemnify and hold harmless the other Party and all of its officials and employees from and against any and all claims, demands, suits, actions, fines, penalties, damages, liability, and expense of any kind including, without limitation, reasonable attorneys' fees, including injuries to persons or damages to property (collectively "Claims"), which arise out of or are related to any negligent acts or omissions or any breach of this Agreement by the indemnifying Party or its employees, contractors or agents. Provided, that if such Claims are caused by or arise from the concurrent negligence or breach of this Agreement by the DISTRICT or its employees, contractors or agents, and WSF or its employees, contractors or agents, including instances where this Agreement is subject to the provisions of RCW 4.24.115, then each Party's obligation to indemnify under this Agreement shall be effective only to the extent of the negligence or breach of such Party or its employee, contractor or agent. Neither Party shall be required under this Article to indemnify any other Party for the other Party's sole negligence.

The foregoing indemnity is specifically and expressly intended to constitute a waiver of each Party's immunity under industrial insurance, Title 51 RCW, 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. This waiver has been mutually negotiated.

B. Indemnity from Design Consultant and GCCM

WSF shall obtain from its Project Design consultant and its GCCM a defense, indemnity and hold harmless commitment for the benefit of WSF and the DISTRICT and their officers, officials, agents and employees respectively, covering the Design consultant's and its subcontractors', and the GCCM's and its subcontractors', acts, errors and omissions regarding their respective Design and GCCM work for the POF Terminal Element, including actual or alleged defects therein.

1 **C. Insurance from Design Consultant and GCCM**

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3 WSF shall require its Project Design consultant and its GCCM to maintain
4 commercial general liability, professional liability, automobile liability, statutory
5 workers compensation, employers liability/stop and other insurance as may be
6 required with prudent limits of liability as established by the DISTRICT'S risk
7 management advisers; provided that WSF need not require the GCCM to maintain
8 professional liability insurance. WSF shall include a provision in its contract with the
9 Project Design consultant and GCCM requiring "KING COUNTY FERRY
10 DISTRICT" and each of its officers, officials, agents and employees, to be named as
11 additional insured for primary and non-contributory limits of liability under the
12 Design consultant's and GCCM's commercial general liability insurance for the full
13 limits of liability available under its liability insurance program, whether such limits
14 are primary, excess, contingent or otherwise.
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16 **D. Environmental**

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18 1. The Parties acknowledge that the design and pre-construction work and
19 activities related to the Project ("Design Work") will occur in Elliott Bay,
20 which is a known hazardous waste site that contains sediment contamination
21 resulting from numerous known and unknown sources. Each Party will bear
22 any costs that result from that Party's negligent handling of Hazardous
23 Substances, failure to follow permit conditions, or failure to follow industry
24 standards for Hazardous Substance handling. All costs resulting from the
25 presence of Hazardous Substances that do not result from a Party's negligence
26 or failure to follow permit conditions or industry standards shall be treated as
27 Reimbursable Costs under the Reimbursement Plan.
28
29 2. WSF shall indemnify, protect, defend, and hold harmless the DISTRICT from
30 all third party Claims (including but not limited to Costs arising directly or
31 indirectly from: (i) any Hazardous Substances already existing and in place
32 when encountered by WSF during its conduct of the Design Work, the release
33 of which is contributed to or exacerbated by the negligence, willful
34 misconduct, or fraud of WSF or its contractor in performance of the Design
35 Work, to the extent of such contribution or exacerbation; or (ii) any

1 Hazardous Substances, the presence, release, or disposal of which is
2 proximately caused by the acts of WSF or those of its contractor in the
3 performance of the Design Work, other than Hazardous Substances already
4 existing and in place when encountered by WSF.
5

6 3. For purposes of this Article XIV.D, "Costs" include but are not limited to
7 response costs, administrative costs, fines, charges, penalties and cost
8 recoveries or similar actions brought by a governmental agency or private
9 party, including costs incurred in connection with an independent cleanup
10 action under the Model Toxics Control Act and including third party tort
11 liability.
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13 4. For purposes of this Article XIV.D, "Hazardous Substance" includes: Any
14 toxic substance or waste, sewage, petroleum product, radioactive substance,
15 medicinal, bacteriological, or disease-producing substance; any substance or
16 thing defined, listed, or categorized as a dangerous waste, hazardous waste, or
17 hazardous substance in any federal, state or local laws or regulations, as now
18 codified or later amended; and any other pollutant, contaminant, or substance,
19 posing a danger or threat to public health or welfare, or to the environment,
20 which is regulated or controlled by any federal, state or local laws or
21 regulations, as now codified or later amended.
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23 **XV.** 24 **DISPUTE RESOLUTION** 25

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27 **A.** The Parties shall use their best efforts to resolve Disputes through their designated
28 Representatives. Each Party shall notify the other Parties in writing of any Dispute
29 identified for formal resolution. This written notice shall include: (i) a description of
30 the Dispute; (ii) a description of the difference between the Parties on the Dispute;
31 and (iii) a summary of steps taken to resolve the Dispute.
32

33 **B.** If the Parties designated Representatives are unable to resolve a Dispute, the Parties
34 shall elevate the dispute to the Chair of the DISTRICT legislative body or designee
35 and the WSDOT Assistant Secretary for WSF or designee (Supervisory Personnel").

1 The Supervisory Personnel shall confer and exercise good faith to resolve the
2 Dispute.

3
4 C. If the Parties' Supervisory Personnel are unable timely to resolve a Dispute, then the
5 Parties shall engage in non-binding mediation in order to resolve the Dispute.
6 Mediation may be requested by either Party, and shall be attempted prior to the
7 institution of any lawsuit arising under this Agreement. Each Party shall designate, in
8 writing, not more than three (3) candidates it proposes to act as a mediator within ten
9 (10) days following notification of a Dispute. If the Parties cannot agree on one of
10 the mediators from the combined list within five (5) days, then the Parties shall
11 promptly meet and select a mediator by blind draw. Upon selection of the mediator,
12 the Parties shall, within thirty (30) days or as soon thereafter as possible, meet and
13 engage in a mediation of the Dispute with the assistance of the mediator. The cost for
14 the mediation services shall be borne equally between the Parties. The mediator shall
15 determine reasonable procedures. Written and oral communications with the
16 mediator shall be inadmissible in any subsequent court proceedings. If mediation
17 fails to resolve the Dispute within sixty (60) days after commencement of the
18 mediation, regardless of continuances in the mediation, the Parties may thereafter
19 seek redress in court.

20 21 22 XVI. 23 FORCE MAJEURE

24 25 A. Force Majeure Event

26
27 As used in this Article, a "Force Majeure Event" (or "Event") shall mean any act of
28 nature, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm
29 or flood, explosion, breakage or accident to machinery or equipment, any order,
30 regulation or restriction imposed by governmental, military, or lawfully established
31 civilian authorities, or any other cause beyond a Party's control, including, but not
32 limited to, loss or termination of appropriated funding for any reason. A Force
33 Majeure Event does not include an act of negligence or intentional wrongdoing.
34
35

1 **B. Notification and Performance**

2 If a Force Majeure Event prevents a Party from fulfilling any obligations under this
3 Agreement, the Party affected by the Force Majeure Event ("Affected Party") shall
4 promptly and within three (3) business days notify the other Parties, either in writing
5 or via the telephone, of the existence of the Force Majeure Event. The notification
6 must specify in reasonable detail the circumstances of the Force Majeure Event, its
7 expected duration, and the steps that the Affected Party is taking to mitigate the
8 effects of the event on its performance. The Affected Party shall keep the other
9 Parties informed on a continuing basis of developments relating to the Force Majeure
10 Event until the Force Majeure Event ends. The Affected Party will be entitled to
11 suspend or modify its performance of obligation under this Agreement only to the
12 extent that the effect of the Force Majeure Event cannot be mitigated by the use of
13 reasonable efforts. The Affected Party will use reasonable efforts to resume its
14 performance as soon as possible.

15
16
17 **XVII.**
18 **TERMINATION**

19
20 **A. Termination For Default**

21
22 Either Party may terminate this Agreement for material default by the other Party,
23 including but not limited to: (i) the failure of either Party to execute a lease or other
24 property interest for operation of the POF Terminal; or (ii) the DISTRICT'S failure to
25 make timely Reimbursable Costs payments to WSF. If a Party determines that the
26 other Party has committed a material default, the aggrieved Party shall give written
27 notice of such breach or failure to the defaulting Party. Except as provided below, if
28 the defaulting Party fails to remedy the breach or failure within twenty (20) days of
29 receiving written notice of such breach or failure, the non-defaulting Party may
30 terminate this Agreement for material default.

31
32 If the DISTRICT has breached this Agreement by failing to make timely
33 Reimbursable Costs payments to WSF in accordance with Article XII, including the
34 Dispute resolution provisions thereof, the DISTRICT shall remain obligated to pay
35 WSF for outstanding Reimbursable Costs subject to the Reimbursement Plan.

1 **B. Termination for Lack of Appropriation**

2
3 The DISTRICT may terminate this Agreement if its legislative body fails to
4 appropriate sufficient funding for POF Terminal Element costs. In such event, the
5 DISTRICT shall remain obligated to pay WSF for outstanding Reimbursable Costs
6 subject to the Reimbursement Plan.
7

8 **C. Survival of Obligations**

9
10 Upon expiration or earlier termination of this Agreement, all remaining or unfulfilled
11 claims, causes of action or other outstanding obligations that (i) arose during the
12 Term of this Agreement up to and including the Termination Date, and/or (ii) were
13 intended to survive the expiration or earlier termination of this Agreement and all of
14 the provisions of this Agreement relating to the obligation of the Parties to account to
15 or to indemnify the other and pay to the other any monies owing as at the date of
16 expiration or termination in connection with this Agreement will survive such
17 expiration or termination.
18
19

20 **XVIII.**
21 **OWNERSHIP AND LEASE OF POF TERMINAL**

22
23 A. Upon the DISTRICT's acceptance of and final payment for the POF Terminal
24 Element, the DISTRICT shall own the POF Terminal Element as identified and
25 described on Exhibit C (as adopted or amended). The DISTRICT shall, in its sole
26 discretion, determine whether to accept the POF Terminal Element upon its final
27 completion. Such acceptance shall not be unreasonably withheld by the DISTRICT.
28 For purposes of this Article XVII, "Final Completion" means:
29

- 30 1. The DISTRICT has full and unrestricted use and benefit of the POF Terminal
31 Element for the purpose intended;
32
33 2. All the systems and parts of the POF Terminal Element are functional;
34
35 3. Utilities are connected and operate normally;
36

- 1 4. Only minor incidental work or correction or repair remains to complete all
2 POF Terminal Element requirements; and
3
- 4 5. WSF's GCCM or contractor has provided all necessary occupancy permits
5 and easement releases.
6
- 7 B. Within one-hundred and eighty (180) days of the effective date of this Agreement, the
8 Parties shall enter into a lease of the POF Terminal to the DISTRICT, or WSF shall
9 grant to the DISTRICT a property interest for the POF Terminal, upon the terms and
10 conditions generally stated in the Lease Term Sheet at Exhibit E attached hereto and
11 incorporated herein. The lease or grant may include other terms and conditions as
12 may be agreed to by the Parties. Failure of the Parties to enter into the lease or grant
13 the property interest within such period of time shall be a material default under
14 Article XVII.C of this Agreement, for which either Party may terminate this
15 Agreement pursuant to Article XVII, Section B.
16
- 17 C. Prior to Final Completion of the POF Terminal Element, the Parties shall enter into
18 an agreement regarding the operation and maintenance of the Shared Facilities, as
19 those Facilities are described in the Reimbursement Plan.
20
- 21 D. The Parties acknowledge that a portion of the POF Terminal may be located on
22 tidelands or bedlands under the jurisdiction of the Washington State Department of
23 Natural Resources (DNR) under an aquatic lands easement issued to WSDOT / WSF
24 for ferry terminal and docking facilities at Pier 52. WSF will consult with DNR
25 within thirty (30) days of the effective date of this Agreement to determine whether
26 such DNR easement will enable development and operation of the POF Terminal so
27 that the existing DNR easement area remains intact for present and future marine
28 transportation purposes, including POF purposes. If the existing DNR easement
29 cannot be utilized for the POF Terminal, then if requested by the DISTRICT, WSF
30 shall assist the DISTRICT in obtaining an easement or other property right to use
31 such DNR tidelands and/or bedlands on terms and conditions acceptable to the
32 DISTRICT. Failure of DNR to enter into an easement or other real property
33 transaction with the DISTRICT and sufficient to allow the DISTRICT to operate the
34 POF Terminal shall be grounds for the DISTRICT to terminate this Agreement.
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XIX.
POF TERMINAL LICENSE AGREEMENT

In 2011, the Parties entered into the "Seattle and Vashon Island Passenger-Only Ferry Terminal License Agreement No. GCA 6750" for DISTRICT use of the Pier 50 Terminal and the Vashon Terminal, as those terms are defined in the License Agreement. The License Agreement is effective through June 30, 2019. Under the License Agreement, the DISTRICT has two (2) successive options to extend the term of the License Agreement for up to five (5) years for each option, subject to WSF's prior review and approval. Because WSF anticipates completing the Project in 2023, the Parties acknowledge that the License Agreement will need to be extended at least once for a minimum of three (3) years, in order to allow a smooth transition of passenger-only service from the Pier 50 Terminal to the POF Terminal. Therefore, if and when the DISTRICT gives notice of the exercise of the option to extend under Article 3.2 of the License Agreement to enable a transition of operations from the Pier 50 Terminal to the POF Terminal, WSF will provide written approval for such option within thirty (30) days of the receipt of such notice.

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XX.
GENERAL PROVISIONS

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.

B. No Contract Security

Unless otherwise specified in amendments or supplements to this Agreement, no contract security is required for this Agreement.

C. No Third Party Rights

It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other party. Nothing in this Agreement, whether

1 express or implied, is intended to confer any rights or remedies under or by reason of
2 this Agreement on any persons other than the Parties.

3
4 **D. Binding on Successors**

5
6 All of the terms, provisions and conditions of this Agreement will be binding upon
7 and inure to the benefit of the Parties hereto and their respective successors, permitted
8 assigns and legal representatives.

9
10 **E. Compliance with Laws**

11
12 Each Party shall comply, and to the best of its ability shall ensure, that its employees,
13 agents, consultants and representatives comply with all federal, state, and local laws,
14 regulations, and ordinances applicable to the work and services to be performed.

15
16 **F. No Joint Relationship**

17
18 No joint relationship or partnership is formed as a result of entering into this
19 Agreement. In performing work and services hereunder, each Party and its
20 employees, agents, consultants and representatives shall be acting as agents of that
21 Party only, and shall not be deemed or construed to be employees or agents of the
22 other Parties in any manner whatsoever. No employee of any Party shall hold
23 him/herself out as, or claim to be an officer or employee of another Party by reason of
24 this Agreement and shall not make any claim, demand, or application to, or for any
25 right or privilege applicable to an officer or employee of another Party. Each Party
26 shall be solely responsible for any claims for wages or compensation by its
27 employees, agents, and representatives, including consultants, and shall hold the other
28 Parties harmless therefrom.

29
30 **G. State Ethics Law**

31
32 The COUNTY and the DISTRICT agree to comply with all applicable sections of the
33 Washington State Ethics law, RCW 42.52, which regulates gifts to State officers and
34 employees. Under that statute, any State officer or employee who has or will
35 participate with the DISTRICT regarding any aspect of this Agreement is prohibited

1 from seeking or accepting any gift, gratuity, favor or anything of economic value
2 from the DISTRICT. Accordingly, neither the DISTRICT nor the COUNTY nor any
3 agent or representative thereof shall offer anything of economic value as a gift,
4 gratuity or favor directly or indirectly to any such State officer or employee.
5

6 **H. Assignment**
7

8 Neither Party shall assign any interest, obligation, or benefit in this Agreement or
9 transfer any interest in the same, whether by assignment or novation, without prior
10 written consent by the other Party; provided, the Parties contemplate that King
11 County may assume the DISTRICT's rights and duties under this Agreement
12 pursuant to Chapter 36.150 RCW, and WSF consents to any assumption of the
13 DISTRICT'S rights and obligations by King County; provided such assumption was
14 obtained in accordance with all applicable laws.
15

16 **I. Severability**
17

18 If any term or provision of this Agreement or the application thereof to any person or
19 circumstances shall, to any extent, be invalid or unenforceable, the remainder of this
20 Agreement, or the application of such term or provision to persons or circumstances
21 other than those as to which it is held invalid or unenforceable, shall not be affected
22 thereby and shall continue in full force and effect.
23

24 **J. Governing Law and Venue**
25

26 This Agreement will be governed by, and construed and enforced in accordance with,
27 the laws of the State of Washington. Any legal action brought resulting from this
28 Contract shall be brought in the Superior Court of King County, Washington.
29

30 **K. Amendments / Supplements**
31

32 The Parties reserve the right to amend this Agreement as necessary. No addition or
33 modification to this Agreement shall be binding upon the Parties unless reduced to
34 writing and signed by an authorized representative of each Party, except as otherwise

provided for in this Agreement. Certain amendments may require approval of the governing body of the DISTRICT.

L. Execution of Agreement

This Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as original.

**XXI.
FEDERAL AID PROVISIONS**

- A. If and when federal funds are utilized by WSF, this Agreement and all amendments or supplements shall comply with applicable federal contract funding requirements. To the extent applicable based on the funding source, federal requirements, federal contract provisions and certificates, and related documents are incorporated herein by attachment and/or reference, respectively, as Exhibit F and Exhibit G.
- B. WSF shall comply with the terms and conditions of Exhibit F and Exhibit G in performing the work and services for which Reimbursable Costs are recoverable by WSF from the DISTRICT pursuant to the Reimbursement Plan.

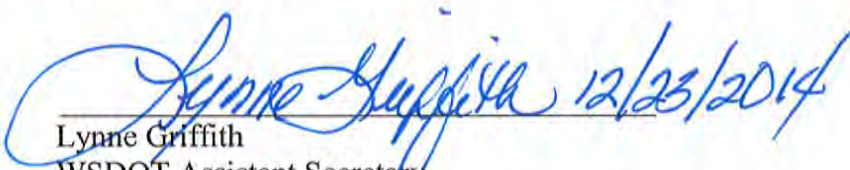
**XXII.
ENTIRE AGREEMENT**

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.

