*Whatcom Transportation Authority*

**BOARD OF DIRECTORS MEETING**
**AGENDA**
**THURSDAY, MARCH 2, 2023, 8:00 A.M.**
**In-Person Location:**
**4011 Bakerview Spur, Bellingham, WA**
**For virtual access instructions, visit:**
**http://www.ridewta.com/meeting**

**Pages**

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. CITIZEN COMMUNICATIONS**

**D. CLOSED SESSION**

**D.1 Collective Bargaining Update** (Closed Session - RCW 42.30.140(4)(b)

**E. BOARD ACTION**

**E.1 Consideration of Approval of a Purchase Order for Bickford Motors of Snohomish County for Eight Ford Explorers** (Andy Bowler) — 1

**E.2 Consideration of Approval of a Contract for Landscaping Services with Windwood Enterprises, Inc.** (Magan Waltari) — 2-3

**E.3 Consideration of Approval of a Contract for Vehicle Detailing Services with Kulshan Supported Employment** (Magan Waltari) — 4-5

**E.4 Consideration of Approval of Renewal of Interlocal Agreement with the Whatcom County Treasurer for Investment Services** (Shonda Shipman) — 6-11

**E.5 Consideration of Approval of Resolution #341-23 Accepting the Bylaws for the Washington State Transit Insurance Pool** (Shonda Shipman) — 12-24

**F. REPORTS TO BOARD**

**F.1 Travel Training Update** (Andrew Herndon)

**F.2 Sustainability Plan - Information** (Mary Anderson)

**F.3 General Manager's Report**

**G. OTHER BUSINESS**

**H. ANNOUNCEMENTS**

**I. ADJOURN**

**AGENDA ITEM E.1** **FOR ACTION**

**MEMORANDUM**

**TO:** Chairman and Members of the Board of Directors

**FROM:** Andy Bowler, Fleet & Facilities Director
John Bender, Fleet Manager
Magan Waltari, Purchasing & Contracts Manager

**DATE:** March 2, 2023

**SUBJECT:** Consideration of Approval of a Purchase Order for Bickford Motors of Snohomish County for Eight Ford Explorers

## RECOMMENDATION

That the Board of Directors approve a purchase order to Bickford Motors for eight (8) Ford Explorers for a total of $446,818.38 including taxes and fees.

## BACKGROUND

In December 2022, the Board of Directors approved a capital expense budget to purchase a total of thirteen (13) Non-Revenue vehicles with a budget of $670,000.

WTA Staff typically utilizes a competitively established contract established by the State of Washington. This contract requires agencies to build their vehicles brand new from the manufacturer or purchase stock from a list of established dealerships. Current supply chain has limited on hand stock availability as well as reduced the time frame and available vehicles staff may order to be built. An issue that WTA, and other peer agencies, are experiencing is ordering vehicles from the manufacturer, only to have the order cancelled.

Staff, using a previously executed Interlocal Agreement with Snohomish County, is able to use the County's competitively sourced contract with Bickford Motors that allows staff to buy stock off Bickford's lot. This significantly reduces staff time and un-recoupable cost the agency would incur performing its own solicitation. Similarly, Bickford has the vehicles identified by user groups either in stock or scheduled for delivery.

## FISCAL IMPACT

The budget for this purchase is included in the 2023 Fleet Capital Budget.

**AGENDA ITEM E.2** **FOR ACTION**

**MEMORANDUM**

**TO:** Chairman and Members of the Board of Directors

**FROM:** Andy Bowler, Fleet & Facilities Director
Cindy Campen, Service Section Supervisor
Magan Waltari, Purchasing & Contracts Manager

**DATE:** March 2, 2023

**SUBJECT:** Consideration of Approval of a Contract for Landscaping Services with Windwood Enterprises, Inc.

## RECOMMENDATION

That the Board of Directors authorize the General Manager to enter into a contract with Windwood Enterprises, Inc. of Ferndale, WA for Landscaping Services to include Snow and Ice Removal, execute any extensions under the agreement, and approve any change orders within the General Manager's approval authority without the need for further Board approval.

## BACKGROUND

In January, staff issued a competitive bid request for Landscaping Services. The scope of work requires the contractor to provide regular landscaping, irrigation maintenance, and pest and weed control at six (6) WTA properties. The contractor will also perform snow and ice removal work as needed on a 24-hour 7 day a week basis to Ferndale and Lynden Transit Stations. The contract also requires annual plantings and maintenance of the Display Garden at Lynden Station.

The bid request was advertised on WTA's Procurement website and Social Media platforms, The Bellingham Herald, WA State Office of Minority & Women's Business Enterprise portal, WA State Procurement Technical Assistance Center website, Builders Exchange, and WA State Enterprise Business Solution portal. WTA received three (3) bids in response.

Award was based on the lowest responsive lump sum monthly bid not including snow and ice removal from the most responsible bidder.

| BID SUBMITTAL # | Bidder No. 1: | Bidder No. 2: | Bidder No. 3: |
|---|---|---|---|
| **Bidder Name:** | **PROSCAPES, Anacortes** | **WINDWOOD, Ferndale** | **TRANSBLUE, Snohomish** |
| **BTS** | 1,206.66 | 531.00 | 1,094.30 |
| **CTS** | 1,206.66 | 782.00 | 1,071.25 |
| **FTS** | 2,106.66 | 2,214.00 | 2,550.51 |
| **LTS** | 1,931.66 | 1,135.00 | 1,653.47 |
| **MOAB** | 2,106.66 | 1,569.00 | 1,843.01 |
| **MIDWAY** | 1,381.66 | 866.00 | 1,649.39 |
| **GRAND TOTAL** | **$9,939.96** | **$7,097.00** | **$9,861.93** |

This contract is for an initial three (3) year term with options to extend for one (1) additional three (3) year term for a total potential contract length of six (6) years.

