



Challenge Procurement: Request for Proposals
DIGITAL ASSISTANT: INTERACTIVE PASSENGER-FACING SOLUTION

RFP NO. RTA/RP RP 0144-21

NOVEMBER 2021

TABLE OF CONTENTS

SECTION ONE	SOLICITATION INSTRUCTIONS	2
1.1	Introduction.....	2
1.2	Anticipated Schedule.....	2
1.3	Communications.....	2
1.4	Requests for Information	3
1.5	Addenda	3
1.6	Proposal Submittal	3
1.7	Contents of Proposal	3
1.8	Evaluation Criteria and Proposal Requirements.....	3
1.9	Proposal Evaluation and Contract Award.....	4
SECTION TWO	EXHIBITS	5
Exhibit A	[Proposed] Contract.....	5

DIGITAL ASSISTANT: INTERACTIVE PASSENGER-FACING SOLUTION

RFP NO. RTA/RP RP 0144-21

SECTION ONE SOLICITATION INSTRUCTIONS

1.1 INTRODUCTION

Sound Transit is seeking an accessible, easy to use and comprehensive solution to combine trip planning, real-time information, interactive support and fare payment for our passengers who use Sound Transit services, including passengers who use assistive technology or who do not have access to smartphones. Refer to the challenge statement for complete details.

The term of the contract will be for five years. At Sound Transit's sole discretion, the contract may be extended for five additional one year term(s).

The term of the contract will be effective upon the date of contract execution until final acceptance of the work by Sound Transit's Project Manager or other designated individual.

Firms are encouraged to attend a pre-proposal meeting that will be held to discuss this RFP, the consultant selection process and schedule, challenge statement, and elements of the contract. The time, date, and location of the meeting are specified in Paragraph 1.2, Anticipated Schedule.

1.2 ANTICIPATED SCHEDULE

Date	Selection Process
November 19, 2021	Public Announcement for Request for Proposals (RFP)
December 3, 2021	Pre-Proposal Meeting, 9:00AM PST, Teams Meeting-Online: Click here to join the meeting Or call in (audio only) +1 206-485-1387,,395949994# United States, Seattle Phone Conference ID: 395 949 994#
December 8, 2021	Last day to submit Requests for Information (RFIs) and/or Questions
December 23, 2021	Proposals Due (on or before 2:00PM PST)
Week of 01/03/2022	Proposals reviewed / highest ranked proposers identified
Week of 01/24/2022	Revised Proposals, Demonstrations, BAFO, Interviews and ranking of firms, if necessary
April / May 2022	Approval of Award by Board
April / May 2022	Execute Contract and Notice to Proceed

1.3 COMMUNICATIONS

Upon release of this RFP, any verbal or written communications between any proposer (potential or actual) or its representatives, and any Sound Transit board member, staff member or consultant regarding this procurement, are strictly prohibited from the date of the RFP advertisement through the date of execution of the contract. The only exceptions to this are: (1) communications and questions concerning this solicitation directed to the Sr. Contracts Specialist listed below; (2) communications at the pre-proposal conference or a publicly noticed meeting of Sound Transit; and (3) communications with the Sound Transit Chief Procurement Officer. Sound Transit reserves the right to contact Proposers for clarification of response contents. Any violation of the requirements set forth in this Section shall constitute grounds for immediate and permanent disqualification of the offending firm from participation in this procurement. All oral communications will be considered unofficial and non-binding on Sound Transit. Proposers should rely only on written statements issued by the Sr. Contracts Specialist.

Christopher Jones, Sr. Contracts
Specialist
Sound Transit
401 S. Jackson Street
Seattle WA 98104-2826

Telephone: (206) 398-5116
E-mail: Christopher.Jones@soundtransit.org

1.4 REQUESTS FOR INFORMATION

Questions about this Challenge must be submitted to Sound Transit, Attn: Christopher Jones, Sr. Contracts Specialist through the "Q&A Board" link for this Solicitation at <https://soundtransit.cityinnovate.com/challenges/145>, hosted by City Innovate. Sound Transit will respond only via Addenda or a formal written Clarification, which will be uploaded to the solicitation on the City Innovate Portal, <https://soundtransit.cityinnovate.com/challenges/145>.

1.5 ADDENDA

Addenda will be uploaded to the solicitation on the City Innovate Portal. Proposers must acknowledge receipt of all addenda uploaded by Sound Transit in Proposal Form No. 1 – Price and Addenda Acknowledgement. If an addendum is issued amending this Challenge Solicitation, all provisions that are not modified remain unchanged. An automated email notification may be provided to all firms who received or requested this solicitation document from City Innovate via <https://soundtransit.cityinnovate.com/challenges/145>

While Sound Transit is extremely confident in the full functionality of this system, as a legal matter, notification services offered through the City Innovate Portal site are not guaranteed and users of the notification system are ultimately responsible for reviewing postings to the site. Sound Transit and City Innovate disclaim all liability for damages caused by the use of this site or the information it contains.

1.6 PROPOSAL SUBMITTAL

- A. Proposals that do not conform to the requirements specified herein may be rejected.
- B. Submit proposals via City Innovate at <https://soundtransit.cityinnovate.com/challenges/145>.
- C. Required submittal attachments should be uploaded in .pdf format.
- D. Sound Transit is not responsible for any delays associated with the electronic submission of Proposals through the City Innovate Portal.
- E. Sound Transit is not responsible for any costs associated with preparing or submitting a Proposal and revised proposals, which may include development phases during evaluation. Proposals become the property of Sound Transit upon submission.
- F. Sound Transit may reject late Proposals. Sound Transit also reserves the right to postpone the Proposal due date.

1.7 CONTENTS OF PROPOSAL

- A. Firms must submit Proposals meeting the following content requirements. Sound Transit reserves the right to request additional information from Proposers.
- B. NOTE: All pages of the Proposal must be numbered.

1.8 EVALUATION CRITERIA AND PROPOSAL REQUIREMENTS

- A. The evaluation criteria in Paragraph F below will be used in evaluating Proposals. Submittal requirements are also described under Paragraph F.
- B. After proposals are received, Sound Transit may, at any point in the evaluation process, advise proposers of the weaknesses and deficiencies of their proposal and request clarifications, revised proposals and/or Best and Final Offers (BAFOs). If interviews are conducted, the

proposers will be asked to offer revised proposals following the interviews so that all discussion from the interviews may be captured in the revised proposal. Interviews will not be evaluated separately. Proposers choosing not to submit a revised proposal will not have the opportunity to improve their scoring or strengthen their proposal. Revised proposals or BAFOs shall be evaluated using the same evaluation criteria referenced in paragraph F. Sound Transit reserves the right to proceed directly to negotiations with the highest ranked proposer immediately following the initial submission and evaluation of proposals.

- C. Evaluation may involve prototype development and will be evaluated using the same evaluation criteria.
- D. Sound Transit will select the Proposal that Sound Transit believes best meets the evaluation criteria in the best interests of Sound Transit. Final selection, if any, will be made on a “best value” basis. If Sound Transit is unable to negotiate a satisfactory contract with the highest ranked proposer, the next highest ranked proposer may be contacted for contract negotiation. This method may continue, in the discretion of Sound Transit, until a contract is successfully negotiated or until all proposals are rejected.
- E. Final approval and award of a contract resulting from this RFP is subject to policies established by the Sound Transit Board of Directors.
- F. Evaluation Criteria:
Proposals will be evaluated using the evaluation criteria listed under the Challenge statement. The evaluation criteria are listed in relative order of importance and will be rated using adjectival ratings.