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

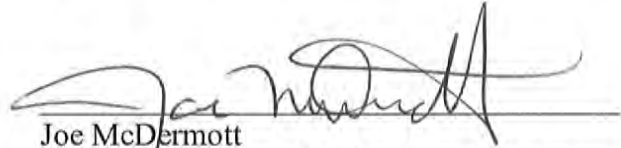
**WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION
FERRIES DIVISION**

By:

 12/23/2014
Lynne Griffith
WSDOT Assistant Secretary
For Washington State Ferries

KING COUNTY FERRY DISTRICT

By:


Joe McDermott
King County Ferry District Board Chairperson

Approved as to form for
Washington State Department of Transportation:

By: (on separate page)
Bryce E. Brown, Jr.
Senior Assistant Attorney General

Date: _____

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

**WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION
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By: (on separate page)
Lynne Griffith
WSDOT Assistant Secretary
For Washington State Ferries

KING COUNTY FERRY DISTRICT

By: (on separate page)
Joe McDermott
King County Ferry District Board Chairperson

Approved as to form for
Washington State Department of Transportation:

By: Bryce Brown
Bryce E. Brown, Jr.
Senior Assistant Attorney General

Date: 12-17-14

**DESIGN PHASE AGREEMENT NO. GCB 1951
FOR NEW PASSENGER-ONLY FERRY TERMINAL
AT SEATTLE MULTIMODAL TERMINAL**

EXHIBIT INDEX

<u>EXHIBIT</u>	<u>TITLE</u>
EXHIBIT A	Conceptual Drawings and Diagrams of Seattle Multimodal Terminal Project, Including POF Terminal Element
EXHIBIT B	Estimated Design Schedule and Project Milestones For Seattle Multimodal Terminal Project, Including POF Terminal Element
EXHIBIT C	Diagrams, Depictions and Descriptions of Current Contemplated Layout of POF Terminal Element For Seattle Multimodal Terminal Project <ul style="list-style-type: none">- Design Criteria- Design Parameters- Site Plan- Conceptual Layout Through 20% Design
EXHIBIT D	Reimbursement Plan
EXHIBIT E	Term Sheet For Proposed Passenger-only Ferry Terminal Lease at Colman Dock / Pier 52

EXHIBIT F**Federal Funding Provisions and Certifications**

ATTACHMENT 1	Federal Transit Administration Articles For Professional Services Contracts
ATTACHMENT 2	Federal Transit Administration Certifications
ATTACHMENT 3	Federal Highway Administration Contract Provisions
ATTACHMENT 4	Federal Highway Administration Certification
ATTACHMENT 5	Wages, Benefits and Rates

EXHIBIT G**Federal Requirements**

ATTACHMENT 1	FTA Master Agreement
ATTACHMENT 2	FTA Circular 5010.1D Project Administration and Management, Circular 1010.1D
ATTACHMENT 3	FTA Circular 4220.1F
ATTACHMENT 4	FTA Third Party Contract Provisions - Standard Terms and Conditions

EXHIBIT A

**DESIGN PHASE AGREEMENT NO. GCB 1951
FOR NEW PASSENGER-ONLY FERRY TERMINAL
AT SEATTLE MULTIMODAL TERMINAL**

**Conceptual Diagram of
Seattle Multimodal Terminal Project, Including POF Terminal Element**

(copy attached)

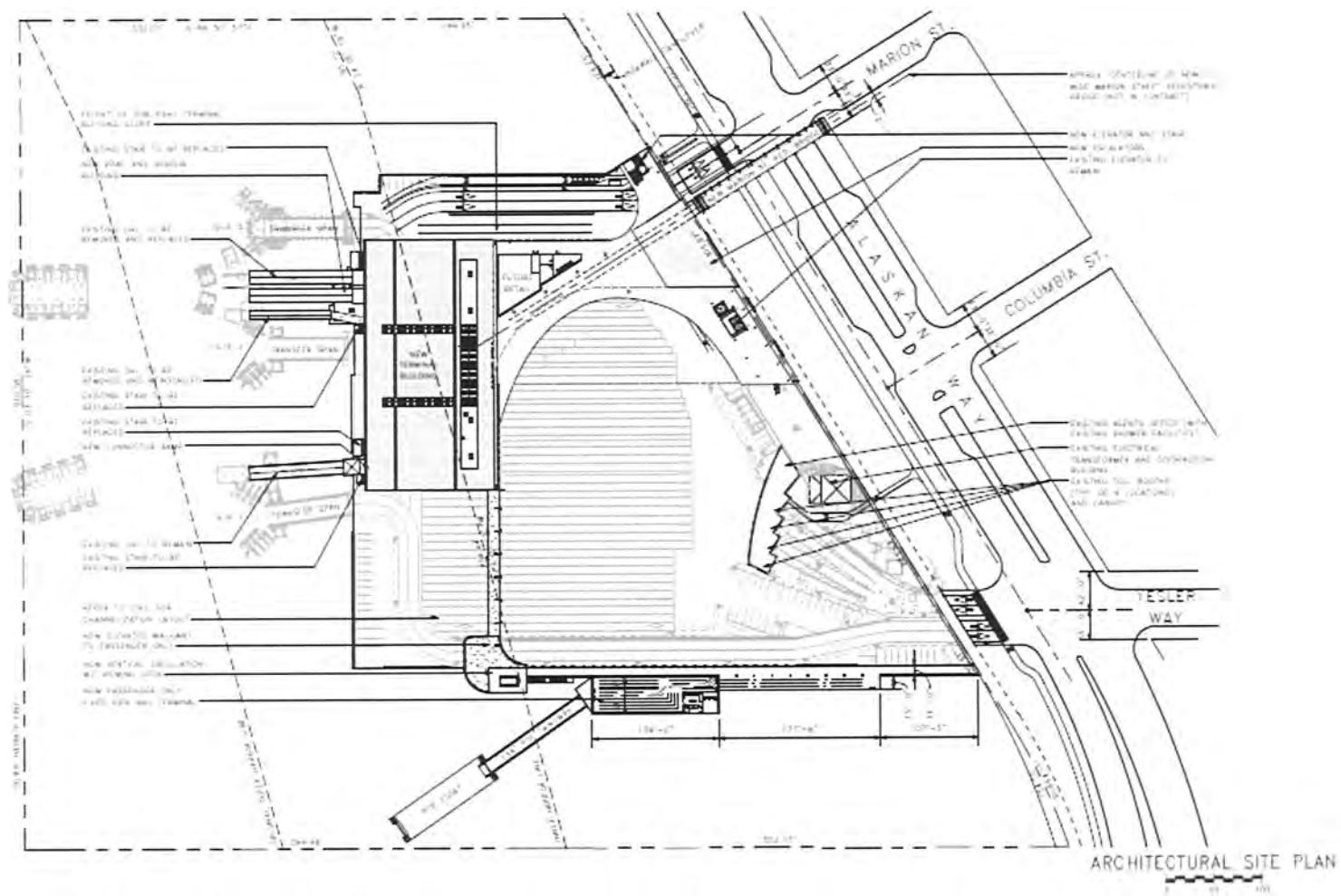


EXHIBIT B

DESIGN PHASE AGREEMENT NO. GCB 1951 FOR NEW PASSENGER-ONLY FERRY TERMINAL AT SEATTLE MULTIMODAL TERMINAL

Estimated Design Schedule and Project Milestones For Seattle Multimodal Terminal Project, Including POF Terminal Element

The estimated design schedule and project milestones for the Seattle Multimodal Terminal Project, including the POF Terminal Element, include the following:

Final design consultant selection	November / December 2014
Puget Sound Regional Council approval	December 2014
GC/CM Selection	December 2014 – Spring 2015
FONSI issued	Early 2015
30% Design	February 2015
Environmental Assessment	April 2015
Final Design, Permitting	Winter / Spring 2015 – Summer 2017
GC/CM Preconstruction services	Spring 2015 – Spring 2017
MACC negotiation complete	Summer 2017
Construction	August 2017 – January 2023
POF Operational	Early 2019

EXHIBIT C

DESIGN PHASE AGREEMENT NO. GCB 1951 FOR NEW PASSENGER-ONLY FERRY TERMINAL AT SEATTLE MULTIMODAL TERMINAL

Diagrams, Depictions and Descriptions of Current Contemplated Layout of POF Terminal Element For Seattle Multimodal Terminal Project

EXHIBIT C

Design Criteria

Successful future passenger-only ferry service out of Seattle relies on a functional terminal which meets the space needs for operational and ridership growth, and provides enhanced pedestrian connectivity and amenities to maintain and attract ridership. The following essential elements are needed in creating a future passenger-only ferry hub terminal.

Accommodate for Existing and Forecasted Ridership (Facility Size and Capacity)

The West Seattle route is expected to roughly double by 2020 and triple by 2030. The Vashon route is expected to grow at a slower pace than the West Seattle route, roughly doubling by 2030, as reported by Berk Consulting in the Seattle Terminal Permanent Facility Location Study: Ridership Analysis Report. Therefore, the POF Terminal must satisfy the following needs:

Terminal Size and Capacity (accommodating existing and future ridership)

- Two-slip operation through the life of the existing Float.
- Expansion capability to a four-slip operation.
- Queuing and loading space for 500 passengers.
- Shoreside operations, including office space, passenger ticketing, storage, and ticket vending areas, estimated at approximately 700 square feet.

Passenger Safety and Convenience and Operational Continuity

- Continuity of operations for at least the life of the Terminal.
- Minimal disruption of POF operations during Project construction.
- After Project completion, minimization of distances and obstacles for access and egress of POF Terminal passengers through the Seattle Multimodal Terminal Project.
- Separation of POF passengers from WSF and Alaskan Way vehicular traffic.
- Integration of POF Terminal with pedestrian bridge connecting to Seattle Multimodal Terminal.
- Positioning of gangway and Float to minimize navigational challenges between POF vessels and WSF vessels, given WSF's adjacent vehicle slip.

Transit Connections

- Good POF passenger connections to other transit service providers.

Consistency with Waterfront Seattle

- Coordination with State and City on plans for Pioneer Square Beach to minimize impacts of POF service at POF Terminal location.

EXHIBIT C

Design Parameters

Capacity

- In design of POF Terminal Element, assume space for queuing and staging of 500 passengers simultaneously.
 - Two, 250-passenger boats.
- Space calculation points of reference:
 - Assume 8.5 square feet per person for terminal queuing.
 - Assume 13 square feet per person for seated waiting.
- Assume gangway lane width of 42 inches (ADA-compliant).
- Assume 3 lineal feet per person for queuing on gangway only.
- Assume two queuing lanes per route--a single exit lane may be shared.

Passenger Safety

- Separate passengers from WSF traffic and Alaskan Way vehicular traffic.
- Provide pedestrian / bicycle access and egress at grade along southern edge of dock.
- Provide pedestrian access from POF to WSF terminal via connecting pedestrian bridge.

Utilities (See Site Plan included in this Exhibit)

- Where practical, provide separate water, sewer, and power utility services with separate accounts and metering from WSF services.
- Provide shared fire protection service for the Seattle Multimodal Terminal, including the POF Terminal.
- On fixed pier, provide power and sewer service for employee restroom, potable water, fire protection, lighting, electric gates, security, and communication.
- On Float, provide potable water for vessels, shore power for vessels, sewage pump out for vessels, loading ramps, fire protection, communication, electric gates, security, and lighting at each slip.

Restrooms

- Provide one ADA employee restroom at the fixed pier inside the Terminal office.
- Provide public restrooms at Seattle Multimodal Terminal, to be accessed by the pedestrian bridge.

Shoreside Operations

- Provide shore-side operations, including office space, passenger ticketing, storage and ticket vending areas.

ADA

- Design POF Terminal for unassisted ADA access; design gangways and loading ramps for unassisted ADA access most of the time (90% +).

Environmental Exposure

- Provide clearance as needed for boat maneuvering in challenging weather conditions, and to account for water current and adjacent WSF vessel propeller wash.

Security

- Accommodate CCTV, electric gates and fencing as required in a Terminal security plan approved by the USCG.