## FISCAL IMPACT

The required budget for these services is included in the annual Facilities Expense Budget.

**AGENDA ITEM E.3** **FOR ACTION**

**MEMORANDUM**

**TO:** Chairman and Members of the Board of Directors

**FROM:** Andy Bowler, Fleet & Facilities Director
Cindy Campen, Service Section Supervisor
Magan Waltari, Purchasing & Contracts Manager

**DATE:** March 2, 2023

**SUBJECT:** Consideration of Approval of a Contract for Vehicle Detailing Services with Kulshan Supported Employment

## RECOMMENDATION

That the Board of Directors authorize the General Manager to enter into a contract with Kulshan Vocational Services (dba Kulshan Supported Employment) of Bellingham, WA for Vehicle Detailing Services, execute any extensions under the agreement, and approve any change orders within the General Manager's approval authority without the need for further Board approval.

## BACKGROUND

In January, staff issued a competitive bid request for Vehicle Detailing Services. The scope of work requires the contractor to provide regular detail cleaning for WTA's revenue fleet. On an as needed basis, Contractor will also service staff vehicles and vanpool. Contractor is required to have one employee hold a Class B Commercial Driver's License so they may move WTA vehicles as needed. Because they are operating revenue fleet, FTA requires the contractor to have a drug and alcohol testing program and that employee submit to random drug testing.

The bid request was advertised on WTA's Procurement website and Social Media platforms, The Bellingham Herald, WA State Office of Minority & Women's Business Enterprise portal, WA State Procurement Technical Assistance Center website, and WA State Enterprise Business Solution portal. WTA received two (2) bids in response.

Award was based on the lowest responsive lump sum total per bus per year for the first three (3) years, not including staff vehicles and vanpool, from the most responsible bidder.

| | Years 1 – 3 | Frontline | Kulshan |
|---|---|---|---|
| **FIXED ROUTE** | **Per bus** | $ 2,910.00 | $ 2,406.36 |
| **PARATRANSIT** | **Per bus** | $ 2,925.60 | $ 1,561.99 |
| **HOP VANS** | **Per van** | $ 2,929.60 | $ 1,358.69 |
| | **GRAND TOTAL** | **$ 8,765.20** | **$ 5,327.04** |

This contract is for an initial three (3) year term with options to extend for one (1) additional three (3) year term for a total potential contract length of six (6) years.

**FISCAL IMPACT**

The required budget for these services is included in the annual Facilities Expense Budget.

**AGENDA ITEM E.4** **FOR ACTION**

**MEMORANDUM**

**TO:** Chairman and Members of the Board of Directors

**FROM:** Shonda L. Shipman, Finance Director
Les Reardanz, General Manager

**DATE:** March 2, 2023

**SUBJECT:** Approval of Renewal of Interlocal Agreement with the Whatcom County Treasurer for Investment Services

## RECOMMENDATION

That the Board of Directors authorize the General Manager to sign an agreement with the Whatcom County Treasurer for investment services for a term of two (2) years ending on December 31, 2024. The agreement may be extended for two (2) additional years by mutual agreement in writing of both parties.

## BACKGROUND

The Whatcom County Treasurer manages and invests WTA funds not required for immediate expenditure. These funds are accepted and combined with funds from other municipalities in the Whatcom County Investment Pool (WCIP) to make investments as allowed under RCW 36.29.022.

## FISCAL IMPACT

This item has no additional fiscal impact. The 2023 budget for investment fees is $20,000.

# CONTRACT FOR INVESTMENT SERVICES IN THE WHATCOM COUNTY INVESTMENT POOL (WCIP)

THIS CONTRACT FOR INVESTMENT SERVICES IN THE WHATCOM COUNTY INVESTMENT POOL ("Agreement") is made and entered into in Whatcom County, Washington, between Whatcom County ("County"), and Whatcom Transportation Authority ("WTA"), based upon the following:

WHEREAS, the County has authority to accept funds from other municipalities which are not required for immediate expenditure, and to invest such funds under the parameters set out under RCW 36.29.020;

WHEREAS, as part of this service, the County has accepted and combined funds from other municipalities and created the Whatcom County Investment Pool ("WCIP") for the purposes of making investments as allowed under RCW 36.29.022;

WHEREAS, the County and WTA desire to enter into an agreement under which WTA will be able to designate those funds held by the County as not being required for immediate expenditure and for the County to perform certain investment services and/or tasks in relationship to such funds as set forth below, which require specialized skills and other supportive capabilities of the County; and

WHEREAS, the County represents and warrants that it is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

**Scope of Services**

The County agrees to accept for investment a specific amount of funds WTA has determined is not required for immediate expenditure. The County shall combine the funds in the WCIP. The County Investment Officer, or other individual duly authorized by the County Treasurer, shall have sole authority and responsibility for determining and executing the specific investments for the WCIP, consistent with state law, including, but not limited to RCW Chapter 36.29; reasonable and prudent investment management practices recognized in the industry; and the investment policies adopted by the Whatcom County Administrative Finance Committee.