1.9 PROPOSAL EVALUATION AND CONTRACT AWARD

- A. Sound Transit reserves the right to accept or reject any or all proposals and to waive informalities and minor irregularities. At Sound Transit’s discretion, proposal that exceed the specified page or word limits may be removed from the proposal and only those pages within the specified limit will be forwarded for evaluation. Sound Transit reserves the right to take other action, as necessary.
- B. Sound Transit reserves the right to establish a subcommittee of the evaluation panel to perform an initial evaluation of proposals against published evaluation criteria to determine which proposals are to proceed to full evaluation panel review. Such evaluation approach may be implemented should more than ten proposals be received.
- C. Responsibility: Sound Transit reserves the right to investigate the qualifications of all proposers and to confirm any part of the information furnished by a proposer, and/or to require other evidence of managerial, financial, or technical capabilities which are considered necessary for the successful performance of the contract.
- D. Debriefings. Proposers may request a debriefing after Sound Transit has issued its Notice of Intent to Award. Debriefings shall be limited to the debriefed Proposers scores, strengths and weaknesses of its proposal, and answers to questions regarding the selection process. Debriefings shall not include a point-by-point comparison of the debriefed Proposers submittal with the other submittals.
- E. Protests and Appeals. Sound Transit’s protest procedure is available at <https://www.soundtransit.org/sites/default/files/documents/procurement-contracts-protest-appeal-requirements.pdf>. Before submitting a protest, the Proposer shall ensure it has the most current copy of Sound Transit’s written Protest Procedure.

END OF SECTION ONE

SECTION TWO EXHIBITS

EXHIBIT A [PROPOSED] CONTRACT

CONTRACT No. RTA/RP RP 0144-21

Digital Assistant: interactive passenger-facing solution

This contract is made on _____ between Sound Transit and [Consultant Name] (the "Consultant"), who, in consideration of the mutual promises contained herein, agree to the following terms and conditions:

A. TERM

All goods or services to be provided pursuant to the authority of this contract shall be bound by the terms, conditions, prices and discounts as set forth herein until the completion of the performance, notwithstanding the expiration of the initial term of this contract or any extension thereof.

The initial term of this contract will be five years effective [Month, Day], [Year] through [Month, Day], [Year], subject to the Termination provisions of paragraph N of this Contract. At Sound Transit's sole discretion, the contract may be renewed for five options for additional one year periods.

B. SCOPE OF WORK

The Scope of Work is attached hereto as Attachment A. To accomplish the Scope of Work, Consultant has proposed to do, at a minimum, the work described in its proposal, dated [Proposal Date]. In the event of any discrepancy or conflict between the Scope of Work and Consultant's proposal dated [Proposal Date], the requirements of the Scope of Work will govern, at no additional cost to Sound Transit.

Consultant shall perform work or sell products only as permitted within the contract scope and shall not accept orders or provide services not within the contract scope.

C. EXTRA WORK

Sound Transit may request additional work or services other than that expressly provided for in the "Scope of Work" section of this contract. This will be considered extra work, supplemental to this contract, and shall not proceed unless authorized by a written modification. Any costs incurred due to the performance of extra work prior to execution of a written modification will not be reimbursed.

D. ERRORS AND OMISSIONS; DUTY TO CORRECT

The Consultant is responsible for the professional quality of all work performed under this contract. The Consultant, without additional compensation, will correct any errors or omissions immediately upon notice by Sound Transit. This obligation will survive termination and expiration of this contract.

E. PRICE

Total compensation for this contract will not exceed **\$(Amount)** plus applicable tax. Sound Transit is not liable for any compensation to the Consultant in excess of this amount unless otherwise approved and agreed in writing by Sound Transit.

Lump Sum Tasks

The Consultant will be compensated upon Sound Transit's acceptance of the deliverable(s) for each specific Task, as described in Attachment A (Scope of Work). Total compensation for each Task will not exceed the amount identified for that Task as follows.

[LUMP SUM PRICE TABLE WITH CONSULTANT PROPOSAL PRICES]

Hourly Rates

For hourly Services, Consultant will be compensated for actual hours of Service provided. Where multiple hours of Service are performed, total compensation for the Services will be the Hourly Rate for the Service multiplied by the number of hours of Service performed. The Hourly Rates for Services will be as follows:

[HOURLY RATES TABLE WITH CONSULTANT PROPOSAL PRICES]

Unit Priced Items

For unit-priced items, Consultant will be compensated upon Sound Transit's acceptance of Consultant's performance as described in Attachment A (Scope of Work). Where multiple unit-priced items are performed, total compensation for the unit priced item will be the unit price for the item multiplied by the number of units of that item performed. The unit price for each item will be as follows:

[UNIT PRICE TABLE WITH CONSULTANT PROPOSAL PRICES]

Other Direct Costs: Other direct costs will be the sum of the costs identified in this paragraph. The Consultant must submit receipts or other accounting data identifying and supporting the cost for all direct costs for which payment is requested. The Consultant must not request and Sound Transit will not pay any markup on actual other direct costs.

Travel costs including transportation, lodging, subsistence and incidental expenses incurred by the Consultant while in travel status in connection with providing services must be approved in advance by Sound Transit and supported by itemized receipts, logs, expense reports, etc.

Reimbursement for meals and lodging will not exceed the per diem rates for Washington State as established by the General Services Administration, Transportation Management Policy Division of the Federal Government (<http://www.gsa.gov/portal/content/104877>). Meals reimbursed at per diem rates do not require receipts.

Air travel must be by coach class at the lowest price available.

The lump sum, hourly rates and unit prices indicated above, will remain constant throughout the initial term of the contract – no price escalation will apply regardless of market conditions. If Sound Transit exercises any contract options, price escalation for the option years only will be as follows:

[ESCALATION TABLE]

F. PAYMENT / INVOICES

1. For work performed by the Consultant, payment will be net 30 days following receipt of a properly completed invoice. The Invoice must include the Purchase Order number, be fully itemized, and sent electronically to:
Accountspayable@soundtransit.org
2. Incorrect invoices or invoices without the Purchase Order number may be returned to Consultant.
3. Sound Transit agrees to pay all applicable State of Washington retail sales or use tax. If the Consultant resides outside of the State of Washington, Sound Transit shall remit retail sales/use tax directly to the Washington State Department of Revenue. If the Consultant resides within the State of Washington, the Consultant shall be the primary party responsible for remitting said retail sales tax to the Washington State Department of Revenue. However, Sound Transit reserves the right to remit any retail sales or use tax, regardless of where the Consultant resides, directly to the Washington State Department of Revenue, if deemed necessary.
4. The unit prices cited on the Proposal forms for goods and services hereunder shall not include retail sales or use taxes. Retail sales/use tax shall be included as a separate line item on all invoices.
5. Sound Transit is exempt from Federal excise taxes.

G. PROMPT PAYMENT PROVISION

Consultant, after receiving payment from Sound Transit, must make prompt payment to its subconsultants, for work completed in accordance with this contract. This provision applies to all tiers of subcontracts.

1. Consultant's invoices must include payments for subconsultants whose work was performed in accordance with this contract. The Consultant may not request payment for subconsultant work until the Consultant has determined that the subconsultant is entitled to the payment for the work completed.
2. Within five working days of receipt of payment from Sound Transit, the Consultant must pay such subconsultants.
3. The requirements of this section must be included in subcontracts of all tiers and must include a provision requiring payment be made to the lower tiered subconsultant within five working days after receipt of payment by the higher tiered subconsultant.
4. In the event of any claim or demand made against any Indemnified Party hereunder, Sound Transit may reserve, retain or apply any monies due to the Consultant for the purpose of resolving such claims; provided, however, that Sound Transit may release such funds if the Consultant provides adequate assurance of the protection of the Indemnified Parties' interests.

H. NOTICE

Notices shall be transmitted electronically to:

Sound Transit:	Consultant: [Firm Name]
Attn: Christopher Jones	Attn: [Name]
Sr. Contracts Specialist	[Title]
Christopher.Jones@soundtransit.org	[E-mail]

Notices will be effective upon the earlier of (i) acknowledgement of receipt by the individual identified above or (ii) next business day after emailing to the address above.