UTILITY SITE PLAN

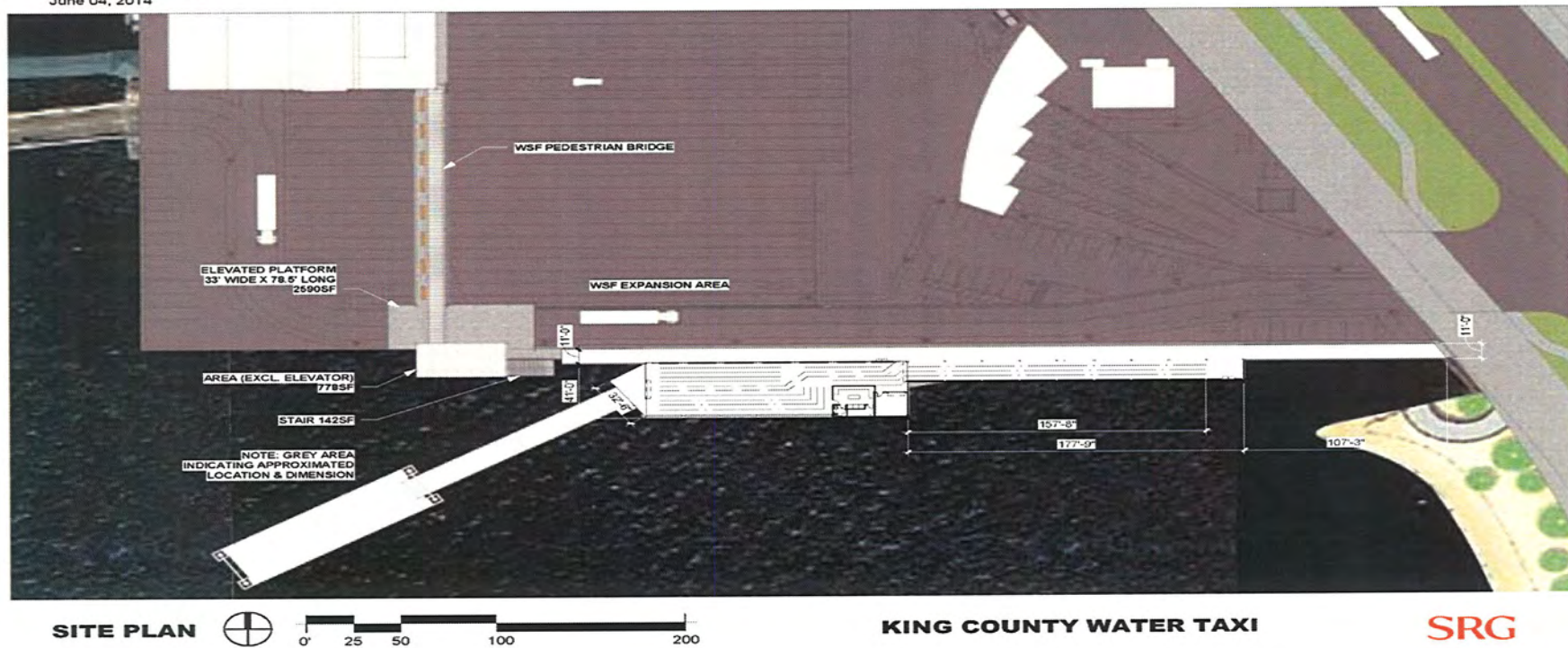


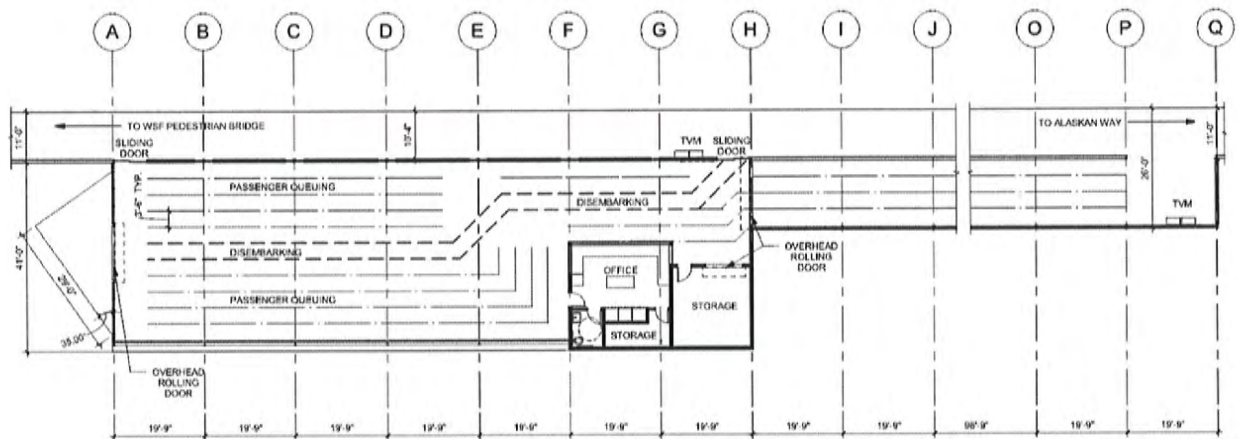
EXHIBIT C

CONCEPTUAL LAYOUT THROUGH 20% DESIGN

SITE PLAN

PRELIMINARY CONCEPT
June 04, 2014



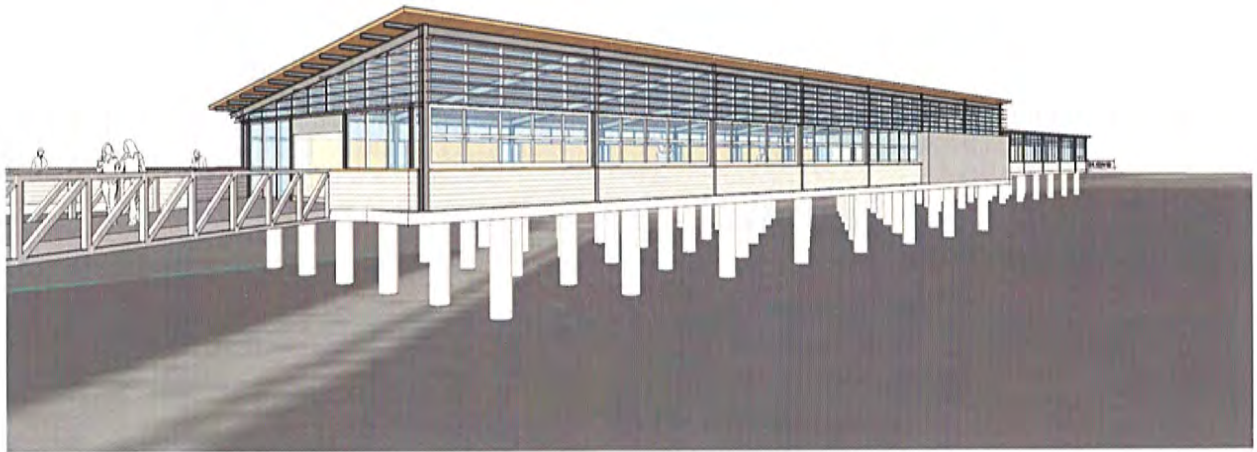


FLOOR PLAN



KING COUNTY WATER TAXI

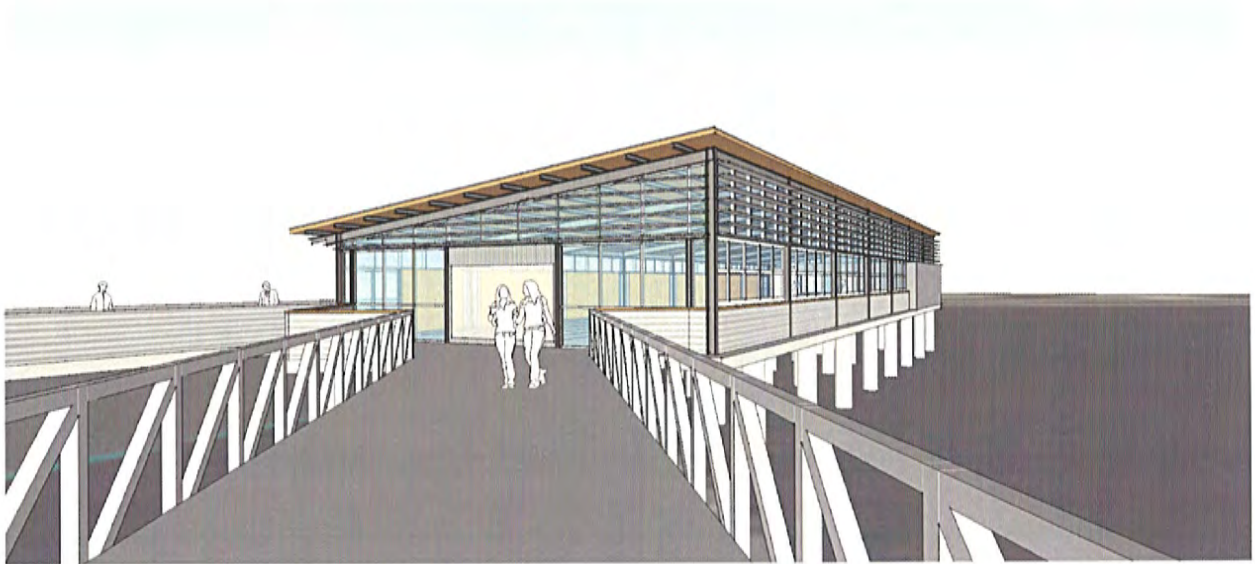
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VIEW FROM SOUTHWEST

KING COUNTY WATER TAXI

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VIEW FROM WEST

KING COUNTY WATER TAXI

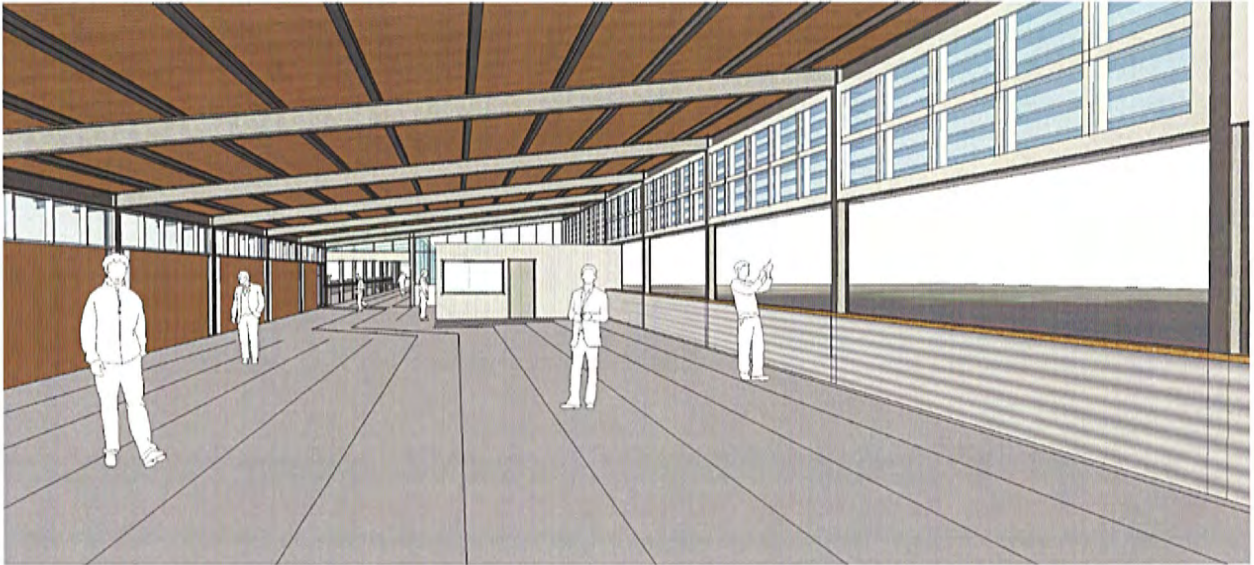
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VIEW FROM NORTHWEST

KING COUNTY WATER TAXI

SRG



INTERIOR VIEW

KING COUNTY WATER TAXI

SRG



VIEW FROM EAST

KING COUNTY WATER TAXI

SRG

EXHIBIT D

DESIGN PHASE AGREEMENT NO. GCB 1951 FOR NEW PASSENGER-ONLY FERRY TERMINAL AT SEATTLE MULTIMODAL TERMINAL

Reimbursement Plan

DISTRICT Reimbursement

The DISTRICT shall reimburse WSF for WSF's direct costs incurred after July 7, 2014 pursuant to this Reimbursement Plan and the payment procedure of Article XII of this Agreement. WSF's indirect (overhead) costs have been waived pursuant to a reciprocal agreement between the King County and Washington State Department of Transportation (WSDOT), pursuant to RCW 47.28.260. WSF shall not seek any reimbursement from the DISTRICT for WSF's indirect (overhead) costs incurred after July 7, 2014, provided the referenced reciprocal agreement is signed and effective prior to such date.

Terms

Any term in this Reimbursement Plan that is defined in the Agreement shall have the meaning set forth in the Agreement.

Cost Reimbursement Categories

The DISTRICT shall reimburse WSF for WSF's direct costs ("costs") in the following two (2) categories:

1. POF Terminal Element costs; and
2. Seattle Multimodal Terminal (i.e., the "Project") Design shared costs.

Project Design Shared Costs

The DISTRICT shall reimburse WSF for the DISTRICT's share of following Project Design shared costs:

1. Geotechnical;
2. Permitting;
3. ESA compliance;
4. NEPA re-evaluation;
5. GCCM preconstruction;
6. Communications ;
7. Habitat mitigation design;
8. Tribal consultation;
9. Costs to mitigate impacts to tribal usual and accustomed fishing areas that are payable during Design but prior to construction); and
10. WSF employee services subject to cost methodology.

The DISTRICT shall not reimburse WSF for any other types of Project Design shared costs, unless agreed to in advance by the DISTRICT representative. The DISTRICT's share of Project Design shared costs shall be six percent (6.0%) ("Percentage Share"). WSF shall provide reports of anticipated Project Design shared costs in such detail and at such intervals as is agreed upon by the Parties' Representatives.

Exceptions to Percentage Share for Project Design Shared Costs

The Percentage Share shall be applicable to all elements and components of the Project (other than the POF Terminal Element) except for the following:

1. Stairs/elevators with circulation.
2. Pedestrian bridge (including super-structure and foundation).
3. At-grade walkway from Alaskan Way to elevators.

The Parties shall share equally the costs of the stairs/elevators. For the pedestrian bridge and at-grade walkway, the DISTRICT shall pay for the costs of each element in a ratio of five (5) feet to the total width of the bridge or walkway, respectively. For example, if the total width of the bridge is twenty (20) feet, the DISTRICT will pay for twenty-five percent (25%) of the cost of the bridge. The width of the bridge at the thirty percent (30%) Design for the Project is twelve (12) feet. If WSF increases the width of the bridge in the Final Design so that the cost of the foundation is more than the cost of the foundation for a twelve (12) foot bridge, the DISTRICT shall not pay for any part of the increase in cost of the foundation. The cost of railings, lights, foundation and electrical/mechanical systems shall be included in the cost of the bridge and walkway. The above facilities shall be known in this Reimbursement Plan and in the Agreement as the "Shared Facilities".

POF Terminal Only Costs

The DISTRICT shall reimburse WSF for the DISTRICT's share of POF Terminal only costs regarding:

1. Structural design;
2. Electrical design;
3. Mechanical design;
4. Civil design;
5. Hydraulics;
6. Public outreach; and
7. Architectural design.

Where POF Terminal Element services and work are provided by WSF consultants and contractors, WSF shall require such consultants and contractors to identify their POF Terminal Element services and work on invoices by separate task or element. WSF shall notify the DISTRICT in advance of services or work to be performed by WSF consultants or contractors. The notification must include the following:

1. A brief summary of the work or services;
2. The estimated number of hours to be spent by each employee;
3. The hourly rate of each employee (including salary and benefits); and
4. The estimated Reimbursable Costs.

Prior to executing a contract with a consultant or contractor, WSF shall provide a copy of such contract to the DISTRICT for review and comment. Upon request, WSF shall provide to the DISTRICT any contracts, policies or other documents that relate to the information provided in the notification.

WSF Employee Positions and Costs

Prior to incurring Project Design shared costs or POF Terminal only costs for any Design Phase, WSF shall provide to the DISTRICT a Project management plan that lists each position for which costs will be charged and estimates number of hours anticipated to be charged for each position. The codes, titles and maximum hourly rates to be charged for each position are set forth in Attachment 1 to this Exhibit D. The maximum hourly rates in Attachment 1 include benefits. WSF may include in any Project management plan positions that are not listed in Attachment 1. The hourly rates for the positions may be increased no more frequently than once per calendar year to reflect cost of living or step increases for such positions, as may be implemented by the WSDOT / WSF Personnel Department.

The Parties anticipate that the following positions will perform Project Design shared services:

1. Marine Project Engineer
2. Marine Engineer
3. Transportation Planning Specialist-Permit Manager
4. Transportation Planning Specialist-NEPA Manager
5. Transportation Planning Specialist-Biologist
6. Transportation Engineer-CAD Manager
7. Transportation Engineer-Geotechnical
8. Transportation Engineer-Estimator
9. Transportation Engineer-Construction

The Parties anticipate that the following positions will perform POF Terminal only services:

1. Architect
2. Bridge Engineer-Structural Engineer
3. Bridge Engineer—Electrical Engineer

Prohibited Costs

WSF shall not seek reimbursement for the following costs:

1. Time spent by WSF employees discussing or negotiating with the DISTRICT any invoices for Reimbursable Costs.
2. Time spent by more than one WSF employee or WSF consultant and contractor to attend meetings with DISTRICT representatives, unless approved in advance by the DISTRICT Representative.
3. Time spent by WSF employees or WSF consultants or contractors for resolving disputes between the Parties or participating in or supporting litigation between the Parties.

Maximum Reimbursement

The reimbursement for the authorized costs under the Reimbursement Plan shall not exceed Nine Hundred Twenty-One Thousand Four Hundred Forty-Four Dollars and Seventy Cents (\$921,444.70), unless otherwise agreed upon by the Parties.

ATTACHMENT 1

DESIGN PHASE AGREEMENT NO. GCB 1951 FOR NEW PASSENGER-ONLY FERRY TERMINAL AT SEATTLE MULTIMODAL TERMINAL

Wage Rate Table

(copy attached)

Job Class Paid Code	Job Class Paid Long Title	Weighted Labor Rate
M0605	ABLE BOS'N	\$69.78
M0600	ABLE SEAMAN	\$82.77
M0233	ACCOUNTANT	\$46.96
M0231	ACCT ASST 2	\$35.40
M0232	ACCT ASST 3	\$38.39
B4080	ADM BD PILOT COM	\$70.90
B4074	ADM URBAN COR OF	\$101.51
105F	ADMINISTRATIVE ASSISTANT 2	\$23.15
105G	ADMINISTRATIVE ASSISTANT 3	\$36.88
105H	ADMINISTRATIVE ASSISTANT 4	\$41.62
105I	ADMINISTRATIVE ASSISTANT 5	\$45.17
B4395	AK WAY VIADUCT COMM OUTREACH DIR (COD)	\$92.16
M0405	ALT STAFF CHIEF	\$107.93
539E	ARCHITECT 1	\$60.79
539F	ARCHITECT 2	\$66.35
B4390	ASSIST SECY, ENGINEERING AND REGNL OPERS	\$108.74
B4140	ASSISTANT SECRETARY, ADMINISTRATION DIV	\$104.18
M0430	ASST ENGINEER	\$107.08
158B	AUDIT SPECIALIST - DOT 2	\$38.34
158C	AUDIT SPECIALIST - DOT 3	\$43.61
158D	AUDIT SPECIALIST - DOT 4	\$51.21
599A	AVALANCHE FORECAST & CONTROL SPEC 1	\$29.58
599B	AVALANCHE FORECAST & CONTROL SPEC 2	\$39.16
599D	AVALANCHE FORECAST & CONTROL SPEC 4	\$53.42
M0237	BID ADMINISTRATOR	\$62.62
M0342	BOILERMAKER	\$64.17
M0340	BOILERMAKER FORE	\$67.85
M0341	BOILERMAKER LEAD	\$66.61
531E	BRIDGE ENGINEER 1	\$54.42
531F	BRIDGE ENGINEER 2	\$52.73
531G	BRIDGE ENGINEER 3	\$62.15
531H	BRIDGE ENGINEER 4	\$63.50
531I	BRIDGE ENGINEER 5	\$69.35
531J	BRIDGE ENGINEER 6	\$75.78
531K	BRIDGE ENGINEER 7	\$82.90
597E	BRIDGE TENDER	\$36.17
147C	BUDGET ANALYST 3	\$53.42
147D	BUDGET ANALYST 4	\$62.58
B4191	BUDGET DIRECTOR	\$96.29
539N	BUILDING DESIGNER 1	\$44.26
M0251	BUYER 2	\$30.43
M0252	BUYER 3	\$52.12
605E	CARPENTER	\$38.34
541F	CARTOGRAPHER 2	\$43.33
541G	CARTOGRAPHER 3	\$44.44

Job Class Paid Code	Job Class Paid Long Title	Weighted Labor Rate
B4160	CEO WA STATE FER	\$108.98
B4380	CFO/ASSIST SECY, STRATEGIC PLNG & PROG	\$101.87
B4345	CHAIRPERSON, BOARD OF PILOTAGE COMISSR	\$68.45
515Q	CHEMIST 2	\$49.09
515R	CHEMIST 3	\$55.75
515S	CHEMIST 4	\$63.50
M0410	CHIEF ENGINEER	\$123.21
M0510	CHIEF MATE	\$108.24
530H	CIVIL ENGINEER 4	\$64.93
163X	CLAIMS REPRESENTATIVE	\$32.91
197I	COMMUNICATIONS CONSULTANT 1	\$34.78
197J	COMMUNICATIONS CONSULTANT 2	\$42.47
197K	COMMUNICATIONS CONSULTANT 3	\$45.17
197L	COMMUNICATIONS CONSULTANT 4	\$51.21
197M	COMMUNICATIONS CONSULTANT 5	\$64.97
452F	COMMUNICATIONS SYSTEMS MANAGER	\$63.50
EX050	CONF SEC - DOT	\$75.61
EX054	CONF SEC DOT	\$62.95
EX051	CONF. SECRETARY	\$52.46
537J	CONSTRUCTION PROJECT COORDINATOR 2	\$54.62
537K	CONSTRUCTION PROJECT COORDINATOR 3	\$64.93
537L	CONSTRUCTION PROJECT COORDINATOR 4	\$69.35
M0246	CONSULTANT COORD	\$37.11
M0255	CONTRACT COORD 1	\$39.97
M0256	CONTRACT COORD 2	\$45.36
144E	CONTRACTS ASSISTANT	\$31.15
144F	CONTRACTS SPECIALIST 1	\$41.62
144G	CONTRACTS SPECIALIST 2	\$47.08
144H	CONTRACTS SPECIALIST 3	\$53.42
678I	CUSTODIAN 1	\$29.04
678J	CUSTODIAN 2	\$30.02
678K	CUSTODIAN 3	\$31.71
102B	CUSTOMER SERVICE SPECIALIST 2	\$34.11
102C	CUSTOMER SERVICE SPECIALIST 3	\$36.17
B4120	D/SEC OPER TRANS	\$102.42
M0750	DECK TO TERM / AB	\$60.86
B4118	DEPUTY SECRETARY, POLICY -TRANSPORTATION	\$115.98
B4250	DIR INTERGOV REL	\$82.55
B4170	DIRECTOR, AVIATION DIVISION	\$83.79
B4230	DIRECTOR, HIGHWAYS AND LOCAL PROGRAMS	\$96.29
B4090	DIRECTOR, HUMAN RESOURCES	\$91.17
B4392	DIRECTOR, OFFICE OF INFORMATION TECH	\$96.29
M0234	DISPATCH COORD	\$68.53
M0235	DISPATCHER	\$49.88
M0470	E INTERN	\$31.22