The County shall be responsible for management of the WCIP, including establishing the policies for the WCIP, calculating interest earnings, allocating earnings and any realized losses among all participants in the WCIP, and determining and collecting WCIP fees.

The Whatcom County Administrative Finance committee shall adopt and, at a public meeting, may periodically amend the policies governing the WCIP. Copies of the current adopted policies are available on the Whatcom County Treasurer's website, and upon request. These policies, including the WCIP Investment Policy, WCIP Operating Terms and Conditions and the WCIP Pool Participant agreement, detail interest earnings distribution, fees and reporting.

**Fees and Consideration for County**

The County shall be entitled to collect fees for its services to WTA from earnings of the WCIP as allowed under RCW 36.29.020 and RCW 36.29.024, and pursuant to the procedures and protocol set out in the WCIP Operating Terms and Conditions and the WCIP Pool Participant agreement, which are incorporated herein by reference.

**Term**

Unless earlier terminated under the procedures set out in the WCIP Operating Terms and Conditions, services performed under this Agreement shall begin on January 1, 2023, and shall continue through December 31, 2024 (the "Term"). The Term may be extended by mutual agreement of both parties; provided, however, that such extension is confirmed in writing and signed by both parties.

**Administration**

This Agreement shall be administered for the County by Steven Oliver, Whatcom County Treasurer, and for WTA by Shonda Shipman, Director of Finance.

**Indemnification**

The County shall defend, indemnify and hold WTA, its officers, employees and agents harmless from any and all injury or damage to WTA or its real or personal property, and also from all claims, demands, causes of action, judgment, or suits of any kind, including suits in equity, that may arise directly or indirectly out of, are incident to, or are due to any: (1) actual or alleged negligence, or breach of duty by the County, its agents, employees, representatives or contractors in performing work and services under this Agreement; (2) breach of any term of this Agreement; and (3) violation of state or federal law, including, but not limited to RCW Chapter 36.29.

WTA shall defend, indemnify and hold the County, its officers, employees and agents harmless from any and all injury or damage to the County, or its real or personal property, and also from all claims, demands, causes of action, judgment, or suits of any kind, including suits in equity, that may arise directly or indirectly out of, are incident to, or are due to any: (1) actual or alleged negligence, or breach of duty by WTA, its agents, employees, representatives or contractors in performing work and services under this Agreement; (2) breach of any term of this Agreement; and (3) violation of state or federal law.

**Maintenance and Inspection of Records**

WTA and the County shall maintain books, records and documents, which sufficiently and properly reflect all work related to the performance of the Agreement. In addition, the County shall maintain all accounting records in a form necessary to assure proper accounting of all funds deposited by WTA for investment in the WCIP, including, but not limited to, interest earned on such funds and fees paid pursuant to this Agreement. All of the above shall be subject at all reasonable times to inspection, review, or audit by WTA, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

WTA and the County shall retain all books, records, documents and other material relevant to this Agreement for four (4) years after its expiration. WTA agrees that the County or its designee shall have full access and right to examine any of said materials at all reasonable times during said period; and that WTA shall have similar access to said materials maintained by the County pursuant to this Agreement.

**Closing a WCIP Account/Termination of this Agreement**

The *WCIP Operating Terms and Conditions* will govern the process to close the investment account and thereby terminate this Agreement, and the procedure for disbursing WTA's funds from the WCIP.

**Mediation**

The parties shall attempt to resolve any controversies or disputes arising out of or relating to this Agreement through a good faith attempt at mediation. Each party will pay its own attorneys' fees and costs, and equally share the expense of any mutually agreed upon mediator.

**Arbitration**

Any controversy or claim arising out of or relating to this Agreement that is not resolved through mediation, shall be resolved by final and binding arbitration pursuant to RCW Chapter 7.04A. Demand for arbitration shall be made in writing to the other party. The arbitration shall be held in Whatcom County, Washington before a single arbitrator selected by the agreement of the parties. If the parties cannot agree upon an arbitrator within fifteen (15) days after the demand for arbitration is made, the arbitrator shall be selected by a judge in the Superior Court of Whatcom County, Washington in accordance with the procedures set out in RCW 7.04A.110.

The parties agree that, with the exception of the circumstances set out in RCW 7.04A.230, the arbitrator's decision shall be binding, final and not appealable to any court of law.

Each party shall pay its own costs of arbitration including attorneys' fees. The

arbitrator's fee and any administrative expenses imposed by the arbitrator shall be shared equally by the parties.

This Agreement shall be governed by laws of the state of Washington, both as to interpretation and performance.

**Waiver**

The waiver by, or the failure to take action with respect to, breach of any term, covenant or condition of the Agreement shall not be deemed to be a waiver of such term, covenant or condition on any subsequent breach. All remedies afforded in this Agreement shall be taken as cumulative; that is, in addition to every other remedy provided herein or by law.

**Severability**

It is understood and agreed by the parties that if any term or provision of this Agreement is held by any court to be illegal or in conflict with any law of the state of Washington, the validity of the remaining portions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term, part or provision held to be invalid.