I. CONSULTANT EMPLOYEES

Consultant will ensure that its employees assigned to this contract are properly licensed, trained and/or skilled and familiar with the laws and regulations pertaining to the services being provided. Consultant must replace any employee who, in the reasonable opinion of Sound Transit, acts improperly, is not qualified or licensed, or is not needed to perform assigned work. All Consultant staff members and subconsultants working on this contract are required to comply with all Sound Transit resolutions and policies. The Consultant will not transfer or reassign any individual designated below as essential to the work, without the express written consent of Sound Transit.

<u>Name</u>	<u>Title:</u>
[Name]	[Title]
[Name]	[Title]
[Name]	[Title]

J. DIVERSITY PROGRAM REQUIREMENTS

1. Sound Transit is committed to a policy of providing fair and representative employment and business opportunities for minorities and women in the procurement of non-professional and professional services, consistent with Sound Transit's policies, procedures and guiding principles for employment and consulting.
2. The Consultant shall fully comply with all federal, state and local laws, regulations and ordinances pertaining to non-discrimination, equal employment and affirmative action, including but not limited to the Washington State "law against discrimination", Chapter 49.60 RCW.
3. The Consultant shall not, on the basis of race, religion, color, creed, national origin, marital status, sex, sexual orientation, gender identity, ancestry, age or the presence of

any sensory, mental or physical disability in an otherwise qualified person, deny any person the benefits of, or exclude any person from participation in, the award and performance of any work under this Contract and shall afford equal, non-discriminatory opportunities to potential joint venture partners, subconsultants, subcontractors and suppliers.

4. The Consultant shall not, on the basis of race, religion, color, creed, national origin, marital status, sex, sexual orientation, gender identity, ancestry, age or the presence of any sensory, mental or physical disability in an otherwise qualified person, discriminate against any employee or applicant for employment. The Consultant shall make efforts to ensure that applicants are employed, and employees are treated during employment, without regard to their race, religion, color, creed, national origin, marital status, sex, sexual orientation, gender identity, ancestry, age or the presence of any sensory, mental or physical disability. The Consultant shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination provision.
5. The Consultant shall implement and carry out the obligations regarding Equal Employment Opportunity (EEO) and nondiscrimination in employment provisions included in this Contract. The Consultant shall prepare and maintain records of employment, employment advertisements, application forms and other pertinent data and records to demonstrate compliance with its EEO obligations under this Contract. The Consultant shall permit reasonable access by Sound Transit to such records. The Consultant shall provide periodic reports concerning its efforts related to EEO, when such reports are requested by Sound Transit.

K. DISADVANTAGED BUSINESS ENTERPRISE (DBE) AND SMALL BUSINESS REQUIREMENTS

1. The Consultant shall achieve goals of not less than **0%** participation by DBEs and **6%** participation by Small Businesses under this Contract. DBEs may be counted toward the DBE and Small Business Goals, but Small Businesses that are not DBEs may only be counted toward the Small Business Goal. Such percentages were committed to by the Consultant in its Proposal for this Contract and include revisions, if any, negotiated with Sound Transit prior to award of this Contract (See Proposal Form 3B—DBE/Small Business Commitment Form).
2. The Consultant shall make good faith efforts to reach out to DBEs to solicit and achieve participation by DBEs under this Contract and maintain documentation of its efforts. The description of “good faith efforts” is set forth in the DBE Regulations. The Consultant shall also demonstrate Good Faith Efforts to achieve goals of **0%** participation by DBEs and **6%** participation by Small Businesses on changes in the Scope of Work, including Additional Work, under this Contract and maintain documentation of its efforts. DBEs may be counted toward DBE and Small Business participation goals, but Small Businesses that are not DBEs may only be counted toward Small Business participation goals. The Consultant shall submit documentation of its Good Faith Efforts to Sound Transit prior to final contract on such changes.
3. The definition of DBEs is set forth in the DBE Regulations. Only firms that have been certified as eligible to participate as DBEs by the Washington State Office of Minority and Women Business Enterprise (MWBE) shall be considered to be DBEs under this Contract. A listing of DBEs certified by OMWBE is available on the Internet at <https://omwbe.wa.gov/directory-certified-firms> or by contacting OMWBE at 360-664-9750.
4. In each subcontract it awards under this Contract, the Consultant shall include the following assurance:

“The Subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Subcontract. The Subconsultant shall carry out

applicable requirements of 49 CFR Part 26 in the award of contracts under this Subcontract. Failure by the Subconsultant to carry out these requirements is a material breach of this Subcontract, which may result in the termination of this Subcontract or such other remedy as the Consultant or Sound Transit shall deem appropriate.”

5. The Consultant shall provide periodic reports concerning its good faith efforts and the actual participation by DBEs, as such reports are deemed necessary by Sound Transit.
6. The provisions in this Section are in addition to the provisions elsewhere in this Contract related to participation by Small Businesses. In the event subconsultants or subcontractors are necessary, the Consultant shall comply with the provisions in this Section and the provisions pertaining to Small Businesses.

L. PROHIBITED INTERESTS

No member, officer, or employee of Sound Transit or its governing body, or of any of its component agencies during such person’s tenure or one year thereafter, may have any interest, direct or indirect, in this contract or the proceeds thereof, unless such interest has been disclosed in writing to Sound Transit and Sound Transit has determined that no prohibited conflicts of interest or ethical violations inherent in the circumstances.

M. INSURANCE REQUIREMENT

1. Description

- a. Except as otherwise specified, the Consultant, shall at its sole cost and expense, obtain and maintain during the entire term of this Contract the minimum insurance set below.
- b. In the event the Consultant is a Joint Venture, these insurance requirements shall apply to each Joint Venture member separately.
- c. By requiring such minimum insurance, Sound Transit shall not be deemed or construed to have assessed the risks that may be applicable to the Consultant under this Contract. The Consultant shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.
- d. The fact that insurance is obtained by Consultant shall not be deemed to release or diminish the liability of the Consultant, including without limitation, liability under the indemnity provisions of this Contract. Damages recoverable by Sound Transit shall not be limited to the amount of the required insurance coverage.

2. Insurance Coverages

- a. **Commercial General Liability:** Commercial General Liability for bodily injury including death, personal injury, and property damage, with contractual and completed operations liability endorsements, and Employer’s Liability coverage, utilizing insurers and coverage forms acceptable to Sound Transit, with limits of at least \$2,000,000 per occurrence and \$2,000,000 general aggregate, with \$2,000,000 products and completed operations coverage.
- b. **Commercial Automobile Liability:** Commercial Auto Liability coverage for bodily injury and property damage utilizing insurers and coverage forms acceptable to Sound Transit, with a limit of at least \$1,000,000 combined single limit.

Such liability insurance, identified in 2.a and 2.b above, shall name Sound Transit, its officers, directors, agents, and employees as additional insured with respect to the work, including completed operations, under this Contract.

- c. **Workers Compensation:** The Consultant will secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. The Consultant will be responsible for Workers

Compensation insurance for any subconsultant who provides work under subcontract.

If the Consultant is qualified as a self-insurer under Chapter 51.14 of the Revised Code of Washington, it will so certify to Sound Transit by submitting a letter signed by a corporate officer, indicating that it is a qualified self-insurer, and setting forth the limits of any policy of excess insurance covering its employees.