Job Class Paid Code	Job Class Paid Long Title	Weighted Labor Rate
M0324	EH APPRENTICE	\$64.17
532F	ELECTRICAL ENGINEER 4	\$74.13
M0322	ELECTRICIAN	\$65.16
M0320	ELECTRICIAN FORE	\$69.58
M0321	ELECTRICIAN LEAD	\$51.24
594F	ELECTRONIC COMMUNICATIONS SYST TECH, FI	\$55.75
532K	ELECTRONIC DESIGN ENGINEER	\$69.35
594K	ELECTRONICS SUPERVISOR - TRANSPORTATION	\$60.79
397B	EMERGENCY MANAGEMENT PROGRAM SPEC 2	\$75.88
397C	EMERGENCY MANAGEMENT PROGRAM SPEC 3	\$58.23
600J	EQUIPMENT TECHNICIAN 2	\$41.62
600K	EQUIPMENT TECHNICIAN 3	\$46.13
600L	EQUIPMENT TECHNICIAN LEAD	\$49.09
600M	EQUIPMENT TECHNICIAN SUPERVISOR	\$53.42
305C	ERGONOMIST 3	\$62.15
305D	ERGONOMIST 4	\$61.32
111D	EVENTS COORDINATOR 4	\$40.21
542G	FACILITIES PLANNER 1	\$45.50
542H	FACILITIES PLANNER 2	\$59.49
542I	FACILITIES SENIOR PLANNER	\$62.15
598N	FACILITY SERVICES COORDINATOR	\$45.17
652P	FERRY OPERATOR	\$40.80
653P	FERRY OPERATOR ASSISTANT	\$35.45
652Q	FERRY OPERATOR, SENIOR	\$44.25
143I	FISCAL ANALYST 1	\$37.65
143J	FISCAL ANALYST 2	\$40.80
143K	FISCAL ANALYST 3	\$46.13
143L	FISCAL ANALYST 4	\$48.08
143M	FISCAL ANALYST 5	\$51.21
148M	FISCAL TECHNICIAN 2	\$39.96
148N	FISCAL TECHNICIAN 3	\$33.49
399R	FLEET SAFETY/TRAINING ADMIN - WSF	\$55.75
112J	FORMS & RECORDS ANALYST 2	\$36.39
112K	FORMS & RECORDS ANALYST 3	\$41.62
198F	GRAPHIC DESIGNER	\$35.27
198G	GRAPHIC DESIGNER SENIOR	\$43.33
198H	GRAPHIC DESIGNER SUPERVISOR	\$42.55
M0386	HEALTH/SFTY SUPV	\$51.24
119E	HUMAN RESOURCE CONSULTANT 1	\$40.80
119F	HUMAN RESOURCE CONSULTANT 2	\$46.13
119G	HUMAN RESOURCE CONSULTANT 3	\$51.21
119H	HUMAN RESOURCE CONSULTANT 4	\$54.42
123E	HUMAN RESOURCE CONSULTANT ASSISTANT 1	\$29.54
123F	HUMAN RESOURCE CONSULTANT ASSISTANT 2	\$36.15
394F	INDUSTRIAL HYGIENIST 3	\$52.21

Job Class Paid Code	Job Class Paid Long Title	Weighted Labor Rate
394G	INDUSTRIAL HYGIENIST 4	\$55.75
M0745	INFO AGENT	\$59.21
533E	INSPECTOR SPECIALIST, MARINE	\$66.35
M0392	INSULATION	\$51.16
M0390	INSULATION FORE	\$52.11
M0391	INSULATION LEAD	\$51.16
M0277	INVENTORY AGENT	\$43.45
479I	IT SPECIALIST 1	\$44.25
479J	IT SPECIALIST 2	\$50.13
479K	IT SPECIALIST 3	\$54.62
479L	IT SPECIALIST 4	\$59.49
479M	IT SPECIALIST 5	\$64.93
479N	IT SYSTEMS/APP SPEC 6	\$70.90
481B	IT TECHNICIAN 2	\$38.34
M0805	JANITOR	\$48.11
M0800	JANITOR FOREMAN	\$50.39
592R	LAW ENFORCEMENT EQUIPMENT TECH 2	\$39.96
261B	LIBRARY & ARCHIVAL PROFESSIONAL 2	\$42.47
261C	LIBRARY & ARCHIVAL PROFESSIONAL 3	\$54.96
261D	LIBRARY & ARCHIVAL PROFESSIONAL 4	\$53.42
262L	LIBRARY & ARCHIVES PARAPROFESSIONAL 4	\$36.17
M0317	MACHINIST	\$65.16
M0315	MACHINIST FORE	\$69.58
M0316	MACHINIST LEAD	\$51.24
M0278	MAINT MATL COORD	\$37.10
598R	MAINTENANCE - OPERATIONS STAFF ASSISTANT	\$60.79
598Q	MAINTENANCE - OPERATIONS SUPERINTENDENT	\$53.42
678H	MAINTENANCE CUSTODIAN	\$30.60
596S	MAINTENANCE LEAD TECHNICIAN	\$49.09
626J	MAINTENANCE MECHANIC 1	\$39.16
626K	MAINTENANCE MECHANIC 2	\$41.63
626L	MAINTENANCE MECHANIC 3	\$47.08
626M	MAINTENANCE MECHANIC 4	\$49.06
596I	MAINTENANCE SPECIALIST 2	\$43.33
596J	MAINTENANCE SPECIALIST 3	\$47.08
596K	MAINTENANCE SPECIALIST 4	\$53.42
596L	MAINTENANCE SPECIALIST 5	\$57.00
597K	MAINTENANCE SPECIALIST, SUSPENSION BRIDG	\$44.25
596T	MAINTENANCE SUPERVISOR	\$54.62
596P	MAINTENANCE TECHNICIAN 1	\$37.80
597F	MAINTENANCE TECHNICIAN 1, BRIDGE	\$39.96
596Q	MAINTENANCE TECHNICIAN 2	\$40.80
597G	MAINTENANCE TECHNICIAN 2, BRIDGE	\$44.25
596R	MAINTENANCE TECHNICIAN 3	\$44.25
596O	MAINTENANCE TRAINEE	\$31.24

Job Class Paid Code	Job Class Paid Long Title	Weighted Labor Rate
109L	MANAGEMENT ANALYST 4	\$49.47
109M	MANAGEMENT ANALYST 5	\$55.75
538Y	MARINE DESIGNER	\$55.75
533K	MARINE ENGINEER	\$59.50
533N	MARINE MECHANICAL ENGINEER	\$75.78
M0900	MARINE OPERATIONS WATCH SUPERVISOR	\$87.87
533M	MARINE PROJECT ENGINEER	\$75.78
M0505	MASTER	\$117.24
539V	NAVAL ARCHITECT 1	\$63.50
539W	NAVAL ARCHITECT 2	\$54.60
100H	OFFICE ASSISTANT 1	\$16.39
100I	OFFICE ASSISTANT 2	\$29.52
100J	OFFICE ASSISTANT 3	\$41.59
100K	OFFICE ASSISTANT LEAD	\$32.27
100L	OFFICE SUPPORT SUPERVISOR 1	\$34.70
100R	OFFICE SUPPORT SUPERVISOR 3	\$39.16
M0450	OILER	\$80.93
M0610	OS	\$69.49
M0615	OS 2, WATCH	\$42.97
M0612	OS RELIEF	\$52.98
M0291	PERS ASST 2	\$31.65
M0290	PERSONNEL ASST 1	\$35.54
535C	PHOTOGRAMMETRIST 3	\$58.23
535D	PHOTOGRAMMETRIST 4	\$66.35
M0352	PIPEFITTER	\$64.13
M0350	PIPEFITTER FORE	\$68.49
M0351	PIPEFITTER LEAD	\$51.24
M0385	PLANNER/EH	\$50.88
B4342	PORT CAPTAIN	\$73.21
B4350	PORT ENG, MR	\$89.78
205G	PRINTING & DUPLICATION SPECIALIST 3	\$34.11
M0798	PROB T SUPER	\$88.48
114E	PROCUREMENT & SUPPLY SPECIALIST 1	\$36.88
114F	PROCUREMENT & SUPPLY SPECIALIST 2	\$41.62
114G	PROCUREMENT & SUPPLY SPECIALIST 3	\$46.13
114H	PROCUREMENT & SUPPLY SPECIALIST 4	\$50.13
115E	PROCUREMENT & SUPPLY SUPPORT SPEC 1	\$27.18
115F	PROCUREMENT & SUPPLY SUPPORT SPEC 2	\$32.91
107J	PROGRAM SPECIALIST 3	\$47.08
107K	PROGRAM SPECIALIST 4	\$50.13
107L	PROGRAM SPECIALIST 5	\$54.62
M0703	PROJ TM AG	\$79.93
179I	PROPERTY & ACQUISITION SPECIALIST 1	\$34.98
179J	PROPERTY & ACQUISITION SPECIALIST 2	\$46.13
179K	PROPERTY & ACQUISITION SPECIALIST 3	\$54.62

Job Class Paid Code	Job Class Paid Long Title	Weighted Labor Rate
179L	PROPERTY & ACQUISITION SPECIALIST 4	\$55.76
179M	PROPERTY & ACQUISITION SPECIALIST 5	\$60.79
179N	PROPERTY & ACQUISITION SPECIALIST 6	\$62.15
M0279	PURCHASING AGENT	\$44.86
M0735	PURSER	\$60.66
M0607	QUARTERMASTER	\$81.18
M0507	R MASTER	\$109.33
450E	RADIO OPERATOR	\$16.39
M0210	RECEPTIONIST	\$40.95
112M	RECORDS MANAGEMENT SUPERVISOR	\$53.23
M0602	RELIEF AB	\$58.73
M0432	RELIEF AE	\$83.05
M0420	RELIEF CHIEF	\$121.98
M0512	RELIEF CM	\$108.24
M0452	RELIEF OILER	\$55.37
M0707	RELIEF SELLER/A	\$60.66
M0702	RELIEF SUPERVISOR	\$88.48
595G	REST AREA ATTENDANT - TRANSPORTATION	\$31.72
M0704	RR TERM SUPER	\$100.36
399G	SAFETY OFFICER 2	\$48.08
399H	SAFETY OFFICER 3	\$55.14
399E	SAFETY OFFICER ASSISTANT	\$40.80
M0520	SECOND MATE	\$108.23
M0225	SECRETARY	\$33.05
EX018	SECRETARY DOT	\$121.32
100U	SECRETARY LEAD	\$34.78
100T	SECRETARY SENIOR	\$36.88
100V	SECRETARY SUPERVISOR	\$40.80
385L	SECURITY GUARD 2	\$38.34
533L	SENIOR MARINE ENGINEER	\$69.35
594H	SENIOR TELECOMMUNICATIONS SPECIALIST	\$60.79
M0360	SHEETMETAL FORE	\$52.18
M0361	SHEETMETAL LEAD	\$51.24
M0362	SHEETMETAL WRKR	\$48.87
M0302	SHIPWRIGHT	\$52.72
M0300	SHIPWRIGHT FORE	\$52.11
M0301	SHIPWRIGHT LEAD	\$51.15
M0660	SHOREGANG	\$83.60
M0650	SHOREGANG FORE	\$90.06
M0655	SHOREGANG LEAD	\$88.18
B4352	SR PORT ENGINEER	\$79.38
M0226	STAFF AIDE	\$44.52
M0400	STAFF CHIEF	\$134.91
M0500	STAFF MASTER	\$117.24
M0270	STOCK CLERK	\$28.36

Job Class Paid Code	Job Class Paid Long Title	Weighted Labor Rate
M0372	STOREKEEPER	\$48.87
M0370	STOREKEEPER FORE	\$52.18
M0371	STOREKEEPER LEAD	\$51.24
M0525	TEMPORARY MATE	\$65.53
M0730	TERM ATTD/WATCH	\$63.98
M0381	TERM FOREPERSON	\$53.37
M0700	TERM SUPERVISOR	\$88.48
M0705	TICKET SELLER/A	\$75.83
M0710	TICKET SELLER/P	\$60.66
M0720	TICKET TAKER	\$66.70
430E	TORT CLAIMS INVESTIGATOR 1	\$47.08
430F	TORT CLAIMS INVESTIGATOR 2	\$51.21
199A	TOUR & INFORMATIONAL SERVICES COORD 1	\$29.02
401A	TRAFFIC SAFETY SYSTEMS OPERATOR 1	\$35.45
401C	TRAFFIC SAFETY SYSTEMS OPERATOR 3	\$42.45
401D	TRAFFIC SAFETY SYSTEMS OPERATOR 4	\$44.25
530K	TRANSPORTATION ENGINEER 1	\$49.09
530L	TRANSPORTATION ENGINEER 2	\$54.62
530M	TRANSPORTATION ENGINEER 3	\$63.50
530N	TRANSPORTATION ENGINEER 4	\$67.57
530O	TRANSPORTATION ENGINEER 5	\$69.35
538U	TRANSPORTATION ENGINEER INTERN	\$28.44
543E	TRANSPORTATION PLANNING SPECIALIST 1	\$49.09
543F	TRANSPORTATION PLANNING SPECIALIST 2	\$53.42
543G	TRANSPORTATION PLANNING SPECIALIST 3	\$58.24
543H	TRANSPORTATION PLANNING SPECIALIST 4	\$63.50
543I	TRANSPORTATION PLANNING SPECIALIST 5	\$74.81
543J	TRANSPORTATION PLANNING SUPERVISOR	\$79.25
544H	TRANSPORTATION PLANNING TECHNICIAN 1	\$38.34
544I	TRANSPORTATION PLANNING TECHNICIAN 2	\$49.09
544J	TRANSPORTATION PLANNING TECHNICIAN 3	\$49.09
B4190	TRANSPORTATION REGIONAL ADMINISTRATOR	\$99.75
530Q	TRANSPORTATION SUPERVISING ENGINEER	\$79.25
594M	TRANSPORTATION SYSTEMS TECHNICIAN A	\$42.48
594N	TRANSPORTATION SYSTEMS TECHNICIAN B	\$56.78
594O	TRANSPORTATION SYSTEMS TECHNICIAN C	\$55.76
594P	TRANSPORTATION SYSTEMS TECHNICIAN D	\$58.24
530P	TRANSPORTATION TECHNICAL ENGINEER	\$70.00
538R	TRANSPORTATION TECHNICIAN 1	\$38.34
538S	TRANSPORTATION TECHNICIAN 2	\$44.26
538T	TRANSPORTATION TECHNICIAN 3	\$52.29
B4180	TRNSP DIST ADM 1	\$103.86
632I	TRUCK DRIVER 1	\$33.49
M0330	TRUCKDRIVER LEAD	\$51.24
596U	TUNNEL MAINTENANCE SUPERVISOR	\$59.49

Job Class Paid Code	Job Class Paid Long Title	Weighted Labor Rate
595K	UTILITY WORKER 1	\$30.60
595L	UTILITY WORKER 2	\$32.91
M0380	V/GEN FOR	\$53.37
533G	VESSEL PROJECT ENGINEER	\$77.52
117I	WAREHOUSE OPERATOR 1	\$30.08
117J	WAREHOUSE OPERATOR 2	\$31.71
M0743	WEB INFO AGENT	\$57.54
M0460	WIPER	\$69.21
WMS01	WMS BAND 1	\$68.52
WMS02	WMS BAND 2	\$84.51
WMS03	WMS BAND 3	\$92.98
WMS04	WMS BAND 4	\$96.29
M0465	YARD OILER	\$58.29
M0466	YARD WIPER	\$51.34

EXHIBIT E

DESIGN PHASE AGREEMENT NO. GCB 1951 FOR NEW PASSENGER-ONLY FERRY TERMINAL AT SEATTLE MULTIMODAL TERMINAL

Term Sheet For Proposed Passenger-only Ferry Terminal Lease at Colman Dock / Pier 52

A. INTRODUCTION

1. Background

- 1.1 The Washington State Department of Transportation Ferries Division, operating as Washington State Ferries (“WSF”) operated passenger-only ferry service (“POF”) from Pier 50 adjacent to the Seattle Ferry Terminal (Colman Dock/Pier 52) for many years until 2008. At present King County Ferry District (“DISTRICT” or “Lessee”) operates that route, and also operates a water-taxi route from West Seattle to Pier 50. The DISTRICT currently operates both of those services from Pier 50 pursuant to a license from WSF, as detailed in the Seattle and Vashon Island Passenger-Only Ferry Terminal License Agreement No. GCA No. 6750 (also referred to herein as “POF Terminal License Agreement No. GCA 6750), a copy of which is on file with the Parties.
- 1.2 WSF and the DISTRICT acknowledge that effective January 1, 2015, King County will assume the rights, duties, and obligations of the DISTRICT by operation of law pursuant to Chapter 36.150 RCW and King County Ordinance 17935. Together, WSF and the DISTRICT are sometimes referred to herein as the “Parties” or individually as a “Party.” The terms “Lessee” and

“Parties” are also understood to include King County as successor in interest to the DISTRICT effective when King County assumes the DISTRICT’S rights, duties and obligations by operation of law under Chapter 36.150 RCW and King County Ordinance 17935.

2. Purpose of Lease

2.1 WSF is undertaking a substantial rehabilitation of the Pier 50/52 complex that will affect the DISTRICT’S POF operations. The DISTRICT intends to contribute significant funding towards the rehabilitation project in order to upgrade and improve its POF facilities and certain joint-use facilities that the DISTRICT and WSF will both use. The DISTRICT desires to enter into a lease of the premises necessary for its POF operations at Pier 52, and WSF is willing to enter into such a lease. The intended premises are illustrated in the Agreement, Exhibit C. It is understood that Exhibit C is subject to revision in accordance with Article V.A of the Agreement.

2.2 The purpose of this Term Sheet is to set forth the primary deal points and related considerations that will serve as the fundamental structure of a future lease between the Parties. The Term Sheet is necessary in order to timely capture those deal points and considerations contemporaneous with other agreements between the Parties relating to the Project. The Parties anticipate that they will fully negotiate and enter into a lease agreement sometime in 2015. The term of the lease agreement is likely to commence not later than 2023 upon Final Completion of the POF Terminal Element.