**Entire Agreement**

This instrument contains the entire Agreement between the parties, and statements, promises, or inducements made by any party or agent of that party that are not contained or referenced in this Agreement shall not be valid or binding. This Agreement may not be enlarged, modified, or altered except in writing signed by all parties.

**Notice**

Notice provided for in this Agreement shall be sent by certified mail to the following addresses designated for the parties:

Shonda L. Shipman, Director of Finance
Whatcom Transportation Authority
4111 Bakerview Spur
Bellingham, WA 98226

Steven N. Oliver, Treasurer
Whatcom County
311 Grand Ave Suite #104
Bellingham, WA 98225

Each signatory below to this Agreement warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and to bind the party thereto.

**IN WITNESS WHEREOF**, the parties have executed this Agreement this ____ day of February, 2023.

**On behalf of WTA:**

_____

Les Reardanz, WTA General Manager

**WHATCOM COUNTY:**

**Recommended for Approval:**

_____

Steven N. Oliver, Treasurer Date

**Approved as to form:**

_____

Prosecuting Attorney Date

**Approved:**

Accepted for Whatcom County:

By: _____

Satpal Singh Sidhu, Whatcom County Executive

**AGENDA ITEM E.5** **FOR ACTION**

**MEMORANDUM**

**TO:** Chairman and Members of the Board of Directors

**FROM:** Shonda L. Shipman, Finance Director
Les Reardanz, General Manager

**DATE:** March 2, 2023

**SUBJECT:** Consideration of Approval of Resolution #341-23 Accepting the Bylaws for the Washington State Transit Insurance Pool

## RECOMMENDATION

That the Board of Directors approve Resolution #341-23 accepting the Bylaws of the Washington State Transit Insurance Pool (WSTIP) and appointing WTA's General Manager as the agency representative to the WSTIP Board and the Finance Director as the alternate representative.

## BACKGROUND

WTA is a member of WSTIP, a joint self-insurance program formed by Interlocal Agreement pursuant to RCW 48.62 and 39.34 and governed to conform with WAC 200-100.

WSTIP provides insurance coverage to WTA and twenty-four (24) other transit agencies throughout Washington State. Resolution #341-23 reaffirms WTA's acceptance of WSTIP's bylaws and updates the titles of the member representatives to WSTIP's Board of Directors.

## FISCAL IMPACT

There is no fiscal impact.

**RESOLUTION NO. 341-23**

**A RESOLUTION OF THE WHATCOM TRANSPORTATION AUTHORITY (WTA) BOARD OF DIRECTORS FOR THE PURPOSE OF ACCEPTING THE BYLAWS FOR THE WASHINGTON STATE TRANSIT INSURANCE POOL**

**WHEREAS**, THE Whatcom County Public Transportation Benefit Area (PTBA) and the WTA thereof were created in accordance with procedures established by Chapter 36.57A, RCW; and

**WHEREAS**, the WTA is a municipal corporation as defined in RCW 36.57A.010; and

**WHEREAS**, the Washington State Transit Insurance Pool has determined it to be desirable to establish bylaws to define its duties and responsibilities; and

**WHEREAS**, the WTA has determined it to be desirable to accept these bylaws relating to the governance of the Washington State Transit Insurance Pool;

**NOW, THEREFORE, BE IT RESOLVED BY THE WTA BOARD THAT:**

Section 1
The WTA hereby accepts the bylaws of the Washington State Transit Insurance Pool as set forth in the attached Exhibit A, which is by this reference incorporated herein as though set forth in full.

Section 2
The WTA hereby appoints the WTA General Manager as the agency's Board Member to the governing board of the Washington State Transit Insurance Pool in accordance with Article 3, Section 5 of the referenced bylaws. Additionally, the WTA hereby appoints the WTA Finance Director in the capacity as alternate Member Representative.

This Resolution supersedes WTA Resolution No. 143-95.

***PASSED*** in open public meeting, March 2, 2023.

**WHATCOM TRANSPORTATION AUTHORITY**
**WHATCOM COUNTY, WASHINGTON**

_____

**Michael Lilliquist**
**Chairperson**

**ATTEST**

**_____**
**Vicki G. Esser**
**Clerk of the Board**

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## ARTICLE I: DEFINITIONS

Section 1. Definitions. The terms set forth below are defined as follows:

**Pool** – The Washington State Transit Insurance Pool, a joint self-insurance program formed by Interlocal Agreement pursuant to RCW 48.62 and 39.34 and governed to conform with WAC 200-100.

**Member** – A local governmental public transit entity which participates in the **Pool's** joint self-insurance program as evidenced by such entity's execution of the **Pool's** Interlocal Agreement**.**

**Board** or **Board of Directors** – The governing body of the **Pool** composed of one voting **Member Representative** from each **Member.**

**Board Member** or **Member Representative** – An individual authorized to exercise the **Member's** voting rights in the **Pool** and to act on behalf of the **Member** with all matters pertaining to the **Pool**. This term includes primary and alternate **Member Representatives**. These individuals may also be known as **Board Members**.

**Executive Committee** – A committee consisting of the President, Vice President, Secretary, immediate Past President, and **Elected Member Representatives** elected by the **Board** to govern delegated areas of **Pool** operations. The **Pool's** Treasurer is an ex officio, non-voting member of the **Executive Committee.**

**Elected Member Representative** – A **Member Representative** elected by the **Board** to represent their size group (small, medium, large, or at-large) on the **Executive Committee**.