- d. **Professional Liability:** This Contract includes “professional services”. The Consultant shall maintain the appropriate Professional Liability insurance, with limits of liability of at least \$1,000,000 per claim, for damages sustained by reason of or in the course of operations under this Contract, whether occurring by reason of acts failing to meet the standard of care required by this Contract, negligent acts, errors, or omissions of the Consultant.
- e. **Network Privacy & Security Insurance / Cyber Liability:** Consultant agrees to purchase and maintain throughout the term of this Contract, Privacy & Security liability insurance (or its equivalent “cyber/network security” insurance) covering liabilities resulting or arising from acts, errors, or omissions, in connection with the services provided under this Contract, which are associated with any breach or loss of any personally identifiable information. Such insurance shall provide coverage for up to \$3,000,000.00 per claim. Costs and damages to be covered by this insurance policy shall include without limitation: (a) costs to notify individuals whose personally identifiable information was lost or compromised; (b) costs to provide credit monitoring and credit restoration services to individuals whose personally identifiable information was lost or compromised; (c) costs and damages associated with third-party claims arising from the breach or loss of personally identifiable information, including litigation costs and settlement costs; and (d) any investigation and enforcement costs. The policy must be kept in force during the life of the Contract and for three (3) years (either as a policy in force or extended reporting period) after Contract termination. Consultant shall also ensure that any Subconsultants that create, receive, maintain, or transmit protected health information or personally identifiable information on behalf of the Consultant agree to the same insurance requirements that apply to the Consultant.
- f. **Other Insurance:** Other insurance as may be deemed appropriate to cover the specified risk and exposure of the scope of work or changes to the scope of work evaluated by Sound Transit. The costs of which shall be borne by consulting parties as mutually agreed.

3. General Provisions

- a. **Certificates and Policies:** Prior to commencement of Work for this Contract, the Consultant shall provide Sound Transit with certificates of insurance showing insurance coverage in compliance with the foregoing paragraphs. All insurance coverage outlined above shall be written by insurance companies meeting Sound Transit's financial security requirements, (A.M. Best's Key Rating A-; VII or higher). **Such certificates shall reference Sound Transit's contract number, RTA/RP RP 0144-21 and title, Digital Assistant: integrating passenger-facing solution.** The Consultant will provide 30 calendar days' advance written notice to Sound Transit in the event the Consultant's insurance policies are cancelled, not renewed, or materially reduced in coverage. Should the Consultant neglect to obtain and maintain in force any of the insurance required in this Section, Sound Transit may suspend or terminate this Contract. Suspension or termination of this Contract shall not relieve the Consultant from insurance obligations hereunder.

- b. Taking into account the scope of work and services to be performed by a subconsultant and/or subcontractor, the Consultant shall prudently determine whether, and in what amounts, each subconsultant and/or subcontractor shall obtain and maintain commercial general liability and any other insurance coverage. Any insurance required of subconsultants and/or subconsultants shall, where appropriate and/or applicable, name Sound Transit as an additional insured.
- c. Consultant's insurance for General Liability, Automobile Liability and Railroad Protective Liability (if applicable) shall be primary as respects Sound Transit, and any other insurance maintained by Sound Transit shall be excess and not contributing insurance with the Consultant's insurance.
- d. The Consultant and its insurers shall require that the applicable insurance policy(ies) be endorsed to waive their right of subrogation against Sound Transit. The Consultant and its insurers also waive their right of subrogation against Sound Transit for loss of their owned or leased property or property under their care, custody and control.
- e. The Consultant shall provide Sound Transit with a Certificate of Insurance and endorsements to comply with the insurance requirements in this Contract, including, but not limited to, the Additional Insured Endorsement(s) required in 2.a and 2.b above, the Waiver of Subrogation Endorsements, Primary and Non-Contributory Endorsements, Products and Completed Operations Endorsement and any other endorsements.
- f. No provision in this Section shall be construed to limit the liability of the Consultant for work not done in accordance with the Contract, or express or implied warranties. The Consultant's liability for the work shall extend as far as the appropriate periods of limitation provided by law and up to any legal limits.
- g. The Consultant may obtain any combination of coverage or limits that effectively provides the same or better amounts and types of coverage as stipulated above, subject to review and approval by Sound Transit.

4. Claims Management

The Consultant agrees to the following claims management terms and conditions. The Consultant further agrees to include the following terms and conditions in its contract with its Subconsultants and require its Consultant to comply with the following provisions.

- a. The Consultant, after award of a Sound Transit contract, shall provide the names, titles, addresses, telephone numbers, and email addresses of the individual(s) employed by Consultant who handles insurance matters and notifies insurance companies of claims. This individual(s) will be the primary contact for communications between Sound Transit Risk Management Division and the Consultant and its Subconsultants. If the individual(s) change, Consultant shall notify Sound Transit Risk Management Division of the replacement.
- b. Consultant shall provide written notice of any incident involving bodily injury and/or property damage to Sound Transit. An "incident" is defined as any event or occurrence involving bodily injury or property damage that may give rise to an insurance claim. Incidents include those involving serious bodily injury, hospitalization, death, or property damage.
- c. Consultant's written notice to Sound Transit of any incident or claim shall include the following information:
 - 1) A description of the incident, including any bodily injuries or property damage,

- 2) The names of anyone injured and/or whose property was damaged,
- 3) The names and contact information of any insurance company(ies) who may provide insurance coverage related to any aspect of the incident,
- 4) Policy number(s), claim numbers(s), and policy(ies) effective dates, and
- 5) A copy of any written Acknowledgement of Claim Receipt issued by any applicable insurance company(ies).

If some information requested above is not available at the time of the initial report, the Consultant shall provide the missing information to Sound Transit as soon as it is available.

- d. If Sound Transit receives a claim from a Third Party related to the project, Sound Transit will tender such claim to the Consultant through the established claim management process for handling and resolution. Upon receipt of a Third Party claim from Sound Transit, the Consultant shall acknowledge in writing to Sound Transit that:

- 1) The Consultant received and accepts Sound Transit's claim tender,
- 2) The Consultant shall notify its Commercial General Liability insurance company and any other applicable insurance company (ies) of the claim as per Sound Transit insurance requirements that Sound Transit is named as Additional Insured, under the Commercial General Liability policy and as stipulated in the contract between Sound Transit and the consultant.
- 3) The Consultant shall provide Sound Transit with copies of any/all Acknowledgements of Claim Receipts issued by its Commercial General Liability or other applicable insurance company(ies),
- 4) The Consultant and its insurance company(ies) shall indemnify and defend Sound Transit, as an Additional Insured, against any/all claims related to the project.
- 5) The Consultant's General Liability and other applicable insurance company(ies) will investigate and process the claim, provide a coverage determination, an objective disposition and claim resolution for either denial or settlement.
- 6) The Consultant shall provide copies of any/all documentation related to a claim's disposition and resolution, such as, but not limited to, acknowledgements, settlement agreements, releases, claim denial letters, judgments, payments, and satisfaction of judgments.

- e. Consultant shall provide to Sound Transit quarterly status reports on all open and closed claims related to the project that implicates Sound Transit. The report shall include the assigned adjusters, policy numbers, claim numbers and at least the following:

- 1) A description of the claim handling activities during the quarter,
- 2) Any changes to the assigned and/or investigating adjuster, and, if so, the name and contact information of the newly assigned adjuster(s),
- 3) A description of the next steps in the claims adjusting process,
- 4) A description of the disposition and resolution of any claim, and
- 5) Copies of any pertinent documents, including, but not limited to, expert reports, reports on investigations, photographs, settlement

agreements, releases, claim denial letters, judgments, payments, and satisfaction of judgments.

Consultant shall notify Sound Transit of their final resolution, or the applicable insurance company's(ies)' final resolution, any/all claims related to the project, which Sound Transit Risk Management can review and document as a formal notification from the consultant, or its insurance company(ies) that the claims has been fully dispositioned and closed.

N. TERMINATION

1. Termination for Default

Sound Transit may terminate this contract, in whole or in part, in writing if the Consultant substantially fails to fulfill any or all of its obligations under this contract through no fault of Sound Transit. Insofar as practicable, the Consultant will be given: (1) not less than 10 calendar days' written notice of intent to terminate; and, (2) an opportunity for consultation with Sound Transit before termination. An opportunity for consultation shall not mean the Consultant can prohibit Sound Transit's termination of the contract.