3. Provisions Nonbinding

This Term Sheet, including references to certain provisions of the POF Terminal License Agreement No. GCA 6750 and the SR 520 airspace lease as defined herein, contains statements of intent and understanding only and is not intended to be a legally binding agreement between the Parties. These non-binding provisions are intended to be an outline of the primary terms of a lease agreement that will be legally binding when all terms are fully integrated in a final document that is authorized by the legislative body of Lessee, approved by WSF, and executed by the Parties. If for

any reason a final agreement is not prepared, authorized or executed, then neither Party to this Term Sheet shall be legally liable to the other Party based on, arising from, or related to these non-binding provisions.

B. SCOPE

1. Parties

- 1.1 Lessor: State of Washington, by and through the Washington State Department of Transportation (WSDOT) and its Ferries Division, operating as Washington State Ferries (WSF).
- 1.2 Lessee: King County Ferry District (DISTRICT).
- 1.3 Lessor acknowledges Chapter 36.150 RCW and King County Ordinance No. 17935, pursuant to which the DISTRICT Board will be abolished and King County will assume DISTRICT's rights, duties, and obligations by operation of law effective January 1, 2015. Lessor agrees to substitute King County as the Lessee when the DISTRICT Board is abolished and King County assumes the DISTRICT's rights, duties, and obligations as provided by law.

2. Premises

Substantially as depicted in this Agreement, Exhibit C, including but not limited to:

- 2.1 Float and gangway [NOTE float and gangway may become POF-owned property and thus excluded from leased premises; Parties' negotiations are ongoing.]
- 2.2 Footprint of waiting area structure [Note: waiting area structure itself to be owned by Lessee]
- 2.3 Common areas (at-grade walkway to Alaskan Way; stairs & elevator; pedestrian bridge; other; subject to negotiation)

- 2.4 Parking (DISTRICT desires to retain one parking stall if available, subject to negotiation).
- 2.5 Shared utilities (per the Agreement, Exhibit C or other list)
- 2.6 Harbor Area (per this Agreement, Exhibit C, location of Float and gangway).

WSF to assist the DISTRICT in obtaining a lease, easement or other property right to use WA-DNR-managed property on terms and conditions acceptable to the DISTRICT.

3. Use of Premises

3.1 Passenger-only ferry

- A. Water taxi operations.
- B. Vashon POF operations.
- C. Other POF operations (e.g. Kitsap County, other), subject to terms to be agreed upon in lease between the Parties.

3.2 Minor concessions (waiting area)

Examples: Newspaper boxes or newsstand; vending machines; coffee cart; etc., subject to terms and conditions to be agreed upon in the lease between the Parties.

3.3 Advertising, signage and naming rights

- A. Advertising in waiting area, gangway + float only; NOT common areas, subject to WSDOT/WSF general advertising policy (Chapter 47.42 RCW, Chapter 468-66 WAC and any other applicable advertising policy for WSF premises).
- B. POF signage at discretion of Lessee subject to WSF review and approval not to be unreasonably withheld.

- C. Naming Rights (waiting area, gangway+float). Subject to discussion and negotiation on lease.

4. Term

- 4.1 Initial Term: From effective date of Commencement Notice to 11:59 PM on December 31 of the calendar year that is fifty (50) years from the year in which Lessee provides Commencement Notice.
- 4.2 Extension: At Lessee's written request and as mutually agreed by written amendment, the term of the lease may be extended for one (1) additional twenty-five (25) year period. In the event Lessee desires to so extend the lease, it shall provide written notice of such intent to WSF not less than one (1) year and not more than two (2) years prior to the existing termination date of the lease. If no notice from Lessee, then lease expires at end of Initial Term specified in 4.1.
- 4.3 Commencement Notice: Term to commence on date when Lessee gives Commencement Notice to WSF. Lessee to give Commencement Notice when Premises are open to and available for use by Lessee to provide POF service at Pier 52, and as agreed to in Commencement Notice provided by Lessee to WSF and signed by both Parties. Commencement Notice to be substantially in the form of Ex. K to SR 520 airspace lease AA-1-13208 ("SR 520 lease"), a copy of which is on file with the Parties. To issue Commencement Notice, Lessee will require that the Premises have reached Final Completion as described in the Agreement, Article XVIII.A.
- 4.4 Anticipated Commencement Date: Parties anticipate Commencement Date will occur sometime in 2023.
- 4.5 Subject to its terms and conditions, the Parties intend that the existing POF Terminal License Agreement No. GCA 6750 will remain in effect until the DISTRICT has accepted the Premises after Final Completion, or through all extension option periods of GCA 6750, whichever occurs first.

5. Rent

WSF shall charge Lessee annual rent for lease of the Premises as follows:

5.1 Rent formula and calculation.

The rent formula shall be eight and one-half cents (\$0.085) per square foot x square feet of submerged lands ("tidelands") x seventy-five percent (0.75), reflecting 25% discount for public benefit per RCW 47.64.090(3). Using the current estimate of 11,068 sq.ft. of tidelands, the calculation results in the following rent estimate: \$705.59 per month or \$8,467.08 per year.

5.2 The Rent shall be adjusted each year during the Term by the percentage increase, if any, in the Consumer Price Index ("CPI," as defined herein) for the previous twelve-month period that ended on December 31. The Parties intend that any change the Rent and any change in CPI will be determine on a calendar year basis, i.e. as of December 31 of each year during the Term, even if the Term does not begin on January 1. In no event shall the adjusted Rent be less than the Rent for the previous year. For purposes of this Lease, "CPI" means the Consumer Price Index for Seattle-Tacoma-Bremerton for All Urban Consumers (1982-84=100) published by the United States Department of Labor's Bureau of Labor Statistics.

If the CPI is discontinued or replaced during the Term, then the Parties shall jointly identify in writing another governmental cost-of-living index or computation to replace the CPI, and that index shall be used to obtain substantially the same result as would be obtained if the CPI had not been discontinued or replaced.

6. **Operation and Maintenance Obligations.** Subject to negotiation as element of lease; develop O&M Matrix like SR 520 airspace lease Ex. I.
7. **Indemnity.** (SR 520 §15).
8. **Insurance.** Subject to discussion and negotiation as element of lease.

9. **Hazardous Materials.** A lease provision as follows:

9.1 Lessee agrees as follows:

- A. Notwithstanding any other provision of this Lease, Lessee will fully comply with, and will ensure that all persons who Lessee authorizes to use the Premises comply with, all applicable Environmental Laws and will not place, store, use, manufacture, or Release any Hazardous Materials under, on, or over the Premises or any adjacent lands, including aquatic lands, in violation of Environmental Laws.
- B. Lessee will not authorize, cause or permit a Release of Hazardous Materials into, onto, or from the Premises, or from any vessels using the Premises, and will take all measures which are necessary to ensure that no other persons for whom it is responsible at law authorize, cause, or permit a Release of Hazardous Materials.
- C. If a Release of Hazardous Materials does occur as a result of any action of Lessee or any person for whom Lessee is responsible at law, Lessee will immediately report the occurrence of the Release to WSF and to all applicable Governmental Authorities to whom notification is required under Environmental Laws in the circumstances and will immediately clean up the Release and restore the natural environment affected by the discharge to the satisfaction of WSF, the U.S Coast Guard, and any other applicable Governmental Authorities.
- D. If Lessee fails or refuses to promptly clean up any such Release of Hazardous Materials and to restore the natural environment affected by such a Release, WSF may carry out the whole or any part of the cleanup and restoration at Lessee's expense and may, at its sole discretion, terminate this Lease forthwith by a notice in writing to Lessee.

- E. Lessee will fully comply with all Orders of any applicable Governmental Authority that may be directed to Lessee and that relate to Lessee's use of the Premises.
- F. If an unappealable, binding, or otherwise final Order of any applicable Governmental Authority is issued to WSF requiring WSF to do anything in relation to any Release or violation of Environmental Laws caused by Lessee during the Term of this Lease or for which Lessee is responsible under this Lease or at law, Lessee will, upon receipt of written notice from WSF, carry out the Order at Lessee's expense.
- G. If Lessee fails or refuses to promptly and fully carry out any unappealable, binding, or otherwise final Order of any applicable Governmental Authority with respect to any Release or violation of Environmental Laws during the Term of this Lease, WSF may carry out the whole or any part of the Order at Lessee's expense and may, at the sole discretion of WSF, terminate this Lease forthwith by a notice in writing to Lessee. Provided that if Lessee properly contests or appeals an Order of a Governmental Authority in good faith, then WSF shall not terminate this Lease under this Section 9.1.G until and unless such Order becomes final, binding, and not subject to further appeal or review.
- H. Upon the expiration or earlier termination of this Lease, Lessee will leave the Premises clean of any Hazardous Materials that were introduced thereto during the Term of this Lease by Lessee or by any person for whom Lessee is responsible at law.
- I. If WSF discovers a violation by Lessee or any person for whom Lessee is responsible at law of an Environmental Law or a fact situation that could be reasonably be anticipated to result in a violation of an Environmental Law, and that arose during the Term of this Lease, then WSF will have the right to take whatever steps are reasonably required to rectify such violation, or prevent such breach

from occurring, as the case may be, in WSF's sole discretion, all at Lessee's expense.

- 9.2 Lessee will indemnify WSF, protect WSF and save it harmless from any and all damages, losses, liabilities, obligations, penalties, claims, litigation, suits, proceedings, costs, disbursements, or expenses (including, without limitation, all legal fees, expert fees and disbursements) of any kind or of any nature whatsoever (collectively, the "Indemnified Matters") that may at any time be imposed upon, incurred by, asserted by, or awarded against WSF and arising out of any breach of or non-compliance with this Article 9 by Lessee, or the Release during the Term of this Lease of any Hazardous Materials brought onto the Premises by Lessee or those for whom it is responsible at law.
- 9.3 Indemnified Matters as defined above will include, without limitation, all of the following: (i) the costs of removal of any and all Hazardous Materials, (ii) additional costs required to take necessary precautions to protect against the Release of Hazardous Materials into the air, the soil, any body of water, any other public area or any surrounding areas, (iii) costs incurred to comply with all Applicable Laws with respect to Hazardous Materials, and (iv) claims, actions, damages, liability, and expenses in connection with loss of life, personal injury, and/or property damage arising out of any occurrence or matter described in (i) to (iii) above.
- 9.4 WSF agrees that Lessee will be responsible only for any Hazardous Materials brought onto the Premises by Lessee or those for whom Lessee is responsible at law and for any Releases of such Hazardous Materials during the Term of this Lease by Lessee or those who Lessee authorizes to use the Premises, and that Lessee will not be responsible for any Hazardous Materials brought onto the Premises by any other persons or for any Releases of any Hazardous Materials brought onto the Premises by any other persons, unless such discharge is caused by the willful act or negligence of Lessee or any person for whom Lessee is responsible at law.
- 9.5 Lessee will pay to WSF any amount required by this Article within sixty (60) days of receipt from WSF of a written demand for such amount.

10. Existing Environmental Conditions. A lease provision as follows:

- 10.1 The indemnities in Sections 10.2 and 10.3 apply to releases of Hazardous Materials by persons or entities other than Lessee and that occur or are deemed to occur after the Commencement Date.
- 10.2 WSF agrees to indemnify, defend, and hold Lessee harmless from and against any and all claims, causes of action, demands, and liability including, but not limited to, any costs, liabilities, damages, expenses, assessments, penalties, fines, losses, judgments, and attorneys' fees associated with the existence of, and/or removal or remediation of any Hazardous Materials, contingent on WSF's written concurrence that the following requirements are met:
- A. The Hazardous Materials have been released or otherwise come to be located on Pier 50/52, the Premises, or adjacent aquatic lands after the Commencement Date, including but not limited to Hazardous Materials that migrate from Pier 50/52 or the Premises through water or soil to other properties; and
 - B. The Hazardous Materials release is determined to have been caused by or result from activities other than Lessee's.

If WSF does not concur that conditions (A) and (B) are met, then the Parties shall enter into Dispute Resolution as provided elsewhere in the Lease.

- 10.3 Contingent on WSF's written concurrence that conditions in Section 10.2(A) and -(B) are met, WSF further agrees to indemnify, defend, and hold Lessee harmless from any and all liability arising from the cleanup, disposal, handling, treatment, remediation, storage, or transportation of any such Hazardous Materials by or on behalf of WSF.
- 10.4 As to releases of Hazardous Materials that occurred or are deemed to have occurred prior to the Commencement Date, Section 9 and Sections 10.1 through 10.3 shall not apply, and instead the Parties' rights and duties shall be

as otherwise provided by law. The Parties reserve all claims and defenses under state and federal law as to such prior Releases or Hazardous Materials.

10.5 The provisions of this Section 10 shall survive the expiration or termination of this Lease.

11. Damage and Destruction. Subject to discussion and negotiation as element of lease.

12. Assignment and Subletting

12.1 Assignment. (POF Terminal License Agreement No. GCA 6750, Article 13.13).

12.2 Sublease. Subject to discussion and negotiation as element of lease.

13. Termination

13.1 By Lessee (SR 520 §20)

A. Lessee may terminate the Lease without penalty or further liability as follows:

1. Upon Three Hundred Sixty Five (365) calendar day's written notice for any reason within the sole discretion of Lessee;
2. Upon forty-five (45) calendar days written notice, if WSF materially defaults on any one provision in the Lease a total of three (3) or more times within any twelve (12) month period, and none of the material defaults are due to acts or omissions by Lessee, a Third-Party Interest holder or other third party, or Force Majeure Event. A "material default" as used in this Section shall mean a default that significantly endangers public health or safety;
3. Immediately, upon written notice, if in Lessee's judgment the Premises are destroyed or damaged so as to substantially and adversely affect the authorized use of the Premises;
4. If the Lessee legislative body has not appropriated sufficient funds to pay for Lessee's obligations under the Lease for any given year.

Notwithstanding any contrary provision in the Lease, such termination for non-appropriation shall occur automatically upon the end of the last calendar year for which there was sufficient appropriation, and Lessee shall have no further obligations that extend beyond the end of such calendar year. As between the Parties, the sufficiency of any appropriation shall be determined by the Chair of the DISTRICT or the Director of the King County Department of Transportation, after King County assumes the DISTRICT'S rights, duties and obligations under Chapter 36.150 RCW, in his or her sole and absolute discretion; or

5. At the time title to the Premises transfers to a condemning authority, if there is a condemnation of all or part of the Premises, including a sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of the exercise of the power. In such event, each Party shall be entitled to pursue their own separate awards with respect to such taking.

13.2 By Lessor (SR 520 §19.A.1-.4)

- A. Lessor may terminate the Lease, in whole or in part, without penalty or further liability as follows:
 1. Upon sixty (60) calendar days written notice to Lessee, if Lessee fails to cure a default or fails to perform operations and maintenance responsibilities assigned to Lessee under the Lease within that 60-day period, unless WSF and Lessee agree to extend said period, if Lessee is diligently pursuing a cure;
 2. Upon forty-five (45) calendar days written notice to Lessee, if Lessee materially defaults, and fails to cure such default within that 45-day period, unless WSF and Lessee agree to extend said period and Lessee is diligently pursuing a cure. A "material default" as used in this Section shall mean a default that significantly endangers public health or safety;

3. Upon sixty (60) calendar days written notice, if Lessee: (i) commences a voluntary case or other proceeding to sell, liquidate, reorganize, or otherwise relieve itself of its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; (ii) seeks the appointment of a trustee, receiver, liquidator, custodian or other similar official of Lessee or any substantial part of Lessee's assets; (iii) files an answer admitting the material allegations of such a petition filed against Lessee in any involuntary case or other proceeding commenced against Lessee, or consents to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against Lessee; (iv) makes an assignment for the benefit of creditors; (v) fails, is unable, or admits in writing the inability generally to pay Lessee's debts as they become due; or (vi) takes any action to authorize any of the foregoing;
4. Upon thirty (30) calendar days prior written notice, if the Premises have been abandoned, in WSF's sole judgment, for a continuous period of ninety (90) calendar days, unless one or both of the Parties provides notice of a Force Majeure Event under the Lease, or previously notified the other Party of a Force Majeure Event that remains unabated, in which cases the Lease shall not be terminated;
5. In whole or in part, upon not less than three hundred sixty five (365) calendar days prior written notice, if Lessor needs the Premises for a highway purpose that conflicts with Lessee's use, operation and maintenance of the Premises. (Details of such termination subject to discussion and negotiation as element of lease.)
6. Immediately, upon written notice, in the event of a court order by a court of competent jurisdiction, or legislative action, or action by a governmental agency having jurisdiction, which requires WSF to take some action that would prohibit Lessee's use of the Premises.
7. Immediately, if an emergency exists as determined by WSF in its sole discretion. For purposes of this Section an emergency is defined to mean an event, including but not limited to a Force Majeure Event and/or a significant and continuing endangerment of life or the Premises, including but not limited to discovery of a severe structural

deficiency that: (i) prevents use of Pier 52 by pedestrians and functionally precludes Lessee's passenger-only ferry operations due to reasons of safety; and (ii) cannot be accommodated or managed through temporary revisions to or re-routing of Lessee's passenger-only ferry uses, or through relocation of Lessee's passenger-only ferry operations to another portion of Pier 52.

- B. If Lessee materially defaults on any one provision in the Lease a total of three (3) or more times within any twelve (12) month period, and none of the material defaults are due to acts or omissions by WSF, a Third-Party Interest holder or other third party, or Force Majeure Event, then Lessee's third material default and any subsequent material default on the same provision shall be deemed "non-curable" and the Lease may be terminated by Lessor on sixty (60) calendar days written notice.

- 13.3 Disposition of Improvements Upon Termination. Subject to discussion and negotiation as element of lease.

14. Compliance with Applicable Laws, Rules, and Regulations

- 14.1. WSF shall ensure Premises and Lessee's intended POF use are approved as an element of WSF's overall Project, including all zoning, construction and demolition permits, certificates of occupancy, ADA, and any other preclearance, permitting, or authorization requirements necessary for Lessee to take possession and use the Premises as intended when Final Completion has occurred and Lessee has issued Commencement Notice.