Defined terms are in bold throughout these Bylaws.

## ARTICLE II: OFFICES

Section 2. Principal Office. The principal office of the **Pool** shall be located in Olympia, Washington.

Section 3. Other Offices. The **Executive Committee** may, in its discretion, establish other offices for the **Pool.**

## ARTICLE III: GOVERNING BOARD

Section 4. Governance. With respect to the following, the **Pool** shall be governed and controlled by the **Board:**

a. Adoption and amendment of Bylaws;
b. Adoption of annual budget;
c. Assessment of annual and special **Member** allocations and contributions;
d. Distribution of surplus to **Members**;
e. Admission and termination of **Members**;

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f. Selection of Executive Director and terms and conditions of employment;
g. Purchase, lease, sale, and disposal of real property;
h. Changes to the terms and conditions of coverages to be offered by the **Pool** to its **Members**; and
i. New lines of coverage for which a Coverage Document must be created and will be offered by the **Pool** to its **Members**; Requires at least ninety days prior to voting upon whether to offer any new line of coverage, the **Pool** shall provide notice thereof to the **Members**, which notice shall include a description of the proposed new line of coverage; and
j. The definition and parameters of the Governance Documentation Procedure and WSTIP Policy Manual as set forth in Article XIII.
k. Elections of Secretary, Treasurer, and **Member Representatives**.

Section 5. **Member Representatives**.

a. Each **Member** shall appoint a **Board Member**, and one or more alternate **Member Representatives**.
b. If a primary representative is unable to serve or participate in proceedings for any reason an alternate **Member Representative** shall represent the **Member**.
**c.** **Members** shall designate and may change designations of **Member Representatives** at any time in writing. **Members** shall promptly notify the **Pool** of any changes.
**d.** **Member Representatives** must be Officers or employees of **Member.**
e. Alternate **Member Representatives** may serve on committees or as Officers only if appointed or elected to the committee or office.

Section 6. Composition. The **Board** shall be composed of one **Member Representative** appointed by each **Member**.

Section 7. Voting Rights. Each **Member** shall have one vote on each matter submitted to the **Board**. Unless a 3/4 vote of those present is required on some particular matter, a majority vote is sufficient to pass a matter. Voting by proxy is not permitted.

Section 8. Quorum. A majority of **Members** represented by a **Member Representative** is sufficient to constitute a quorum.

Section 9. **Board** Meetings.

a. The Annual Meeting shall be held in November or December; Provided, if extraordinary circumstances require the cancellation of the Annual Meeting, the President may reschedule the Annual Meeting for some other time as a special meeting. The **Board** shall elect the Secretary and new members of the **Executive Committee** and adopt its annual budget and **Member** allocations at the Annual Meeting.
b. In addition to the Annual Meeting, the **Board** shall meet quarterly, unless cancelled or rescheduled by the President after consultation with the Board Officers and the Executive Director. The Annual Meeting shall be the meeting for the fourth quarter.

Section 10. Membership Not Transferable. Membership in the **Pool** is not transferable or assignable.

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## ARTICLE IV: OFFICERS

Section 11. Designation. The Officers of the **Pool** shall consist of a President, Vice President, and Secretary. All Officers shall be primary or alternate **Member Representatives**. A **Member** may not have more than one Officer hold office simultaneously.

Section 12. President. The President shall chair the **Board** and the **Executive Committee**.

Section 13. Vice President. The Vice President shall perform the duties of the President in the temporary absence or disability of the President.

Section 14. Secretary. The Secretary shall attest to the accuracy of governance policies passed by the **Board** or **Executive Committee,** and meeting minutes of the **Board** and **Executive Committee**.

Section 15. Election and Progression of Officers. The **Board** shall elect a Secretary and fill vacancies in offices that had become vacant since the last election at its Annual Meeting, provided no **Member Representative** shall be elected, or a vacant office filled, that would result in a **Member** having more than one **Member Representative** hold a voting position on the Executive Committee simultaneously. The Secretary shall progress to Vice President, and the Vice President shall progress to President.

Section 16. Vacancies in Offices. Vacancy in the office of the President, Vice President, or Secretary shall be filled by the immediate Past President until the President calls for an election or the annual election occurs. If the immediate Past President has already been appointed to fill a vacancy or if they decline to fill a vacancy, or if appointment of the immediate Past President would result in a **Member** with more than one **Member Representative** holding office simultaneously, the **Board** shall fill the vacancy when an election is called by the President or at the annual election.

Section 17. Terms. The terms of office shall be one year and shall commence immediately following election of the Secretary.

## ARTICLE V: EXECUTIVE COMMITTEE

Section 18. Powers. The **Pool** shall be governed and controlled by the **Executive Committee** in all respects except for those matters reserved to the **Board** by Article III, Section 4. The **Executive Committee** shall make recommendations to the **Board** with respect to the annual budget, assessment of **Member** allocations and contributions, distributions of surplus to **Members**, the purchase, lease, sale, and disposal of real property, and all other matters that may come before the **Board.**

Section 19. Composition.

a. The **Executive Committee** shall consist of the President, immediate Past President, Vice President, Secretary, and four additional **Member Representatives** elected by the **Board** at the Annual Meeting.
b. All members of the **Executive Committee** shall be primary or alternate **Member Representatives.**
c. Of the four **Elected Member Representatives**, one shall be from a small transit system, one shall be from a medium transit system, one shall be from a large transit system, and one shall be "at-large"; Provided, if no eligible **Member** from a small, medium, or large system is willing to serve, that position shall be open to any other **Member Representative** from a **Member** not already

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represented by a **Member Representative** on the **Executive Committee.** The criteria for small, medium, and large shall be established by the **Executive Committee**.