2. Termination for Convenience

Sound Transit may terminate this contract in writing, in whole or in part, for its convenience and/or lack of appropriations.

If Sound Transit terminates for convenience, Sound Transit will pay an amount for services satisfactorily performed to the date of termination, a reasonable profit for such services or other work satisfactorily performed, and an amount for expenses incurred before the termination, in addition to termination settlement costs the Consultant reasonably incurs relating to commitments that had become firm before the termination, unless Sound Transit determines to assume said commitments.

3. Data Access at Termination

At any point in time the contract is terminating, for any reason, and having given notice of termination, Sound Transit data hosted by the solution will be made available to Sound Transit in a format it deems appropriate.

Data will remain available for a minimum of six months following termination to ensure data transfer has been successfully completed.

O. INDEMNIFICATION AND HOLD HARMLESS

1. The Consultant must comply with all applicable federal, state and local laws, regulations, ordinances, and resolutions applicable to the performance of services under this contract.
2. Consultant and its subconsultants, employees, agents, and representatives will be independent consultants and will not be deemed or construed to be employees or agents of Sound Transit.
3. To the maximum extent permitted by law or the provisions of this section, the Consultant agrees to release, indemnify, defend (with counsel acceptable to Sound Transit), and save harmless Sound Transit, its successors and assigns, and its and their shareholders, officers, officials, directors, consultants, and employees, (collectively "the Indemnified Parties") from and against any liability including any and all suits, claims, actions, losses, costs, penalties, response costs, attorneys' fees, expert witnesses' fees, and damages of whatsoever kind or nature to the extent arising out of, in connection with, or incident to the Consultant's performance of this contract or the work; provided, however, that if the provisions of RCW 4.24.115 apply to the work and any such injuries to persons or property arising out of performance of this contract are caused by or result from the concurrent negligence of the Consultant or its subconsultants, agents or employees, and an Indemnified Party, the indemnification

applies only to the extent of the negligence of the Consultant, its subconsultants, agents or employees.

THE CONSULTANT SPECIFICALLY ASSUMES POTENTIAL LIABILITY FOR ACTIONS BROUGHT BY THE CONSULTANT'S OWN EMPLOYEES OR FORMER EMPLOYEES AGAINST ANY INDEMNIFIED PARTY, AND FOR THAT PURPOSE THE CONSULTANT SPECIFICALLY WAIVES ALL IMMUNITY AND LIMITATIONS ON LIABILITY UNDER THE WORKERS COMPENSATION ACT, RCW TITLE 51, OR ANY INDUSTRIAL INSURANCE ACT, DISABILITY BENEFIT ACT OR OTHER EMPLOYEE BENEFIT ACT OF ANY JURISDICTION THAT WOULD OTHERWISE BE APPLICABLE IN THE CASE OF SUCH CLAIM. THIS INDEMNITY OBLIGATION SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONSULTANT OR A SUBCONSULTANT UNDER WORKERS' COMPENSATION, DISABILITY BENEFIT OR OTHER EMPLOYEE BENEFITS LAWS. THE CONSULTANT RECOGNIZES THAT THIS WAIVER WAS SPECIFICALLY ENTERED INTO AND WAS THE SUBJECT OF MUTUAL NEGOTIATION. PROVIDED, HOWEVER, CONSULTANT'S WAIVER OF IMMUNITY BY THE PROVISIONS OF THIS PARAGRAPH EXTENDS ONLY TO CLAIMS AGAINST CONSULTANT BY SOUND TRANSIT, AND DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY CONSULTANT'S EMPLOYEE(S) DIRECTLY AGAINST CONSULTANT.

4. In the event of litigation between the parties to enforce the rights under this section, reasonable attorney fees will be allowed to the prevailing party.
5. The foregoing indemnities and duties to defend shall survive the termination of this contract and final payment hereunder.
6. The Consultant may not assign any interest, obligation, or benefit in this contract or transfer any interest in the same without prior written consent by Sound Transit.
7. This contract is governed by Washington law, and exclusive venue for any action arising out of or relating to the performance of this contract is in the Superior Court of King County, Washington.

P. INTELLECTUAL PROPERTY AND WORK PRODUCT

1. All work (preliminary, draft, and final) performed by the Consultant under this contract is the property of Sound Transit. Sound Transit will own any and all data, documents, working papers, computer programs, photographs, and other material produced by the Consultant pursuant to this contract, and the Consultant hereby assigns and transfers to Sound Transit any and all intellectual property rights for such materials. The Consultant will provide Sound Transit with copies of all such materials including, without limitation, any research memoranda prepared under this contract. Under no circumstances, including pending disputes between Sound Transit and Consultant, will Consultant fail to deliver possession of said documents and materials to Sound Transit upon demand.
2. The Consultant must indemnify, pay the defense costs of, and hold Sound Transit harmless from any and all claims, demands, costs, liabilities, losses, expenses and damages (including attorneys' fees, costs, and expert witnesses' fees) arising out of or in connection with this contract that sounds in an intellectual property claim (including but not limited to patent, copyright, trademark, trade name, or trade secret infringement).
3. This Section will survive any expiration or termination of this contract.

Q. AUDIT AND ACCESS TO RECORDS

For a period of six years following final payment by Sound Transit to the Consultant under this contract, the Consultant must maintain all books, records, documents and other evidence related to performance

of the services under this contract. Sound Transit and its authorized representatives will have access to such materials for the purpose of inspection, copying, cost review, and audit during the consultant's normal business hours. Substantially all of the foregoing paragraphs must be included in each subcontract agreement.

R. RECYCLED PRODUCTS

To the extent practicable, the Consultant will provide a competitive preference for recycled products to be used in performing the services pursuant to the U.S. EPA Guidelines at 40 CFR Parts 247-253. Where practical, the Consultant will use both sides of paper sheets and recycled/recyclable products.

S. PRIVACY ACT

To the extent it applies, Consultant and its subconsultants, or their employees must comply with the Privacy Act of 1974, 5 USC § 552a.

If the Scope of Work involves the operation of a system of records on individuals to accomplish a government function, Sound Transit and any consultants, third-party consultants, subconsultants, 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 will make this contract subject to termination.

The Consultant agrees to include this clause in all subcontracts awarded under this contract that require the design, development, or operation of a system of records on individuals subject to the Act.

T. CHANGES IN GOVERNMENTAL REGULATIONS

1. In the event local, state or federal laws or regulations that were not announced or enacted at the time of submittal of Proposals, and such laws or regulations make standards more stringent or compliance more costly under this contract, the Consultant must notify Sound Transit in writing of such changes and their effects on the pricing or delivery schedule promptly after the Consultant first became aware of the changes and prior to incurring any such expenses.
2. Sound Transit will make a determination as to whether the Consultant should be reimbursed for any such expenses or any time extensions should be granted in accordance with the provisions of Paragraph B, Scope of Work.
3. The Consultant shall be deemed to have had notice of any Federal, state, or local law or regulation announced or enacted at the time of contract award, even though such law or regulation did not take effect or become operative until some date after the contract award.
4. The Consultant must, immediately upon becoming aware of any such imposition or change of requirement, provide Sound Transit with full and detailed particulars of the changes required in the equipment and of costs involved therein, or it will be deemed to have waived any rights under this Section. In the event any governmental requirements are removed, relaxed or changed in any way after the date of contract award so as to make the Consultant's performance less expensive, or less difficult, then Sound Transit will have the option either to require the Consultant to perform pursuant to the more rigorous requirements or to receive a reduction in the price for all savings in direct costs which may be realized by the Consultant by reason of such change and appropriate adjustments in deductions for overhead and profit made so as to reflect actual savings made by the Consultant. Sound Transit will give the Consultant notice of Sound Transit's determination, and anticipated savings.