- 14.2. In general (POF Terminal License Agreement No. GCA 6750 Article 8.1.L, -.M; revise to be mutual).

15. **Notice.** (SR 520 §39).

16. **Taxes.** (SR 520 §6).

17. **No Liens or Other Encumbrances.** (SR 520 §§11, 12, except ability to issue a license).
18. **Assignment.** (POF Terminal License Agreement No. GCA 6750, Article 13.13).
19. **Vacation of Premises.** (SR 520 §21, 22).
20. **Dispute Resolution.** (SR 520 §24).
21. **Force Majeure.** (SR 520 §16.C).
22. **Other Terms and Conditions**

22.1 Maintenance of records; Audit: (POF Terminal License Agreement No. GCA 6750, Article 10; modify to be mutual).

22.2 FTA mandatory language regarding grant-funded improvements: Subject to discussion and inclusion as element of lease.

22.3 Governing Law; Venue; Attorney Fees and Costs: (POF Terminal License Agreement No. GCA 6750, Article 13.17; SR 520 §30).

22.4 Construction: (SR 520 §43).

23. **Term Sheet Reference Documents**

The Parties used the documents listed below as sources for development of this Term Sheet and further intend to use such documents in development of a complete lease. Copies of the documents are on file with the Parties.

Reference A: Seattle and Vashon Island Passenger-Only Ferry Terminal License Agreement No. GCA 6750 (License).

Reference B: SR 520 Airspace Lease AA-1-13208, I.C. No. 1-17-08326.

EXHIBIT F

DESIGN PHASE AGREEMENT NO. GCB 1951 FOR NEW PASSENGER-ONLY FERRY TERMINAL AT SEATTLE MULTIMODAL TERMINAL

Federal Funding Provisions and Certifications

- 1. Federal Transit Administration Articles
For Professional Services Contracts**
- 2. Federal Transit Administration Certifications**
- 3. Federal Highway Administration Contract Provisions**
- 4. Federal Highway Administration Certification**
- 5. Wages, Benefits and Rates**

EXHIBIT F
ATTACHMENT 1

FEDERAL TRANSIT ADMINISTRATION
ARTICLES FOR PROFESSIONAL SERVICES CONTRACTS

FEDERAL TRANSIT ADMINISTRATION
ARTICLES FOR PROFESSIONAL SERVICES CONTRACTS

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FEDERAL TRANSIT ADMINISTRATION ARTICLES

FOR PROFESSIONAL SERVICES CONTRACTS

I.

FLY AMERICA REQUIREMENTS

49 U.S.C. §40118
41 CFR Part 301-10

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act.

The Fly America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

Fly America

1. The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act.
2. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements.
3. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

II.
GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

2 CFR Part 180
2 CFR Part 1200

2 CFR Parts 180 and 1200 prohibit FTA recipients and sub-recipients from contracting for goods and services from organizations that have been suspended or debarred from receiving Federally-assisted contracts. As part of their applications each year, recipients are required to submit a certification to the effect that they will not enter into contracts over \$25,000 with suspended or debarred Contractors and that they will require their Contractors (and their subcontractors) to make the same certification to them. Contractors are also required to confirm whether a prospective lower-tier participant is debarred or suspended.

Contractors are required to pass this requirement on to subcontractors seeking subcontracts over \$25,000. Thus, the terms "lower tier covered participant" and "lower tier covered transaction" include both Contractors and subcontractors and contracts and subcontracts over \$25,000.

Debarment and Suspension

This Contract is subject to the Federal Transit Administration's (FTA's) debarment and suspension requirements in 2 CFR Parts 180 and 1200. The Contractor agrees to abide by the following certifications submitted with its bid/proposal: "Certification of Contractor Regarding Debarment, Suspension, and Other Responsibility Matters"; "Certification of Contractor Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction"; and corresponding certifications for subcontractors. The Contractor also agrees to (i) confirm whether a prospective participant in a lower tier covered transaction is debarred or suspended by checking the exclusion records maintained by the U.S. General Service Administration at <https://www.sam.gov/portal/public/SAM/>; and (ii) pass on the same requirement to prospective lower tier participants.

III. LOBBYING

31 U.S.C. 1352
49 CFR Part 19
49 CFR Part 20

The Lobbying requirements apply to PROFESSIONAL SERVICES /Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, § 7.

The Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A. Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*] - Lobbying Certification and Disclosure of Lobbying Activities for third party Contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d) - Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that Contractors file the certification required by 49 CFR Part 20, Appendix A. Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995. - Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A. **Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]** - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

Lobbying

This Contract is subject to the Federal Transit Administration's (FTA's) Lobbying requirements in 31 U.S.C. 1352, 49 CFR Part 19 and 49 CFR Part 20. The Contractor agrees to abide by its "Certification Regarding Lobbying" submitted with its bid/proposal.

IV.
ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325
18 CFR 18.36 (i)
49 CFR 633.17

Reference Chart "Requirements for Access to Records and Reports by Type of Contracts".
FTA does not require the inclusion of these requirements in subcontracts.

Access to Records

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and PROFESSIONAL SERVICES sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1 which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and PROFESSIONAL SERVICES sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
7. FTA does not require the inclusion of these requirements in subcontracts.

Requirements for Access to Records and Reports by Types of Contract

Contract Characteristics	Operational Service Contract	Turnkey	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
I <u>State Grantees</u>					
a. Contracts below SAT (\$100,000)	None	Those imposed on state pass thru to Contractor	None	None	None
b. Contracts above \$100,000/Capital Projects	None unless ¹ non-competitive award		None unless non-competitive award	None unless non-competitive award	None unless non-competitive award

Sources of Authority: ¹ 49 USC 5325 (a) ² 49 CFR 633.17 ³ 18 CFR 18.36 (i)

V.
SEISMIC SAFETY REQUIREMENTS

42 U.S.C. 7701 et seq.
49 CFR Part 41

The Seismic Safety requirements apply only to contracts for the construction of new buildings or additions to existing buildings.

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micropurchases.

The Seismic Safety requirements flow down from FTA recipients and subrecipients to first tier contractors to assure compliance with the applicable building standards for Seismic Safety, including the work performed by all subcontractors.

Seismic Safety

The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

VI.
ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.
49 CFR Part 18

The Energy Conservation requirements are applicable to all contracts.

The Energy Conservation requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subagreements at every tier.

Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

VII.
CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

The Clean Water requirements apply to each contract and subcontract which exceeds \$100,000.
The Clean Water requirements flow down to FTA recipients and subrecipients at every tier.

Clean Water

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
2. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

VIII.
CLEAN AIR

42 U.S.C. 7401 et seq.
40 CFR 15.61
49 CFR Part 18

The Clean Air requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year.
The Clean Air requirements flow down to all subcontracts which exceed \$100,000.

Clean Air

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
2. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

IX.
FEDERAL CHANGES

49 CFR Part 18

The Federal Changes requirement applies to all contracts.
The Federal Changes requirement flows down appropriately to each applicable changed requirement.

Federal Changes

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the State and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

X.
NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicable to all contracts.
Not required by statute or regulation for either primary Contractors or subcontractors, this concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

No Obligation by the Federal Government

1. The State and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the State, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
2. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

XI.
PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS
AND RELATED ACTS

31 U.S.C. 3801 et seq.
49 CFR Part 31, 18 U.S.C. 1001
49 U.S.C. 5307

These requirements are applicable to all contracts.

These requirements flow down to Contractors and subcontractors who make, present, or submit covered claims and statements.

Program Fraud and False or Fraudulent Statements or Related Acts

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

XII.
CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.

The Civil Rights Requirements apply to all contracts.

The Civil Rights requirements flow down to all third party Contractors and subcontractors at every tier.

Civil Rights

The following requirements apply to the underlying contract:

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
 - A. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect PROFESSIONAL SERVICES activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation;

and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- B. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - C. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

XIII.

DISADVANTAGED BUSINESS ENTERPRISES

49 CFR Part 26

The Contractor shall comply with the Disadvantaged Business Enterprise (DBE) provisions in the bid/proposal package issued by the State.

XIV. ADA ACCESS

The ADA Access requirements apply to all A&E contracts.
The ADA Access requirements have unlimited flow down.
This provision is a restatement of the FTA Master Agreement (10/1/2013), Section 13.g.

The Recipient agrees to comply with the following Federal prohibitions against discrimination on the basis of disability:

(1) Federal laws, including:

- (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities,
- (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities, but

1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but

2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of “employer,”

- (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities,
- (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and
- (e) Other applicable laws and amendments pertaining to access for seniors or individuals with disabilities,

(2) Federal regulations, including:

- (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37,
- (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27,

- (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39,
 - (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38,
 - (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35,
 - (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36,
 - (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630,
 - (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F,
 - (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and
 - (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and
- (3) Other applicable Federal civil rights and nondiscrimination guidance.

XV.
SUBCONTRACT WORK COMPLETION AND
PROMPT PAY OF RETAINAGE

Source: WSDOT General Special Provisions, Sec. 1-08.1(1).OPT.1.GR1

The following procedures shall apply to all subcontracts entered into as a part of this Contract:

A. Requirements

1. The Contractor or Subcontractor shall make payment to the Subcontractor not later than ten (10) days after receipt of payment from the State for work satisfactorily completed by the Subcontractor, to the extent of each Subcontractor's interest therein.
2. Prompt and full payment of retainage from the Contractor to the Subcontractor shall be made within thirty (30) days after Subcontractor's work is satisfactorily completed.
3. For purposes of this Section, a Subcontractor's work is satisfactorily completed when all task and requirements of the Subcontract have been accomplished and including any required documentation and material testing.
4. Failure by a Contractor or Subcontractor to comply with these requirements may result in one or more of the following:
 - a. Withholding of payments until the Contractor or Subcontractor complies;
 - b. Failure to comply shall be reflected in the Contractor's Performance Evaluation;
 - c. Cancellation, Termination, or Suspension of the Contract, in whole or in part;
 - d. Other sanctions as provided by the Subcontract or by law under applicable prompt pay statutes.

B. Conditions

This clause does not create a contractual relationship between the State and any Subcontractor. Also, it is not intended to bestow upon any Subcontractor the status of a third-party beneficiary to the Contract between the State and the Contractor.

C. Payment

The Contractor will be solely responsible for any additional costs involved in paying retainage to the Subcontractors. Those costs shall be incidental to the contract price.

XVI.

PATENT AND RIGHTS IN DATA

**37 CFR Part 401
49 CFR Parts 18 and 19**

Not applicable.

XVII.

**CONFORMANCE WITH ITS
NATIONAL ARCHITECTURE**

23 U.S.C. 517

Not applicable.

XVIII.

BREACHES AND DISPUTE RESOLUTION

**49 CFR Part 18
FTA Circular 4220.1F**

The Contractor shall comply with the "Termination of Agreement", "Disputes" and other applicable Sections of the applicable Professional Services Consultant Agreement and the WSDOT Consultant Services Manual.

XIX.
TERMINATION

The Contractor shall comply with the "Termination of Agreement" and other applicable Sections of the applicable Professional Services Consultant Agreement and the WSDOT Consultant Services Manual.

XX.
SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

**Section 42, FTA Master Agreement for
agreements authorized by
49 U.S.C. chapter 53 and Title 23, U.S.C.**

To the extent required under Federal law, the State, as the Recipient, agrees to provide the following information about FTA funding for State Programs or Projects:

- a. Types of Information. The State will provide information including:
 - (1) Identification of FTA as the Federal agency providing the Federal funds for the Program or Project,
 - (2) The Catalog of Federal Domestic Assistance Number of the Program from which the Federal funding for the Program or Project is authorized, and
 - (3) The amount of Federal funds FTA has provided for the Program or Project, and
- b. Documents. The State will provide the information required under this provision in the following documents:
 - (1) Requests for proposals,
 - (2) Solicitations,
 - (3) Grant or cooperative agreement applications,
 - (4) Forms,
 - (5) Notifications,
 - (6) Press releases, and
 - (7) Other publications.

XXI.
INCORPORATION OF
FEDERAL TRANSIT ADMINISTRATION TERMS

FTA Circular 4220.1F

<p>The incorporation of FTA terms applies to all contracts. The incorporation of FTA terms has unlimited flow down.</p>

Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any State requests which would cause the State to be in violation of the FTA terms and conditions.

(END)

EXHIBIT F
ATTACHMENT 2

FEDERAL TRANSIT ADMINISTRATION
CERTIFICATIONS FOR PROFESSIONAL SERVICES CONTRACTS

TABLE OF CONTENTS

1. **Federal Transit Administration,
Certification Regarding Lobbying.**
2. **Federal Transit Administration Certification,
Government – Wide Debarment and Suspension,
Certification of Contractor.**
3. **Federal Transit Administration Certification,
Government – Wide Debarment and Suspension,
Certification of Sub Contractor.**
4. **Non-Collusion Declaration.**

FEDERAL TRANSIT ADMINISTRATION
CERTIFICATION REGARDING LOBBYING

(Third Party Contracts Over \$100,000).

The Undersigned Contractor hereby certifies, to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government Wide Guidance For New Restrictions on Lobbying", 61 Fed. Reg. 1413 (1/19/96)].
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including Subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all Subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C., Section 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. Section 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure (if any). In addition, the Contractor understands and agrees that the provisions of 31 U.S.C.A. 3801, *et seq.*, apply to this certification and disclosure (if any).

Contractor: _____

By: _____
(Signature)

(Print Name)

Title: _____

Date: _____

FEDERAL TRANSIT ADMINISTRATION

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

A. CERTIFICATION OF CONTRACTOR REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

(Third Party Contracts Over \$ 25,000).

1. **By signing and submitting this bid/proposal, the prospective Contractor is providing the signed certification set out below.**
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, WSF may pursue available remedies, including suspension and/or debarment.
3. The prospective Contractor shall provide immediate written notice to WSF if at any time the prospective Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of 2 CFR 180. You may contact WSF for assistance in obtaining a copy of those regulations.
5. The prospective Contractor agrees by submitting this bid/proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by WSF.
6. The prospective Contractor further agrees by submitting this bid/proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction shall require a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction. A participant may decide the method and frequency by which it determines the eligibility of its principals. In addition, each participant shall confirm whether a prospective participant in a lower tier covered transaction is debarred or suspended by checking the exclusion records maintained by the U.S. General Service Administration at <https://www.sam.gov/portal/public/SAM/>.
8. (Reserved).
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, WSF may pursue available remedies including suspension and/or debarment.

**B. CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION
– PRIMARY COVERED TRANSACTION**

(Third Party Contracts Over \$ 25,000).

1. The prospective Contractor hereby certifies, by submission of this bid or proposal, that neither it nor its “principals” (as defined in 2 CFR 180.995 is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. When the prospective Contractor is unable to certify to any of the statements in this certification, such prospective Contractor shall attach an explanation to this proposal.

The prospective Contractor certifies or affirms the truthfulness and accuracy of each statement of its certifications and disclosure (if any). In addition, the Contractor understands and agrees that the provisions of 31 U.S.C.A. 3801, et seq., apply to these certifications and disclosure (if any).

Contractor: _____

By: _____
(Signature)

(Print Name)

Title: _____

Date: _____

FEDERAL TRANSIT ADMINISTRATION

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

A. CERTIFICATION OF SUBCONTRACTOR REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

(Third Party Contracts Over \$ 25,000).

1. **By signing and submitting this bid/proposal, the prospective lower tier participant is providing the signed certification set out below.**
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, WSF may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to WSF if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of 2 CFR Part 180. You may contact WSF for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this bid/proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by WSF.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction shall require a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction. A participant may decide the method and frequency by which it determines the eligibility of its principals. In addition, each participant shall confirm whether a prospective participant in a lower tier covered transaction is debarred or suspended by checking the exclusion records maintained by the U.S. General Service Administration at <https://www.sam.gov/portal/public/SAM/>.
8. (Reserved).
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, WSF may pursue available remedies including suspension and/or debarment.

**B. CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION
– LOWER TIER COVERED TRANSACTION**

(Third Party Contracts Over \$25,000).

1. The prospective lower tier participant hereby certifies, by submission of this bid or proposal, that neither it nor its “principals” (as defined in 2 CFR 180.995 is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. When the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective lower tier participant shall attach an explanation to this proposal.

The subcontractor certifies or affirms the truthfulness and accuracy of each statement of its certifications and disclosure (if any). In addition, the subcontractor understands and agrees that the provisions of 31 U.S.C.A. 3801, et seq., apply to these certifications and disclosure (if any).

Subcontractor: _____

By: _____
(Signature)

(Print Name)

Title: _____

Date: _____

Note: The Contractor must first obtain WSF approval for each subcontractor for this Contract Work. Only after the Contractor receives that approval from WSF may the Contractor execute subcontracts and have this form completed by each approved subcontractor. The Contractor must provide all completed forms to WSF before subcontractors commence work on the project. Original forms are available from WSF’s project engineer or administrator.

NON-COLLUSION DECLARATION

I, by signing this bid or proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this bid or proposal is submitted.
2. That by signing the signature page of this bid or proposal, I am deemed to have signed and have agreed to the provisions of this declaration.

NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., Eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

This "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

EXHIBIT F
ATTACHMENT 3

Federal Highway Administration Contract Provisions

Revised May 1, 2012

(attached)

The following Articles in the attached FHWA Form 1273 Contract Provisions are excluded from the scope of this Contract since WSF deems the Contract to be a “service” type contract (vs. a construction type contract). Such exclusions are pursuant to FHWA’s written guidance to grantees regarding contract administration.

Exclusions:

1. Article IV, Davis Bacon and Related Act Provisions;
2. Article V, Contract Work Hours and Safety Standards Act;
3. Article VI, Subletting or Assigning the Contract; and
4. Attachment A Re: Appalachian Contracts

EXHIBIT F
ATTACHMENT 4

Federal Highway Administration Certification

The following FHWA Certification is excluded from the scope of this Contract since WSF the Contract is a “service” type contract (vs. a construction type contract). Such exclusion is pursuant to FHWA’s written guidance to grantees regarding contract administration.