Section 20. Meetings. The **Executive Committee** shall adopt an annual schedule of regular meetings. The President may cancel a meeting after consultation with the Board Officers and the Executive Director. A majority of members of the **Executive Committee** shall be sufficient to constitute a quorum.

Section 21. Claims Review. The **Executive Committee** shall review and, if appropriate, approve proposed settlements for any claim or lawsuit against any **Member** which is proposed for settlement in an amount greater than the standing settlement authority of the Executive Director.

Section 22. Committees. The **Executive Committee** may, in its discretion, establish committees, either ad hoc or standing.

## ARTICLE VI: VACANCIES, REMOVALS, AND RESIGNATIONS

Section 23. Vacancies.

a. Vacancies in the **Executive Committee** not otherwise filled pursuant to these **Bylaws** shall be filled by the **Board** at a regular meeting as soon as possible. The **Board** may not fill a vacancy with a **Member Representative** that would result in a **Member** having more than one **Executive Committee** member simultaneously. The person appointed to fill the vacancy shall complete the term of their predecessor. (See Article IV: Section 16.)
b. Vacancies in **Elected Member Representative** positions shall be appointed by the President in the following order: First, by the **Board Member** who received the second most number of votes at the last regular **Member Representative** election, unless such **Board Member** is unwilling or unable to fill the vacancy, or the appointment would result in a **Member** having more than one **Executive Committee** member simultaneously. Second, by a **Member Representative** from a **Member** that meets the size criteria for the vacant position, unless no such **Member Representative** is willing and able to fill the vacancy, or the appointment would result in a **Member** having more than one **Executive Committee** member simultaneously. If no **Board Member** meeting the foregoing criteria is willing and able to fill the vacancy, then the vacancy will be filled at the next regular meeting of **Member Representatives** by election.
c. A vacancy in the immediate Past President position shall not be filled.
d. If an **Executive Committee** member ceases to be an Officer or employee of a **Member**, the position shall be considered vacant.
e. If an **Executive Committee** member becomes an employee of another **Member**, which would result in the employing **Member** having two **Executive Committee** members, the employing **Member** shall choose which of its two employees will keep their position on the **Executive Committee**. If the employing **Member** does not submit its choice in writing to the Executive Director within 30 days of hiring of the new employee, the employee who changes employers will lose their position on the **Executive Committee**.

Section 24. Removal. An **Executive Committee** member may be removed by a two-thirds vote of all **Member Representatives**.

Section 25. Resignation. An **Executive Committee** member may resign by providing written notice to the **Board** or President. Such resignation shall be effective upon receipt or at some other specified time. A resignation shall be effective without acceptance.

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## ARTICLE VII: MEETINGS

Section 26. Meeting Time, Date and Place. The President shall establish the time, date, and place of the **Board's** Annual Meeting and for regular and special meetings of the **Board** and **Executive Committee**.

Section 27. Notice of Meetings.

a. In accordance with RCW 42.30 and WAC 200-110 notice of all meetings shall be provided to all **Member Representatives** and the State Risk Manager and the agenda posted on the **Pool's** website at least 24 hours in advance of the meetings, and in the case of a special meeting, notice will also be posted in a prominent location at the **Pool's** principal location if the meeting isn't held at that location.
b. The notice shall specify the time, date, and place of each meeting and, in the case of a special meeting, the business to be transacted.

Section 28. Executive Sessions. The **Board, Executive Committee,** and any other duly established committee may adjourn to executive session to consider those matters authorized by RCW 42.30.110 and RCW 48.62.101.

Section 29. Special Meetings. Special meetings may be called by the President or a majority of **Member Representatives** as authorized by RCW 42.30.080.

Section 30. Conduct of Meetings. Meetings shall be conducted consistent with the Open Public Meetings Act (RCW 42.30). Robert's Rules of Order will be used to resolve any procedural issues that may arise during the course of a meeting.

## ARTICLE VIII: APPOINTED POSITIONS

Section 31. Treasurer and Deputy Treasurer.

a. The **Board** shall appoint a primary or alternative **Member Representative** as Treasurer pursuant to the requirements of RCW 48.62.111 as now or hereafter amended.
b. The Treasurer appointment would follow an election/appointment process as specified in the Nominations and Elections Policy and would be for a term of up to three years with the term ending in connection with an annual Board meeting. However, the **Board** may replace the Treasurer at any time.
c. If the Treasurer is not a member of the **Executive Committee**, they shall be an *ex officio*, non-voting member thereof.
d. The **Pool's** Deputy Director, Finance Manager or equivalent, shall serve as a Deputy Treasurer.
e. The duties of the Treasurer and Deputy Treasurer shall be as specified by the **Executive Committee** and documented in policy.

Section 32. Auditor. The **Pool's** Executive Director shall serve as its Auditor. The duties of the Auditor shall be as specified by the **Executive Committee** and documented in policy.