U. FORCE MAJEURE

Consultant will not be responsible for delays in delivery of the Work due to acts of God, fire, strikes, epidemics, war, riot, delay in transportation or railcar transportation shortages, provided Consultant notifies the Project Manager immediately, in writing of such pending or actual delay. Normally, in the

event of any such delays (acts of God, etc.) the date of delivery of the Work will be extended for a period equal to the time lost due to the reason for delay.

V. COOPERATIVE PURCHASING

Pursuant to the Washington State Interlocal Cooperative Act RCW 39.34.080, other governmental agencies consulting with Sound Transit may purchase goods and services on this solicitation or contract in accordance with terms and prices indicated therein.

W. DISCLOSURE OF RECORDS

The Consultant acknowledges that Sound Transit is subject to Chapter 42.56 RCW and that this contract and materials provided hereunder shall be public records, as defined in Chapter 42.56 RCW and with limited exceptions will be available for inspection and copying by the public. The Consultant must specifically designate and clearly label as "CONFIDENTIAL" any and all materials or portions thereof they deem to contain trade secrets or other proprietary information, which is exempt from public inspection and copying. The Consultant must provide the legal basis for the exemption to Sound Transit upon request. If a request is made for disclosure of material or any portion marked "CONFIDENTIAL," Sound Transit will determine whether the material should be made available under the law. If Sound Transit determines that the material is not exempt and may be disclosed, Sound Transit will notify the Consultant of the request and allow the Consultant 10 working days to take appropriate action pursuant to RCW 42.56.540. If the Consultant fails or neglects to take such action within said period, Sound Transit may release the portions of the material deemed subject to disclosure. To the extent that Sound Transit withholds from disclosure all or any portion of Consultant's documents at Consultant's request, Consultant shall indemnify, defend and hold harmless Sound Transit from all damages, penalties, attorneys' fees and costs Sound Transit incurs related to withholding information from public disclosure. Consultant consents to the procedure outlined in this paragraph and shall have no claim against Sound Transit by reason of actions taken under this procedure.

X. ENVIRONMENTAL COMPLIANCE AND SUSTAINABILITY

Sound Transit has an established environmental policy, a sustainability initiative, and an environmental and sustainability management system (ESMS) certified under the International Standards Organization (ISO) 14001. Sound Transit is committed to protecting the environment for present and future generations. The intent of the environmental policy is to:

1. Comply with all environmental laws and regulations.
2. Restore the environment by providing mitigation and corrective actions, and ensure that environmental commitments are implemented.
3. Avoid environmental degradation by minimizing releases to air, water and land.
4. Build relationships with consultants, vendors, consultants and transit partners during planning, design, construction and operation to protect and enhance the environment.
5. Maintain an ESMS with environmental objectives and targets that are measurable meaningful and understandable.

Sound Transit consultants shall adhere to this policy by working proactively with Sound Transit to implement commitments and minimize environmental impacts.

To view the complete environmental policy, see:

<https://www.soundtransit.org/sites/default/files/documents/pdf/about/environment/environmental-policy.pdf>

Y. TASK ORDERS

1. Consultant will be authorized to perform Work under this Contract by issuance of a written Task Order executed by Sound Transit and Consultant. Each Task Order will identify the Scope of Work to be performed, the period of performance, and the not-to-exceed cost, together which constitute the Task Order total authorized amount. Consultant shall not incur costs in excess of the not-to-exceed cost amount without the

prior written approval of Sound Transit's Project Manager. Consultant shall be liable for any costs incurred in excess of the not-to-exceed cost amount.

2. The Contract unit prices shall be the basis of all quotes. Dollar amounts for materials not covered by the unit rate, mobilization fee, and other associated charges shall be added as separate line items. Sound Transit's Project Manager will approve each line item as a not-to-exceed total. Other Direct Costs (ODCs) will be at cost with no markups, and receipts for such items shall be submitted at time of invoicing for verification.
3. A Task Order will be initiated by Sound Transit's Project Manager through a letter with a designated Task Order number and a description of the proposed work, including the estimated timeframe when the task must be completed.
4. Prior to issuing Task Orders, Consultant must meet with Sound Transit's Project Manager to (1) review and confirm the Scope of Work, allocation of level of effort, and the performance schedule, and (2) negotiate an estimated cost amount for each Task Order. Consultant will not be entitled to any reimbursement for its time or costs associated with the development and negotiation for each Task Order. If the Consultant needs additional time to complete the quote, Consultant shall request approval from the Sound Transit's Project Manager prior to the end of the five-day period.
5. Sound Transit may, at its sole discretion, modify a Task Order. Any changes to a Task Order will be in accordance with Section C, Extra Work. In such instances, Sound Transit's Project Manager will transmit in writing a proposed task modification to the Consultant detailing the anticipated scope, schedule, and budget changes.

Z. HEALTH & SAFETY REQUIREMENTS

When onsite, Consultant will follow established and posted health and safety (including COVID) guidelines and requirements.

AA. COVID-19 VACCINATION

1. Prior to entering a Sound Transit owned or leased building, Consultant employees, subconsultants, representatives and agents will be fully vaccinated for COVID-19 and will self-screen for COVID-19 symptoms. While inside, they will wear appropriate face coverings in accordance with guidance provided by Sound Transit. This section applies to all areas of buildings owned by or leased in whole or in part by Sound Transit (not construction field offices). This is a continuing obligation until instructed otherwise by Sound Transit. Sound Transit may require any individual at a Sound Transit building to provide proof of vaccination any time. Consultant shall inform its employees and subconsultants of these Sound Transit requirements, as may be amended.
2. This section extends to subconsultants, and Consultant will include this provision in each subcontract. Prior to award, the successful bidder/proposer will be required to sign the Company Vaccination Mandate Attestation Form (available at: <https://www.soundtransit.org/get-to-know-us/doing-business-with-us/procurement-contracts/consultant-covid-19-safety-guidelines>). Sound Transit may modify the content of the Company Vaccination Mandate Attestation Form in the best interests of Sound Transit. Failure to come to a conclusion satisfactory to Sound Transit with respect to the Company Vaccination Mandate Attestation Form may render the bidder/proposer ineligible for award. Failure to comply with vaccination mandate requirements during performance of any contract may be cause for termination of the contract.
3. Additional information on the Sound Transit COVID-19 Vaccination Mandate is available at <https://www.soundtransit.org/get-to-know-us/doing-business-with-us/procurement-contracts/consultant-covid-19-safety-guidelines> along with Consultant/Consultant Frequently Asked Questions.