Exclusion:

- 1. Buy America Provision and Certification**

EXHIBIT F

ATTACHMENT 5

Wages, Benefits and Rates

1. GENERAL

- 1.1 This Contract is subject to the prevailing wage and work hour requirements in Revised Code of Washington (RCW) Chapter 39.12 and Chapter 49.28, respectively, for any Contract work performed within the State of Washington. Federal wage laws and rules also apply since Washington State Ferries (WSF) has secured federal funding for this Contract.
- 1.2 The prevailing rate of wages to be paid to all workmen, laborers, or mechanics employed in the performance of any part of this Contract shall be in accordance with the provisions of RCW 39.12. The rules and regulations of the Washington State Department of Labor and Industries (State L&I) and the schedule of prevailing wage rates for the locality or localities where this Contract will be performed, as determined by the State L&I Industrial Statistician, are by reference made a part of this Contract as though fully set forth herein. Federal and State prevailing wage rates for this Contract, by class and locality, are attached hereto as **Attachment "A" (Federal)** and **Attachment "B" (State)** and by this reference made a part of this Contract.
- 1.3 The Contractor, any subcontractor, or other person doing any work under the Contract shall not pay any worker less than the minimum hourly wage rates and fringe benefits applicable to this Contract. Higher wages and benefits may be paid.
- 1.4 By including wage, fringe benefit, and overtime rates in this Contract, WSF does not imply that the Contractor will find labor available at those rates. The Contractor shall calculate and be responsible for any amounts above the minimums that will actually have to be paid. The wage rates which must be paid for the duration of the Contract are those which are in effect at the Bid Due Date.

- 1.5 When the project is subject to both State and Federal wage rates and when the two rates differ for similar kinds of labor, the Contractor shall not pay less than the higher rate.
- 1.6 WSF contacted the Federal Highway Administration (FHWA) regarding the application of the Davis-Bacon Act to WSF vessel projects. FHWA confirmed that the Davis-Bacon Act does apply to the "building, alteration and repair of ships". However, WSF is not aware of a Federal Wage Determination for the building, alteration and repair of ships under Federal contracts. Further, the location of performance for this Contract was not known at the time WSF issued the project advertisement. Therefore, the wage rates established by Washington State Department of Labor and Industries for "Shipbuilding and Ship Repair" will apply to this Contract for any Contract work performed within the designated counties in the State of Washington. Pursuant to Federal guidelines, the Contractor is reminded that on all Federal-aid projects, the Contractor must: (i) pay at the very least the Federal minimum wage rate; (ii) submit weekly certified payroll statements; and (iii) comply with all other U.S. Department of Labor standards.
- 1.7 If employing labor in a class not listed in the Contract, the Contractor shall request a determination of the correct wage rate for the class and locality from the Industrial Statistician, State Department of Labor and Industries, and/or from the US Secretary of Labor on Federal-aid projects. The Contractor shall provide a copy of these determinations to WSF. The Contractor shall include all costs of providing either or both of the aforementioned insurance coverages in its Bid or Proposal. The Contractor will not be entitled to any additional payments for: (i) failure to include such costs in its Bid or Proposal; or (ii) determinations made by the U.S. Department of Labor or State L&I regarding the insurance coverage.

2. POSTING NOTICES

In a location acceptable to the Department of Labor and Industries, the Contractor shall post:

- A. One copy of the approved "Statement of Intent to Pay Prevailing Wages";
- B. One copy of the prevailing wage rates for the project;
- C. The address and telephone number of the Industrial Statistician for the Department of Labor of Industries (along with notice that complaints or questions about wage rates may be directed there); and

D. The following posters if the project is funded with Federal aid:

1. FHWA 1495 and 1495A Wage Rate Information;
2. FHWA 1022 Fraud Notice; and
3. OFCCP – 1420 Equal Employment Opportunity is the Law.

3. APPRENTICES

If employing apprentices, the Contractor shall submit to WSF written evidence showing:

- A. Each apprentice is enrolled in a program approved by the Washington State Apprenticeship and Training Council;
- B. The progression schedule for each apprentice; and
- C. The established apprentice-journeyman ratios and wage rates in the project locality upon which the Contractor will base such ratios and rates under the Contract. Any worker for whom an apprenticeship agreement has not been registered and approved by the Washington State Apprenticeship and Training Council shall be paid at the prevailing hourly rate for journeymen as provided in RCW 39.12.021.

4. DISPUTES

- 4.1 If labor and management cannot agree in a dispute over the proper prevailing wage rates, the Contractor shall refer the matter to the Director of the Department of Labor and Industries (or to the U.S. Secretary of Labor when that agency sets the rates). The Director's (or Secretary's) decision will be final, conclusive, and binding on all parties.

5. REQUIRED DOCUMENTS

- 5.1 On forms the Industrial Statistician, State Department of Labor and Industries (State L&I) provides, the Contractor shall submit the following for itself and for each subcontractor that performs Contract work:
 - A. A "Statement of Intent to Pay Prevailing Wages" (State L&I form number F700-029-000). WSF will make no payment under the Contract for the work performed until this Statement has been completed, approved, and submitted.

- B. An "Affidavit of Wages Paid," (State L&I form number F700-007-000), with the Final Contract Voucher Certification. WSF will not release to the Contractor any funds retained under RCW 60.28.010 until all the "Affidavits for Wages Paid" forms have been completed, approved and submitted.
- 5.2 The Contractor shall be responsible for requesting these forms from State L&I and for paying any approval fees required by State L&I.
- 5.3 In addition, the Contractor shall submit a "Request for Release" to State L&I on a form provided by that agency.
- 5.4 Certified payrolls are required to be submitted by the Contractor to WSF, for the Contractor and all subcontractors or agents on: (i) all Federal-aid projects; and (ii) when requested in writing by WSF, on projects funded with only State funds. If these payrolls are not supplied within ten (10) calendar days of the end of the preceding weekly payroll period for Federal aid projects or within ten (10) calendar days for the date of the written request on projects with only State funds, any or all payments may be withheld until compliance is achieved. Also, failure to provide these payrolls could result in other sanctions as provided by State law (RCW 39.12.050) and/or Federal regulations (29 CFR 5.12). All certified payrolls shall be complete and explicit. Employee work classification codes used on certified payrolls shall coincide exactly with the occupational codes listed on the project's minimum wage schedule. When an apprentice is shown on the certified payroll at a rate less than the minimum prevailing journey wage rate, the apprenticeship registration number for that employee from the State Apprenticeship and Training Council shall be shown along with the correct employee classification code.

6. AUDITS

- 6.1 WSF and/or State L&I may inspect or audit the Contractor's wage and payroll records at any time during the Contract and up to three (3) years after WSF acceptance of the Contract work. The Contractor shall maintain such records for that period. The Contractor shall also guarantee that wage and payroll records of all his subcontractors and agents shall be open to similar inspection and auditing for the same period of time. WSF will give the Contractor reasonable notice of the starting date if an audit will begin more than sixty (60) days after WSF's acceptance of the Contract work.

7. WORKER BENEFITS

- 7.1 The Contractor shall make all payments required for unemployment compensation under Title 50 RCW and for industrial insurance and medical aid required under Title 51 RCW. If any payment required by Title 50 or Title 51 is not made when due, WSF may retain such payments from any money due the Contractor and pay the same into the appropriate fund.
- 7.2 The Public Works Contract Division of State L&I will provide the Contractor with applicable industrial insurance and medical aid classification and premium rates. The "Request for Release" form of State L&I is also for the purpose of obtaining a release with respect to the payments of industrial insurance and medical aid premiums.
- 7.3 **For work on or adjacent to water, the Contractor shall make its own determinations as to whether workers will be covered under the Longshoreman's and Harbor Worker's Compensation Act administered by the U.S. Department of Labor, or State Industrial Insurance administered by State L&I, or by both. The Contractor shall include all costs of providing either or both of the aforementioned insurance coverages in its Bid or Proposal. The Contractor will not be entitled to any additional payments for: (i) failure to include such costs in its Bid or Proposal; or (ii) determinations made by the U.S. Department of Labor or State L&I regarding the insurance coverage.**

EXHIBIT G

DESIGN PHASE AGREEMENT NO. GCB 1951 FOR NEW PASSENGER-ONLY FERRY TERMINAL AT SEATTLE MULTIMODAL TERMINAL

Federal Requirements

- A. This Agreement is subject to a financial assistance agreement between King County, as service provider to the District, and the FTA. WSF shall comply with all applicable federal laws, regulations, policies, procedures and directives, including but not limited to the following, item nos. 3 through 6 which are attached hereto and incorporated herein by this reference:
1. 49 CFR 18 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. The text is available at: <http://www.ecfr.gov/cgi-bin/textidx?c=ecfr&SID=08e9c1f803e98a578e0f3d2714277ff4&rgn=div5&view=text&node=49:1.0.1.1.12&idno=49>
 2. CFR Part 225, Cost Principles for State, Local and Indian Tribal Governments. The text is available at: <http://www.ecfr.gov/cgi-bin/textidx?c=ecfr&SID=08e9c1f803e98a578e0f3d2714277ff4&rgn=div5&view=text&node=2:1.1.2.10.6&idno=2>
 3. The requirements and obligations imposed on a "Recipient" under the applicable provisions of the FTA Master Agreement. The Master Agreement is incorporated by reference as Attachment 1. The Master Agreement text is available at: <http://www.fta.dot.gov/documents/20-Master.pdf>
 4. The requirements of FTA Circular 5010.1D Project Administration and Management. Circular 5010.1D is incorporated by reference as Attachment 2. The Circular text is available at: http://www.fta.dot.gov/documents/C_5010_1D_Finalpub.pdf

5. If WSF contracts with a third party to provide all or a portion of the services described in this Agreement, then WSF shall comply with FTA Circular 4220.1F. Circular 4220.1F is incorporated by reference as Attachment 3. The Circular text is available at: http://www.fta.dot.gov/documents/C_4220_1F.pdf
6. Applicable FTA Third Party Contract Provisions – Standard Terms and Conditions. The text is attached as Attachment 4. Additional federal funding provisions and certifications are attached to this Agreement as Exhibit F.

The District and WSF acknowledge that they understand and are familiar with the FTA Master Agreement, FTA Circular 5010.1D Project Administration and Management, and FTA Circular 4220.1F identified in item nos. 3 through 5 above.

- B. New federal laws, regulations, policies, procedures and directives may be adopted after the date this Agreement is established and may apply to this Agreement. WSF agrees to accept and comply with all applicable laws, regulations, policies, procedures and directives as may be amended or promulgated from time to time during the term of this Agreement.
- C. WSF shall not perform any act, fail to perform any act, or refuse to comply with any requests by the District which would cause King County or the District to be in violation of any federal law or FTA requirement. WSF's failure to so comply with this Section shall constitute a material breach of this Agreement.
- D. The District and WSF acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to King County, the District, WSF, or any other party (whether or not a party to this Agreement or any Agreement awarded pursuant thereto) pertaining to any matter resulting from this Agreement.
- E. WSF agrees to extend application of the federal requirements to its subrecipients or contractors, and their respective subcontractors, by including this Section and the related exhibits in each contract and subcontract WSF awards under this Agreement financed in whole or in part with Federal assistance provided by FTA. It is further agreed that this Section shall not be modified, except to change the names of the parties to reflect the subrecipient or contractor which will be subject to its provisions.
- F. WSF acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801, et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to the work under this Agreement. Upon execution of this Agreement, WSF certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this Agreement or the FTA-assisted project for which this work is being performed. In addition to other penalties that may be applicable,

WSF further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on WSF to the extent the Federal Government deems appropriate.

1. WSF also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. 5307, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5307(n)(1) on WSF, to the extent the Federal Government deems appropriate.
2. WSF agrees to include the above two clauses in each contract and subcontract it awards under this Agreement financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the contractor or subcontractor who will be subject to the provisions.

G. Certification Regarding Debarment, Suspension and Other Responsibility Matters

This Agreement is a covered transaction for purposes of 2 CFR part 1200. As such, WSF is required to verify that none of WSF, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. WSF is required to comply with 2 CFR 1200, Subpart C and must include the requirement to comply with 2 CFR 1200, Subpart C in any lower tier covered transaction it enters into. By signing and submitting this Agreement, WSF certifies as follows:

The certification in this clause is a material representation of fact relied upon by the District. If it is later determined that WSF knowingly rendered an erroneous certification, in addition to remedies available to King County or the District, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. WSF agrees to comply with the requirements of 2 CFR 1200, Subpart C while this offer is valid and throughout the period of any work or services that may arise from this Agreement. WSF further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- H. As a sub-recipient receiving \$25,000 or more of pass-through Federal Transit Administration funds, WSF must comply with the reporting requirements of The Federal Funding Accountability and Transparency Act (FFATA or Transparency Act - P.L. 109-282., as amended by section 6202(a) of P.L. 110-252). The FFATA prescribes specific data to be reported and the District hereby agrees to report sub-award data into the website www.USASpending.gov via www.fsrs.gov. WSF agrees

to provide the District with the information required in this Section within 30 calendar days from the execution date of this Agreement.

- I. WSF agrees to provide the District with its Federal Central Contractor Registration number within 30 calendar days of the execution of this Agreement. If it has not already registered, WSF agrees to register with the Federal Central Contractor Registration at <https://www.sam.gov/portal/public/SAM/> (formerly www.CCR.gov) and provide the District with the registration number within 30 calendar days from the execution date of this Agreement. *Exceptions may be made on a case-by-case basis upon approval by the District.*
- J. WSF agrees to provide the District with a copy of its Title VI implementation plan in accordance with FTA Circular 4702.1B, Chapter III, Section 11. If WSF does not have a Title VI plan, the District and WSF agree to work together to sufficiently document WSF's adoption of the District's Title VI plan, or in the alternative, WSF's implementation of its own Title VI plan.

EXHIBIT G
ATTACHMENT 1

FTA Master Agreement

(incorporated by reference)

EXHIBIT G
ATTACHMENT 2

FTA Circular 5010.1D Project Administration and Management

(incorporated by reference)

EXHIBIT G
ATTACHMENT 3

FTA Circular 4220.1F

(incorporated by reference)

EXHIBIT G

ATTACHMENT 4

FTA THIRD PARTY CONTRACTS PROVISIONS

STANDARD TERMS AND CONDITIONS

This Contract shall be partially funded by the Federal Transit Administration (FTA). The following provisions include, in part, certain standard terms and conditions required by the U.S. Department of Transportation. All Contractual provisions required by the U.S. Department of Transportation, as set forth in FTA Circular 4220.1F, dated November 1, 2008, as are the requirements of the Master Agreement between King County and the U.S. Department of Transportation, including all "flow down" provisions to third party Contractors, Subcontractors and or suppliers are hereby incorporated by reference. Unless stated otherwise, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor agrees not to perform any act, fail to perform any act, or refuse to comply with any County requests that would cause the County to be in violation of the FTA terms and conditions.

1. Changes in Federal laws, Regulations, Policies and Administrative Practices

New federal laws, regulations, and directives may be established after the date this Contract is established and may apply to this Contract. To achieve compliance with changing federal requirements, the Contractor agrees to accept all changed requirements that apply to this Contract and require Subcontractors comply with revised requirements as well.

Ref: FTA Master Agreement MA (16), 10-1-2009, Section 2(c).

2. Federal Changes

The Contractor agrees to comply with all applicable FTA laws, regulations and directives, including without limitation, those listed directly or by reference in the Master Agreement between the County and FTA, as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to comply shall constitute a material breach of this Contract.

Ref: 49 CFR Part 18 and FTA Master Agreement MA (16), 10-1-2009, Section 2(c).

3. No Federal Government Obligations to Third Parties

The Contractor agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the

Contractor or any other party (whether or not a party to this Contract) pertaining to any matter resulting from this Contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who shall be subject to its provisions.

Ref: FTA Master Agreement MA (16), 10-1-2009, Section 2(f).

4. Equal Employment Opportunity

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Contractor shall take affirmative action to ensure that the hiring of applicants and treatment of employees during employment is conducted without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor further agrees to insert a similar provision in all Subcontracts, except Subcontracts for standard commercial supplies or raw materials.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.

Ref: Executive Order 11246, as amended by Executive Order 11375; Title VII of the Civil Rights Act, as amended, 42 USC § 2000e; Federal transit laws at 49 USC § 5332; section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC §§ 621-634; section 102 of the Americans with Disabilities Act, as amended, 42 USC §§ 12101 et seq.; 29 CFR Parts 1625 and 1630; 41 CFR § 60-1.4, Title IX of the Education Amendments of 1972, as amended, 20 USC §§ 1681 et seq., and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR Part 25. .

5. Title VI Compliance

The Contractor shall comply with and shall ensure the compliance by all Subcontractors under this Contract with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 USC 2000d) and the regulations of the federal Department of Transportation, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act," 49 CFR Part 21, (hereinafter "Regulations") as they may be amended from time to time. The Federal Government and or the County has a right to seek judicial enforcement with regard to any matter arising under Title IV of the Civil Rights Act and implementing regulations.

Ref: 49 CFR Part 21.19.

During the performance of this Contract, the Contractor, for itself, its assignees and successors-in-interest agrees as follows:

- A. Nondiscrimination—49 CFR Part 26. The Contractor or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of United States Department of Transportation ("USDOT") — assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as the County deems appropriate.
- B. Prompt Payment. The Contractor agrees to pay each Subcontractor under this Contract for satisfactory performance of its Contract no later than thirty (30) Days from the receipt of each payment the Contractor receives from the County. The Contractor agrees further to return retainage payments to each Subcontractor within thirty (30) Days after the Subcontractor's Work is satisfactorily completed. Any delay or postponement of payment from the above referenced period may occur only for good cause following written approval of the County. This clause applies to both DBE and non-DBE Subcontractors.
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Contractor for Work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.
- D. Sanctions for Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, King County shall impose such contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to:
 - 1. Withholding of payments to the Contractor under the contract until the Contractor complies, and/or
 - 2. Cancellation, termination, or suspension of the contract, in whole or in part.
- E. Incorporation of Provisions. The Contractor shall include the provisions of paragraphs A through D in every Subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the County or the FTA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such

direction, the Contractor may request the County to enter into such litigation to protect the interests of the County and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

- F. Contractor's List. Contractor is requested to submit the name, address, DBE/Non-DBE status, annual gross receipts, and age of all Subcontractors and suppliers bidding or quoting on DOT-assisted projects. **Compliance with the requirement to report the Contractor's List information is a matter of responsibility.** Contractor is requested to submit the Contractor's List prior to Contract Work.