Section 33. Other Positions. The **Executive Committee** may appoint such other positions as it deems appropriate and, if it does so, shall specify the duties of the position.

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## ARTICLE IX: EMPLOYEES

Section 34. Executive Director.

a. The **Board** shall engage an Executive Director upon mutually agreeable terms and conditions. The **Executive Committee** shall evaluate the performance of the Executive Director.
b. The Executive Director shall be the chief executive officer of the **Pool** and shall be responsible for its efficient operation and overall direction.
c. The Executive Director shall execute the directives of the **Board** and the **Executive Committee**.

Section 35. General Counsel. The **Executive Committee** may engage General Counsel for the **Pool** upon terms and conditions it deems appropriate. The General Counsel shall be the legal advisor to the **Board**, **Executive Committee,** and **Pool** Staff.

Section 36. Other Employees.

a. The Executive Director is authorized to employ individuals to carry out the Mission of the **Pool**.
b. As a matter of position control, the Executive Director shall seek approval from the **Board** to increase employee head count. The Executive Director is otherwise authorized to modify positions (non-substantial modifications) within the approved position control to carry out the directives of the **Board** and the **Executive Committee** consistent with budget authority.
c. The Executive Director shall establish employment and personnel policies for Staff, set the terms of employment for Staff, set Staff compensation within approved wage bands, and provide Staff employee benefits consistent with budget authority.

## ARTICLE X: OPERATIONS

Section 37. Accounts. The **Pool** shall establish and maintain funds and accounts consistent with generally accepted accounting practices and as may be required by state laws and regulations.

Section 38. Internal Controls.

a. The books and records of the **Pool** shall be audited annually.
b. The **Executive Committee** shall establish policies with respect to internal controls, financial reports, audits, and investment policies.

Section 39. Annual Report. The Executive Director shall submit an annual report to the **Board** as may be required by the **Executive Committee**.

Section 40. Inspection of Records.

a. All **Pool** records and files shall be available for inspection and copying by any authorized representative of any **Member** at any and all reasonable times.
b. As an insurance pool organized under RCW 48.62, the **Pool** is subject to the Washington Public Records Act, RCW 42.56 except pursuant to RCW 48.62.010 (2) funds or liability reserves established for the purposes of satisfying a claim or cause of action unless in a supplemental or ancillary proceeding to enforce a judgment.

Section 41. Fidelity Bond. The **Pool** shall obtain a fidelity bond of one million dollars or such greater amount as may be required by the **Executive Committee** to cover all losses of misfeasance and malfeasance by the **Member Representatives** and employees of the **Pool**.

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Section 42. Power to Contract. The **Pool's** contractual powers are vested in the **Executive Committee**. The **Executive Committee** may delegate all or part of its contractual powers to the Executive Director or some other agent or employee.

Section 43. No Compensation. **Member Representatives** shall not receive compensation for time or services provided to the **Pool**; Provided, **Member Representatives** shall be reimbursed for necessary and reasonable expenses incurred for activities authorized by the **Board** or **Executive Committee** in accordance with rules set by the **Executive Committee**.

Section 44. Indemnification.

a. The **Pool** shall indemnify any **Member Representative** or employee of the **Pool** for all costs and expenses incurred in connection with any legal action or proceeding arising as a consequence of activities on the **Pool's** behalf so long as the **Member Representative** or employee of the **Pool** acted in good faith and without intentional wrongdoing.
b. Any determination whether a **Member Representative** or employee of the **Pool** is entitled to indemnification shall be made by the **Executive Committee**.

Section 45. Reporting Claims. **Members** shall report all claims and losses to the **Pool** irrespective of whether the **Pool** has any indemnification obligation.

Section 46. Notice of Proposed Amendments to Interlocal Agreement. Whenever there is a proposed amendment to the **Pool's** Interlocal Agreement, the **Pool** shall provide notice thereof to the **Members'** governing bodies. The notice shall be directed to "Clerk [name of **Member** transit system]" to the address of the **Member's** primary administrative offices.

## ARTICLE XI: NEW MEMBERS

Section 47. Application. A local governmental public transit system situated in Washington State desiring to become a **Member** of the **Pool** may apply for membership by submitting an application to the Executive Director. The application shall contain the information requested by the Executive Director. The application shall be accompanied by a fee in an amount determined by the Executive Director to cover the cost of analyzing the applicant's loss data, risk profile, and other information. The Executive Director shall forward the application first to the **Executive Committee** and then to the **Board** along with the **Executive Committee** recommendation.

Section 48. Consideration by **Board.** An applicant is approved for membership with the affirmative vote of at least three-fourths of all **Member Representatives.**

Section 49. Start of Membership. An applicant is approved for membership and becomes a **Member** when the new **Member** and the **Pool** sign the Interlocal Agreement and coverage is extended to the new **Member**.

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## ARTICLE XII: COVERAGE DETERMINATION

Section 50. Request for Coverage Decision. Following receipt of a claim or complaint seeking monetary damages, a **Member** on the **Member's** own behalf**,** or on behalf of an additional covered party as defined in the applicable Coverage Document who believes the **Pool** may have an obligation for such claim or complaint, may forward the claim or complaint to the Executive Director for a determination of coverage. The request for coverage decision shall include a copy of the claim or complaint together with such other information possessed by the **Member** that may affect coverage determination.