BB. DATA SECURITY AND CONFIDENTIALITY

1. STANDARD OF CARE

- a. The Consultant acknowledges and agrees that, in the course of its engagement by Sound Transit, the Consultant may receive or have access to Sound Transit Information. The Consultant shall comply with the terms and conditions set forth in this Agreement in its creation, collection, receipt, transmission, storage, disposal, use and disclosure of such Sound Transit Information and be responsible for the unauthorized collection, receipt, transmission, access, storage, disposal, use and disclosure of Sound Transit Information under its control or in its possession by all Authorized Employees/Authorized Persons.
 - 1) The Consultant shall be responsible for, and remain liable to, Sound Transit for the actions and omissions of all Authorized Persons that are not Authorized Employees concerning the treatment of Sound Transit Information as if they were the Consultant's own actions and omissions.
 - 2) Personal Information is deemed to be Confidential Information of Sound Transit and is not Confidential Information of the Consultant. In the event of a conflict or inconsistency between this Section and the confidentiality/compliance with laws sections of this Agreement, the terms and conditions set forth in this Section shall govern and control.
- b. In recognition of the foregoing, the Consultant agrees and covenants that it shall:
 - 1) keep and maintain all Sound Transit Information in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use or disclosure;
 - 2) not create, collect, receive, access, or use Sound Transit Information in violation of law;
 - 3) use and disclose Sound Transit Information solely and exclusively for the purposes for which the Sound Transit Information, or access to it, is provided pursuant to the terms and conditions of this Agreement, and not use, sell, rent, transfer, distribute, or otherwise disclose or make available Sound Transit Information for the Consultant's own purposes or for the benefit of anyone other than Sound Transit, in each case, without Sound Transit's prior written consent; and
 - 4) not, directly or indirectly, disclose Sound Transit Information to any person other than its Authorized Employees/Authorized Persons, including any, subconsultants, agents, outsourcers or auditors (an "Unauthorized Third Party"), without express written consent from Sound Transit unless and to the extent required by Government Authorities or as otherwise, to the extent expressly required, by applicable law, in which case, the Consultant shall (i) use best efforts to notify Sound Transit before such disclosure or as soon thereafter as reasonably possible; (ii) be responsible for and remain liable to Sound Transit for the actions and omissions of such Unauthorized Third Party concerning the treatment of such Sound Transit Information as if they were the Consultant's own actions and omissions; and (iii) require the Unauthorized Third Party that has access to Sound Transit Information to execute a written agreement agreeing to comply with the terms and conditions of this Agreement relating to the treatment of Sound Transit Information.

2. INFORMATION SECURITY

- a. The Consultant represents and warrants that its creation, collection, access, use, storage, disposal and disclosure of Personal Information does and will comply with all applicable federal and Washington state privacy and data protection laws, as well as all other applicable regulations (including but not limited to, HIPAA – Health Insurance Portability and Accountability Act) and directives to the extent that said Personal Information is healthcare-related information.
- b. Consultant agrees to complete Sound Transit's Vendor Risk Assessment (VRA) if requested by Sound Transit as further described in 4(a.) below.
- c. Consultant shall implement and maintain a written information security program including appropriate policies, procedures, and risk assessments that are reviewed at least annually.
- d. Without limiting the Consultant's obligations under this Section, DATA SECURITY AND CONFIDENTIALITY the Consultant shall implement administrative, physical and technical safeguards to protect Sound Transit Information from unauthorized access, acquisition, or disclosure, destruction, alteration, accidental loss, misuse, or damage that are no less rigorous than accepted industry practices and shall ensure that all such safeguards, including the manner in which Sound Transit Information is created, collected, accessed, received, used, stored, processed, disposed of, and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement. Examples of acceptable industry practices include:
 - 1) ISO/IEC 27001 – Information Security Management Systems – Requirements,
 - 2) ISO/IEC 27002 – Code of Practice for International Security Management,
 - 3) the Control Objectives for Information and related Technology (COBIT) standards, or
 - 4) the National Institute of Standards and Technology (NIST) Cybersecurity Framework and accompanying Special Publications (e.g. NIST SP 800-53r4).
- e. If, in the course of its engagement by Sound Transit, Consultant has access to or will collect, access, use, store, process, dispose of, or disclose credit, debit, or other payment cardholder information, Consultant shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at Consultant's sole cost and expense.
- f. At a minimum, the Consultant's safeguards for the protection of Sound Transit Information shall include:
 - 1) limiting access of Sound Transit Information to Authorized Employees/Authorized Persons;
 - 2) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability;
 - 3) implementing network, device application, database and platform security;

- 4) securing information transmission, storage and disposal;
 - 5) implementing authentication and access controls within media, applications, operating systems and equipment;
 - 6) encrypting Highly-Sensitive Personal Information while at rest;
 - 7) encrypting Highly-Sensitive Personal Information transmitted over public data networks or wireless networks;
 - 8) in a multi-tenant environment, Sound Transit Information must be logically or physically segmented such that data may be accessed for a single tenant only, without inadvertently accessing another tenant's data (e.g. using complex unique identifiers or different schemas for each tenant);
 - 9) conducting risk assessments, penetration testing, and vulnerability scans and promptly implementing, at Consultant's sole cost and expense, a corrective action plan to correct any issues that are reported as a result of the testing;
 - 10) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and
 - 11) providing appropriate privacy and information security training to the Consultant's employees.
- g. During the term of each Authorized Employee's employment by the Consultant, the Consultant shall at all times cause such Authorized Employees to abide strictly by the Consultant's obligations under this Agreement. The Consultant further agrees that it shall maintain a disciplinary process to address any unauthorized access, use or disclosure of Sound Transit Information by any of the Consultant's officers, partners, principals, employees, agents or consultants. Upon written request, Consultant shall identify for Sound Transit in writing by category all Authorized Employees as of the date of such request.
- h. Upon Sound Transit's written request, Consultant shall provide Sound Transit with a network diagram that outlines Consultant's information technology network infrastructure and all equipment used in relation to fulfilling its obligations under this Agreement, including, without limitation:
- 1) connectivity to Sound Transit and all third parties who may access Consultant's network to the extent the network contains Sensitive Information;
 - 2) all network connections, including remote access services and wireless connectivity;
 - 3) all access control measures (for example, firewalls, packet filters, intrusion detection and prevention services, and access-list-controlled routers);
 - 4) all backup or redundant servers; and
 - 5) permitted access through each network connection.
3. SECURITY BREACH PROCEDURES
- a. The Consultant shall:
- 1) provide Sound Transit with the name and contact information for an employee (or a group distribution list/email) of the Consultant who shall serve as Sound Transit's primary security contact and shall be available to assist Sound Transit twenty-four (24) hours per day, seven

- (7) days per week as a contact in resolving obligations associated with a Security Breach;
- 2) notify Sound Transit of a Security Breach as soon as practicable, but no later than twenty-four (24) hours after the Consultant becomes aware of it; and
 - 3) notify Sound Transit of any Security Breaches by telephone to the Consultant's primary business contact within Sound Transit and emailing Sound Transit with a read receipt at infosec@soundtransit.org and with a copy by e-mail to the Consultant's primary business contact within Sound Transit.
- b. Immediately following the Consultant's notification to Sound Transit of a Security Breach, the parties shall coordinate with each other to investigate the Security Breach in accordance with the Consultant's standard policies and procedures, a copy of which will be provided to Sound Transit's Information Security Division upon request. Consultant agrees to fully cooperate with Sound Transit in Sound Transit's handling of the matter, including, without limitation:
- 1) assisting with any investigation;
 - 2) providing Sound Transit with physical access to the facilities and operations affected;
 - 3) facilitating interviews with Consultant's employees and others involved in the matter; and
 - 4) making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law, regulation, industry standards, or as otherwise reasonably required by Sound Transit.
- c. The Consultant shall take reasonable steps to immediately remedy any Security Breach and prevent any further Security Breach at the Consultant's expense in accordance with applicable privacy rights, laws, regulations and standards. The Consultant shall reimburse Sound Transit for actual costs incurred by Sound Transit in responding to, and mitigating damages caused by, any Security Breach, including all costs of notice and/or remediation pursuant to Section 3(d).
- d. The Consultant agrees that it shall not inform any third party of any Security Breach without first obtaining Sound Transit's prior written consent, other than to inform a complainant that the matter has been forwarded to Sound Transit's legal counsel. Further, the Consultant agrees that Sound Transit shall have the sole right to determine:
- 1) whether notice of the Security Breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies or others as required by law or regulation, or otherwise in Sound Transit's discretion; and
 - 2) the contents of such notice, whether any type of remediation may be offered to affected persons, and the nature and extent of any such remediation.
- e. Consultant agrees to maintain and preserve all documents, records, and other data related to any Security Breach.
- f. The Consultant agrees to fully cooperate at its own expense with Sound Transit in any litigation or other formal action deemed reasonably necessary by Sound

Transit to protect its rights relating to the use, disclosure, protection and maintenance of Sound Transit Information.

- g. In the event of any Security Breach, the Consultant shall promptly use its best efforts to prevent a recurrence of any such Security Breach.