6. **Disadvantaged Business Enterprise Requirements.**

- A. DBE Participation. The County has not established a DBE goal for this Contract. In accordance with this section, the County has an overall annual DBE goal of thirteen percent (13%) for FTA assisted projects. However, the County requires that the Contractor report any actual DBE participation on this Contract to enable the County to monitor accurately DBE program compliance.
- B. Reporting Requirement. The USDOT requires that the Contractor report any actual DBE participation on this Contract to enable the County to monitor DBE participation accurately and for reporting purposes.
- C. DBE Eligibility. A DBE means a business certified as a DBE by the Washington State Office of Minority and Women's Business Enterprise (OMWBE).
- D. DBE Listing. A Directory of DBE firms certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE) is available online at the following website address:
<http://www.omwbe.wa.gov/directory/directory.htm> Telephone the OMWBE at 360-753-9693. **All DBE firms must be certified by OMWBE.**
- E. Counting DBE Participation. The County will count DBE participation toward its annual overall DBE goal as provided for in 49 CFR 26.55.
1. DBE Contractor. The County will only count the Work a DBE Contractor performs with its own forces as well as the Work performed by DBE Subcontractors with their own work forces.
 2. Joint Venture. When a DBE performs as a participant in a joint venture, King County will only count that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the Work that the DBE performs with its own forces.
 3. Commercially Useful Function. The County will count expenditures to a DBE contractor only for DBEs who perform a commercially useful function on that contract.

- a. DBE performs a commercially useful function when it is responsible for execution of the Work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the Work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (where applicable) and paying for the material itself.
 - b. DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract or project through which funds is passed in order to obtain the appearance of DBE participation.
 - (1) A DBE does not perform a commercially useful function if it fails to exercise responsibility with its own work force for at least 30 percent of the total cost of its contract, or the DBE subcontracts a greater portion of the Work of a Contract than would be expected on the basis of normal industry practice for the type of Work involved.
4. Expenditures with DBEs. Expenditures with DBEs for materials or supplies shall be counted as provided in the following:
- a. **Manufacturer.** If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies towards the DBE goal. A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
 - b. **Regular Dealer.** If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
 - (1) To be a regular dealer a firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
 - c. A Person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business, as provided in this Section (4)(b), if the Person both owns and operates distribution

equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. The cost of the materials and supplies themselves shall be counted.

5. Purchases from a DBE. With respect to materials or supplies purchased from a DBE who is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, provided the fees are reasonable and typical for the services rendered. No part of the cost of the materials and supplies themselves shall be counted.

7. Disadvantaged Business Enterprise and Other Small Business Participation

The County encourages Contractors to carry out the following steps to facilitate DBE and other small business participation, which may be either on a direct basis in response to this solicitation or as a Subcontractor to a bidder.

- F. Solicit through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) DBE and other small businesses that have the capability to perform the Work of the Contract.
- G. Select portions of the Work to be performed by Subcontractors to increase the likelihood that DBE and other small businesses' goals will be achieved
- H. Provide interested Subcontractors with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- I. Negotiate in good faith with interested DBEs and other small businesses.
- J. Avoid rejecting DBEs and other small businesses as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to obtain DBE and other small business participation.
- K. Make efforts to assist interested DBEs and other small businesses in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
- L. Make efforts to assist interested DBEs and other small businesses in obtaining necessary equipment, supplies, materials, or related assistance or services.
- M. Effectively use the services of available minority/women community organizations, Contractors' groups, local, state, and Federal minority/women business assistance offices; Disadvantaged Business Enterprise and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs and other small businesses.

***Note – Use if shipping goods outside the USA**

8. Cargo Preference - Use of U.S. Flag Vessels

In the event that ocean shipment or international air transportation is required for any equipment, material or commodities pursuant to this Contract, the Contractor shall:

- A. Utilize privately owned United States flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage involved, computed separately for dry bulk carriers, dry cargo liners and tankers, whenever shipping any equipment, materials or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates for United States flag commercial vessels.
- B. Furnish within twenty (20) working days following the date of loading for shipments originating within the United States, or within thirty (30) working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph A of this section, to the County, through the prime Contractor in the case of Subcontractor bills-of-lading, and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590, marked with appropriate identification of the project.
- C. Insert the substance of the provisions of this section in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

Ref: 46 USC § 1241; 46 CFR Part 381.

***Note – Use if flying goods or people outside the USA**

9. Fly America

The Contractor agrees to utilize United States flag air carriers to the extent such carriers Provide the air transportation needed, or accomplish the Contractor's mission. The Contractor agrees to utilize United States flag air carriers, to the extent such service is available, unless travel by a foreign air carrier is a matter of necessity, as defined by the Fly America Act. . The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service with a U.S. flag air carrier was not available or why it was necessary to use a foreign carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

Ref: 49 USC § 40118; 41 CFR Part 10.131-10.143.

10. Audit and Inspection of Records

In the case of all negotiated Contracts and Contracts for construction, reconstruction or improvement of facilities and equipment, which were entered into under other than competitive proposal procedures, Contractor agrees that the County, the Comptroller General of the United States or any of their duly authorized representatives, shall, for the purpose of audit and examination be permitted to inspect and reproduce as needed all work, materials, payrolls, and other data and records with regard to the project, and to audit the books, records and accounts with regard to the project. Further, Contractor agrees to maintain all required records for at least three (3) years after the County makes final payment and all other pending matters are closed.

Ref: 49 USC § 5325(g); 18 CFR Part 18.36 (i); 49 CFR Part 633.17; and FTA Master Agreement MA (16), 10-1-2009, Section 8 (c) and (d).

***Note – Use for goods contracts expected to be \$100,000 or more**

11. Buy America

The Contractor agrees to comply with 49 USC § 5323(j), 49 CFR Part 661, which provides that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver.

General waivers are listed in 49 CFR 661.7 and include but are not limited to microcomputer equipment and Software for purposes of storing and processing data, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C), 5325(e)(f) and 49 CFR 661.11. Subcomponents, such as bus parts, may be foreign sourced. Such products are considered Buy America compliant.

Contracts in excess of \$100,000 require a Buy America Certificate, to be completed and submitted to the County with the bid, except those subject to a general waiver. A Contract that is not accompanied by a completed Buy America certification shall be rejected and subject to termination. This requirement does not apply to lower tier Subcontractors.

***Note – Applies to contracts expected to be \$100,000 or more**

12. Buy America General Waiver

The procurement is exempt from FTA "Buy America" requirements in 49 USC § 5323(j), 49 CFR Part 661 because of a General Waiver.

In accordance with Appendix A to 49 CFR § 661.7 General Waivers (d), "Under the provisions of § 661.7(b) and (c) of this part, microcomputer equipment, including Software, of foreign origin can be procured by grantees."

*Note – Does not apply to goods only contracts

13. Privacy

Should the Contractor, or any of its Subcontractors, or their employees administer any system of records on behalf of the Federal Government, the Privacy Act of 1974, 5 USC § 552a, imposes information restrictions on the party administering the system of records.

For purposes of the Privacy Act, when the Agreement involves the operation of a system of records on individuals to accomplish a government function, the recipient and any Contractors, third party Contractors, Subcontractors and their employees involved therein are considered to be government employees with respect to the government function. The requirements of the Act, including the civil and criminal penalties for violations of the Act, apply to those individuals involved. Failure to comply with the terms of the Act or this provision of this Contract shall make this Contract subject to termination.

The Contractor agrees to include this clause in all subcontracts awarded under this Contract that involve the design, development, operation, or maintenance of any system of records on individuals subject to the Act.

14. Access Requirements for Individuals with Disabilities

The County and the Contractor are required to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC §§ 12101, et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; and 49 USC § 5301(d), and the following regulations and any amendments thereto:

- D. U.S. Department of Transportation regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;
- E. U.S. Department of Transportation regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities receiving from Federal Financial Assistance," 49 CFR Part 27;
- F. U.S. Department of Transportation regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 CFR Part 38;
- G. U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 CFR Part 35;
- H. U.S. Department of Justice regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;
- I. U.S. General Services Administration regulations, "Construction and Alteration of Public Buildings," 41 CFR Subpart 101-19;

- J. U.S. Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630;
- K. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR Part 64, Subpart F; and
- L. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR Part 609.

15. Interest of Members of or Delegates of Congress

Pursuant to 41 USC § 22, no member of or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising there from.

16. Certification Regarding Debarment, Suspension and Other Responsibility Matters

This Contract is a covered transaction for purposes of 2 CFR part 1200. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 2 CFR 1200, Subpart C and must include the requirement to comply with 2 CFR 1200, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting this Contract, the Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by King County. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to King County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR 1200, Subpart C while this offer is valid and throughout the period of any Contract that may arise from this Contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

17. Disclosure of Lobbying Activities

Contracts in excess of \$100,000 require a Certificate of Lobbying Activities, to be completed and submitted to the County with the proposal, as required by 49 CFR Part 20, "New Restrictions on Lobbying."

The Contractor certifies that it shall not and has not used Federal appropriated funds to pay any Person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Contract, grant or any other award covered by the Byrd Anti-Lobbying Amendment, 31 USC § 1352. The Contractor shall disclose the name of any registrant under the

Lobbying Disclosure Act of 1995, codified at 2 USC § 1601 et seq., who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal Contract, grant or award covered by 31 USC § 1352. Such disclosures are to be forwarded to the County.

The Contractor shall include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

Ref: 49 CFR Part 20, modified as necessary by 31 USC § 1352.

18. False or Fraudulent Statements or Claims

The Contractor acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the County in connection with this project, the County reserves the right to pursue the procedures and impose on the recipient the penalties of 18 USC § 1001, 31 USC §§ 3729 and 3801 et seq., and/or 49 USC § 5307(k)(1), as may be appropriate. The terms of Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, are applicable to this project.

The Contractor agrees to include this clause in all subcontracts awarded under this Contract.

19. Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 USC §§ 6321 et seq., and 49 CFR Part 18.

The Contractor agrees to include this clause in all subcontracts awarded under this Contract.

20. Air Pollution

The Contractor and suppliers may be required to submit evidence to the Project Manager that the governing air pollution criteria shall be met. This evidence and related documents shall be retained by the manager for on-site examination by FTA.

21. Environmental Requirements

The Contractor agrees to comply with all applicable standards, orders or requirements as follows:

A. Environmental Protection

The Contractor agrees to comply with the applicable requirements and implementing regulations of the National Environmental Policy Act of 1969, as amended, 42 USC §§ 4321, *et seq.*, consistent with Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 USC § 4321 note. FTA statutory requirements on environmental matters at 49 USC § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended,

42 USC § 4321 *et seq.* and 40 CFR Part 1500, *et seq.*; and joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 CFR Part 771 and 49 CFR Part 622.

***Note – Applies to contracts of \$100,000 or more**

B. Air Quality

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to 42 USC § 7606. The Contractor agrees to report each violation to the County and understands and agrees that the County shall, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office.

The Contractor agrees to include this clause in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Ref: 42 USC § 7606; 40 CFR Part 51, Subpart T; 40 CFR Part 85; 40 CFR Part 86; and 40 CFR Part 600.

***Note – Applies to contracts of \$100,000 or more**

C. Clean Water

The Contractor agrees to comply with all applicable laws, regulations, and directives issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §§ 1251-1377. The Contractor agrees to report each violation to the County and understands and agrees that the County shall, in turn, report each violation as required to assure notification to FTA and the appropriate Environmental Protection Agency (EPA) Regional Office.

The Contractor agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 USC §§ 300f through 300j-6.

The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Ref: 33 USC § 1251.

***Note – Applies to projects within a 100 year floodplain**

D. Floodplains

The Contractor agrees to facilitate compliance with the flood hazards protections in floodplains in accordance with Executive Order No. 11988, as amended, "Floodplain Management," 42 USC § 4321 note.

**Note – Applies to projects jeopardizing endangered species*

E. Endangered Species and Fisheries Conservation

The Contractor agrees to comply with applicable protections for endangered species of the Endangered Species Act of 1973, as amended, 16 USC §§ 1531 through 1544, and the Magnuson Stevens Fisheries Conservation Act, as amended, 16 USC §§ 1801 *et seq.*

**Note – Applies to contracts of \$100,000 or more*

F. Use of Public Lands

The Contractor agrees that no publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of national, state, or local significance as determined by the federal, state or local officials having jurisdiction thereof, or any land from a historic site of national, state, or local significance may be used unless the FTA makes the specific findings required by 49 USC § 303.

**Note – Applies to contracts including land or buildings*

G. Historic Preservation

The Contractor agrees to assist the Federal Government in complying with section 106 of the National Historic Preservation Act, as amended, 16 USC § 470f, Executive Order No. 11593, "Protection and Enhancement of the Cultural Environment," 16 USC § 470 note, and the Archaeological and Historic Preservation Act of 1974, as amended, 16 USC §§ 469a-1 *et seq.* involving historic and archaeological preservation as follows:

1. The Contractor agrees to consult with the State Historic Preservation Officer about investigations to identify properties and resources listed in or eligible for inclusion in the National Register of Historic Places that may be affected by the Contract, in accordance with Advisory Council on Historic Preservation regulations, "Protection of Historic and Cultural Properties," 36 CFR Part 800, and notifying FTA of those properties so affected.
2. The Contractor agrees to comply with all federal requirements to avoid or mitigate adverse effects on those historic properties.

H. Mitigation of Adverse Environmental Effects

The Contractor agrees that if the Work should cause adverse environmental effects, the Contractor shall take all reasonable steps to minimize those effects in accordance with 49 USC § 5324(b), and all other applicable federal laws and regulations, specifically, the procedures of 23 CFR Part 771 and 49 CFR Part 622, 23 CFR 774.

I. Wild and Scenic Rivers

The Contractor agrees to comply with applicable provisions of the Wild and Scenic Rivers Act of 1968, as amended, 16 USC §§ 1271 -1287, relating to protecting components of the national wild and scenic river system, with applicable implementing U.S. Forest Service regulations, "Wild and Scenic Rivers," 36 CFR Part 297, and with applicable implementing U.S. Bureau of Land Management regulations, "Management Areas," 43 CFR 8350.

22. Preference for Recycled Products

To the extent practicable and economically feasible, the Contractor agrees to Provide a competitive preference for products and services that conserve natural resources and protect the environment and are energy efficient. Examples of such products may include, but are not limited to, products described in the United States EPA Guidelines at 40 CFR Part 247, implementing section 6002 of the Resource Conservation and Recovery Act, as amended, 42 USC § 6962.

*Note – Applies to contracts developing a product or information

23. Patent Rights

If any invention, improvement, or discovery of the Contractor or any of its Subcontractors is conceived or first actually reduced to practice in the course of or under this Contract, and that invention, improvement, or discovery is patentable under the laws of the United States or any foreign country, the Contractor agrees to notify the County immediately and Provide a detailed report in a format satisfactory to the FTA. The rights and responsibilities of the Contractor and the County with respect to such invention, improvement or discovery shall be determined in accordance with applicable federal laws, regulations, policies, and any waiver thereof.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, academic institution, individual), the County and the Contractor agree to take the necessary actions to Provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 CFR Part 401.

The Contractor also agrees to include the requirements of this section in each subcontract for experimental, developmental, or research Work financed in whole or in part with Federal assistance Provided by FTA.

FTA considers income earned from license fees and royalties for patents, patent applications, and inventions produced under the Contract to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 CFR Parts 18 and 19, Contractor has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 USC §§ 200 *et seq.*, which applies to patent rights developed under a research project.

Ref: 49 CFR Parts 18 and 19, 37 CFR Part 401, USC §§ 200 *et seq*

*Note - Applies to contracts developing a product or information

24. Rights in Data and Copyrights

Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Recipient authorize others to do so, without the prior written consent of the Federal Government, unless the Federal Government has previously released or approved the release of such data to the public.

A. Federal Rights in Data and Copyrights

The Contractor agrees to provide to the Federal Government a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes the subject data described in this subsection.

B. License Fees and Royalties.

FTA considers income earned from license fees and royalties for copyrighted material, or trademarks produced under the Work to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 CFR Parts 18 and 19, the Contractor has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 USC §§ 200 *et seq.*, which applies to patent rights developed under a research project.

C. Restrictions on Access to Patent Rights

Nothing in this subsection pertaining to rights in data shall either imply a license to the Federal Government under any patent or be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.

D. Data Developed Without Federal Funding or Support

In connection with the Contract, the Contractor may find it necessary to provide data to the County developed without any Federal funding or support by the Federal Government. The requirements of Federal Rights in Data and Copyrights do not apply to data developed without Federal funding or support by the Federal Government, even though that data may have been used in connection with this Contract. Nevertheless, Contractor understands and agrees that the Federal Government will not be able to protect data from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential."

25. Termination Provisions Required

All Contracts and subcontracts in excess of \$10,000 shall contain contractual provisions or conditions that allow for termination for cause and convenience by the County including the manner by which it shall be effected and the basis for settlement.

Ref: FTA Circular 4220.1F § IV.2.b.

26. Breach Provisions Required

All Contracts in excess of \$100,000 shall contain contractual provisions or conditions that shall allow for administrative, contractual, or legal remedies in instances where the Contractor violates or breaches the terms of this Contract, including sanctions and penalties as may be appropriate. The Contractor agrees to include this provisional requirement in all subcontracts in excess of \$100,000 awarded under this Contract.

Ref: FTA Circular 4220.1F, § IV.2.B

*Note – Applies to contractors that perform safety sensitive functions

27. Substance Abuse

Contractor and its subcontractors agrees to comply with U.S. OMB Guidance, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 2 CFR Part 182, and U.S. DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)," 49 CFR Part 32, that implement the Drug-Free Workplace Act of 1988, 41 USC §§ 701 *et seq.*, including any amendments to these U.S. DOT regulations when they are promulgated, and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, that implement 49 USC § 5331.