Section 51. Decision by Executive Director.

a. Following receipt of the request for a coverage decision, the Executive Director shall promptly review the materials submitted and do whatever additional investigation is necessary to make a coverage determination.
b. Following review of the materials and investigation, the Executive Director shall:
    1. Accept the request for coverage, thereby acknowledging a defense and indemnity obligation;
    2. Accept the request for coverage but with a reservation of rights, including any limits or conditions with respect to the **Pool's** defense or indemnity obligations determined by the Executive Director to be appropriate, thereby acknowledging a current defense obligation but reserving to the future the right to dispute an indemnity obligation; or
    3. Deny the request for coverage, thereby denying a defense and indemnity obligation.
c. If the Executive Director accepts a request for coverage, but under a reservation of the rights, or denies such a request, they shall notify the **Member** thereof in writing. The notice shall specify the reasons for the decision.

Section 52. Appeal to **Executive Committee**.

a. A **Member** or the Executive Director may bring an appeal of the coverage decision to the **Executive Committee** by filing notice thereof with the President and, where the **Member** is the appellant, to the Executive Director. The notice shall specify the identity of the appellant, the decision from which the appeal is taken, and the reasons why the appellant believes the decision of the Executive Director should be reviewed on appeal. Such notice must be filed within 30 days following receipt by the **Member** of such written coverage decision. Extensions may be granted by the President if the appellant **Member** was acting in good faith.
b. The appeal shall be heard at the next regular meeting of the **Executive Committee** following filing of the appeal or, in the discretion of the President, at a special meeting, but in no case later than two regular meetings.
c. Any **Executive Committee** member or **Board Member** employed by the **Member** making the appeal shall recuse herself or himself from participation in the proceedings but may attend the public portion of these meetings.
d. The Parties will follow the procedural process described in the governance policy: Coverage Appeal Hearing Procedures.
e. Following the hearing, which may consist of more than one session at the **Executive Committee's** discretion, the **Executive Committee** shall issue a written determination on the appeal within 45 days of the **Executive Committee's** decision with respect to the appeal.
f. After receipt of the **Executive Committee** written determination on the appeal, the appellant **Member** may bring suit against the **Pool**, with each Party to bear its own costs and attorney fees, provided:
    1. The appellant **Member** has complied with the **Pool** appeals process and the terms and conditions of the applicable coverage document;

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2. The **Member** and the **Pool** have completed a mediation process prior to filing of a suit, on terms and conditions agreed to in writing, with each party to bear its own costs and attorney fees, including one half of the mediation fee, or in the absence of such an agreement, through the Washington Arbitration and Mediation Service (WAMS) in Seattle. The mediator will be agreed to by the parties or, in the absence of such an agreement, selected by WAMS.
3. Except as described in this Section, suit may be brought against the **Pool** only after the amount the appellant **Member's** obligation to pay has been established by judgment after exhaustion of any right to appeal the underlying claim, unless the **Pool** agrees in writing this obligation has been met. Suit may also be brought against the **Pool** after settlement of the underlying claim by the appellant **Member**, provided the appellant **Member's** recovery against the **Pool** shall not exceed the likely judgement against the appellant **Member** had the underlying case been resolved through trial. However, the amount of recovery against the **Pool** in any case will not exceed the amount the appellant **Member** is entitled under any applicable **Pool** Coverage Document.

g. Instead of mediation as required in these Bylaws, the appellant **Member** may have the matter referred to binding arbitration for final resolution on terms and conditions agreed to in writing, with each party to bear its own costs and attorney fees, or in the absence of such an agreement, through WAMS in Seattle. The arbitrator shall be agreed to by the parties or, in the absence of such an agreement, selected by WAMS. The arbitration award will not exceed the amount the appellant **Member** is entitled under any applicable **Pool** Coverage Document.

## ARTICLE XIII: GOVERNANCE DOCUMENTATION PROCEDURE

Section 53. Governance Memorialization Procedure. The **Board of Directors** and its **Executive Committee** may memorialize governance decisions by additions, amendments, or deletions to the "WSTIP Policy Manual," as described in section 55.

Section 54. Procedural Requirements. In order for a section of the policy manual to have binding force, the section must be approved by a majority vote of the **Board of Directors** or **Executive Committee** unless a 3/4 vote of those present is required. The approval of a section shall be memorialized by the signatures of the **Pool's** President and Secretary. The section may also be approved as to form by the **Pool's** counsel but such approval as to form is not necessary for the section to have binding force.

Section 55. WSTIP Policy Manual. The WSTIP Policy Manual shall be known as such. It shall be consistent with the **Pool's** Interlocal Agreement and Bylaws. It shall include a section describing the purpose of the policy, the authority for the policy, a policy statement section which is the substantive portion of the policy, a section describing the historical background for the policy, and other sections as deemed appropriate by the **Board of Directors** or **Executive Committee**.

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## ARTICLE XIV: REPEALER

Section 56. Repealer. Bylaws previously adopted and all amendments thereto are hereby repealed.

Passed by the **Board of Directors** on December 09, 2022.

| | Attest: | Approved as to form: |
|---|---|---|
| DocuSigned by: AED13C328351434... | DocuSigned by: Danette Rogers 4070BE642543479... | DocuSigned by: Richard L. Hughes 8708AFD752304CC... |
| Jesse Kinney, President | Danette Rogers, Acting Secretary/Past President | Richard L. Hughes, General Counsel |