4. OVERSIGHT OF SECURITY COMPLIANCE

- a. Upon Sound Transit's written request, the Consultant shall promptly and accurately complete Sound Transit's Sound Transit's Vendor Risk Assessment (VRA) regarding the Consultant's business practices and information technology environment in relation to Sound Transit and its employees' data being handled and/or services being provided by the Consultant to Sound Transit pursuant to this Agreement. The Consultant shall fully cooperate with such inquiries. Sound Transit shall treat the information provided by the Consultant in the security questionnaire as the Consultant's Confidential Information. In the event, material security deficiencies are identified as a result of the VRA, the Consultant may be required to remedy identified deficiencies.
- b. Upon Sound Transit's written request, to confirm Consultant's compliance with this Agreement, as well as any applicable laws, regulations, and industry standards, Consultant grants Sound Transit or, upon Sound Transit's election, a third party on Sound Transit's behalf, permission to perform an assessment, audit, examination, or review of all controls in Consultant's physical and/or technical environment in relation to all Confidential Information being handled and/or services being provided to Sound Transit pursuant to this Agreement. Consultant shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure, and application software that processes, stores, or transports Confidential Information for Sound Transit pursuant to this Agreement. In addition, upon Sound Transit's written request, Consultant shall provide Sound Transit with the results of any audit by or on behalf of Consultant performed that assesses the effectiveness of Consultant's information security program as relevant to the security and confidentiality of Confidential Information shared during the course of this Agreement.
- c. Additionally, upon Sound Transit's written request, the Consultant shall make available to Sound Transit for review all of the following, as applicable: the Consultant's WebTrust, Systrust, and Statement on Standards for Attestation Engagements (SSAE) No. 18 audit reports for Reporting on Controls at a Service Organization and any reports relating to its ISO/ICE 27001 certification. Sound Transit shall treat such audit reports as the Consultant's Confidential Information under this Agreement. Any exceptions noted on the SSAE report or other audit reports will be promptly addressed with the development and implementation of a corrective action plan by the Consultant's management.

5. RETURN OR DESTRUCTION OF SOUND TRANSIT INFORMATION

- a. At any time during the term of this Agreement at Sound Transit's written request or upon the termination or expiration of this Agreement for any reason, the Consultant shall, and shall instruct all Authorized Persons to, promptly return to Sound Transit all copies, whether in written, electronic or other form or media, of Sound Transit Information in its possession or the possession of such Authorized Persons, or securely dispose of all such copies, and certify in writing to Sound Transit that such information has been returned to Sound Transit or disposed of securely as defined by NIST SP 800-88 Guide for Media Sanitization. The Consultant shall comply with all reasonable directions provided by Sound Transit with respect to the return or disposal of information.

6. **EQUITABLE RELIEF**

- a. The Consultant acknowledges that any breach of its covenants or obligations set forth in this Section, DATA SECURITY AND CONFIDENTIALITY may cause Sound Transit irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, Sound Transit is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which Sound Transit may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

7. **MATERIAL BREACH**

- a. The Consultant's failure to comply with any of the provisions of this Section, DATA SECURITY AND CONFIDENTIALITY is a material breach of this Agreement. In such event, Sound Transit may terminate the Agreement effective immediately upon written notice to the Consultant without further liability or obligation to Sound Transit.

8. **DEFINITIONS:** Capitalized terms used herein shall have the meanings set forth in this Section.

- a. "Authorized Employees" means the Consultant's employees who have a need to know or otherwise access Sound Transit Information to enable the Consultant to perform its obligations under this Agreement.
- b. "Authorized Persons" means (i) Authorized Employees; and (ii) the Consultant's consultants, agents, outsourcers, and auditors who have a need to know or otherwise access Sound Transit Information to enable the Consultant to perform its obligations under this Agreement, and who are bound in writing by confidentiality obligations sufficient to protect Sound Transit Information in accordance with the terms and conditions of this Agreement.
- c. "Confidential Information" means information or data intended to be held in confidence or kept in secret, it includes any data classified by Sound Transit as Restricted or Sensitive.
- d. "Highly-Sensitive Personal Information" means an (i) individual's government-issued identification number (including social security number, driver's license number, state-issued identified number, or passport number); (ii) financial account number, credit card number, debit card number, credit report information, with or without any required security code, access code, personal identification number or password, that would permit access to an individual's financial account.
- e. "Personal Information" means information provided to the Consultant by or at the direction of Sound Transit, or to which access was provided to the Consultant by or at the direction of Sound Transit, in the course of the Consultant's performance under this Agreement that: (i) identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, e-mail addresses and other unique identifiers); or (ii) can be used to authenticate an individual (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or PINs, financial account numbers, credit report information, answers to security questions and other personal identifiers), in case of both subclauses (i) and (ii), including, without limitation, all Highly-Sensitive Personal Information. Sound Transit's business contact information is not by itself deemed to be Personal Information.

- f. “Sound Transit Information” means information provided to the Consultant by or at the direction of Sound Transit, or to which access was provided to the Consultant by or at the direction of Sound Transit, in the course of the Consultant’s performance under this Agreement that includes any discreet or combination of the following: (i) Confidential Information; (ii) Highly-Sensitive Personal Information; (iii) Personal Information; and/or (iv) any information specifically created for Sound Transit or provided by Sound Transit that requires limited access or security safeguards.
- g. “Security Breach” means (i) any act or omission that compromises either the security, confidentiality, or integrity of Sensitive Information or the physical, technical, administrative, or organizational safeguards put in place by Consultant (or any Authorized Persons), or by Sound Transit should Consultant have access to Sound Transit’s systems, that relate to the protection of the security, confidentiality, or integrity of Sensitive Information, or (ii) receipt of a complaint in relation to the privacy and data security practices of Consultant (or any Authorized Persons) or a breach or alleged breach of this Agreement relating to such privacy and data security practices. Without limiting the foregoing, a compromise shall include any unauthorized access to or disclosure or acquisition of Sensitive Information.

CC. MISCELLANEOUS PROVISIONS

- 1. Modifications: Modification of this contract must be in writing signed by both parties.
- 2. Remedies Cumulative: Rights under this contract are cumulative and nonexclusive of any other remedy at law or in equity.
- 3. Severability: If any term or provision of this contract is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this contract will not be affected thereby, and each term and provision of this contract will be valid and enforceable to the fullest extent permitted by law.
- 4. Assignment and Successors
 - a. **Assignment**. Neither party may assign this agreement or any of their rights or obligations under this agreement without the prior written consent of the other party.
 - b. **Successors**. This agreement benefits and binds the parties and their respective heirs, successors, and permitted assigns.
- 5. Waiver: No covenant, term or condition or the breach thereof will be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition will not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition.
- 6. Entire Contract: This document, along with any exhibits and attachments, constitutes the entire contract between the parties with respect to the Work.
- 7. Negotiated Contract: The parties acknowledge that this is a negotiated contract, that they have had the opportunity to have this contract reviewed by their respective legal counsel, and that the terms and conditions of this contract are not to be construed against any party on the basis of such party’s draftsmanship thereof.
- 8. Governing Law/Venue: The laws of the State of Washington shall govern the interpretation of this Contract or any disputes arising out of it, and the jurisdiction and venue of any action relating hereto shall be in the Superior Court for King County, Washington.

The person signing this contract is authorized to sign this contract on behalf of the Consultant.

In consideration of the terms and conditions contained herein, the parties have executed this contract by signing below.

Consultant	[Consultant Name]
Signature	
Name	
Title	
Date	

Sound Transit	Central Puget Sound Regional Transit Authority
Signature	
Name	
Title	
Date	
Approved as to Form:	
Signature	
Name	Amy Jo Pearsall
Title	Legal Counsel

Attachment A Scope of Work

[Final Scope of Work will be inserted at time of contract preparation]