



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Motion 15684

Proposed No. 2020-0276.2

Sponsors Upthegrove

1 A MOTION acknowledges receipt of a report on providing
2 ORCA cards to county contracted social workers,
3 construction workers, and Metro transit security, in
4 response to the 2019-2020 Biennial Budget Ordinance,
5 Ordinance 18835, Section 109, as amended by Ordinance
6 19021, Section 64, Proviso 10.

7 WHEREAS, the ORCA business program is designed to allow employers to offer
8 support for non-drive-alone commutes, and the program grew out of a response to the
9 state Commute Trip Reduction Act, originally passed in 1991, and

10 WHEREAS, the current ORCA business program offers regional employers a
11 variety of ways to provide staff with transportation options, which are currently available
12 to employers who provide contract services with King County and could be used to
13 provide ORCA cards to King County contract employees, and

14 WHEREAS, the scope of the report impacts three King County departments
15 including the department of executive services, the department of community and human
16 services and the Metro transit department, and

17 WHEREAS, the proviso stated the due date of this report as June 1, 2020, but is
18 being transmitted August 1, 2020, under Motion 15620;

19 NOW, THEREFORE, BE IT MOVED by the Council of King County: The

Motion 15684

20 council hereby acknowledges receipt of the report required under the 2019-2020 Biennial
21 Budget Ordinance, Ordinance 18835, Section 109, as amended by Ordinance 19021,
22 Section 64, Proviso 10, which is Attachment A to this motion.
23

Motion 15684 was introduced on 9/1/2020 and passed by the Metropolitan King
County Council on 9/29/2020, by the following vote:

Yes: 9 - Ms. Balducci, Mr. Dembowski, Mr. Dunn, Ms. Kohl-Welles,
Ms. Lambert, Mr. McDermott, Mr. Upthegrove, Mr. von Reichbauer
and Mr. Zahilay

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

DocuSigned by:
Claudia Balducci
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Claudia Balducci, Chair

ATTEST:

DocuSigned by:
Melani Pedroza
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Melani Pedroza, Clerk of the Council

Attachments: A. Report on Providing ORCA Cards to County Contracted Social Workers, Construction
Workers, and Metro Transit Security July 31, 2020

Report on Providing ORCA Cards to County Contracted Social Workers, Construction Workers, and Metro Transit Security

July 31, 2020



King County

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II. Proviso Text

Ordinance 19021¹, Section 64, Transit, P10

Of this appropriation \$250,000 shall not be expended or encumbered until the executive transmits a report on options for providing ORCA cards issued by the passport and business choice account program ("ORCA business passport cards") to social workers, construction workers, and Metro transit security workers that are employed by entities that contract with King County and a motion that acknowledges receipt of the report and a motion that acknowledges receipt of an report is passed by the council. The motion should reference the subject matter, the proviso's ordinance, ordinance section, and proviso number in both the title and body of the motion.

A. The report shall include, but not be limited to:

1. An analysis of the feasibility of providing ORCA business passport cards to social workers, construction workers, and Metro transit security workers that are employed by entities that contract with King County, including but not limited to estimated costs, fare impacts, and proposed funding sources;

2. Mechanisms for providing the ORCA business passport cards, including but not limited to the criteria by which entities that contract with King County can qualify for the ORCA business passport cards, ways in which those entities can apply for the ORCA business passport cards, and the manner in which those entities who qualify can acquire the ORCA business passport cards; and

3. Potential policy changes that would be needed to implement the provision of ORCA business passport cards to social workers, construction workers, and Metro transit security workers that are employed by entities that contract with King County.

B. The report shall be developed in collaboration with the Metro transit department, finance and business operation division, department of community and human services, and any other county agencies that may be necessary to develop this report.

The executive should file the report and a motion required by this proviso by June 1, 2020, in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff, and the lead staff for the mobility and environment committee, or its successor.

¹ [Ordinance 19021](#)

III. Executive Summary

The ORCA Business program² is currently designed to allow employers to support transportation options for their employees. There are different packages and levels of service³, but in each scenario, the employer covers the cost/partial cost of the ORCA card. Similarly, in the case of the King County Employee Transportation Program (ETP), Metro Transit is reimbursed by King County agencies for transit-related costs, and all departments participating in the program must budget this expense. The King County Council, via Ordinance 19021⁴, asked the Executive to submit a report to the Council on options for providing ORCA cards to county contracted social workers, construction workers, and Metro transit security workers that are employed by entities contracted with King County.

Ordinance 19021 established three areas of focus for the report:

1. An analysis of feasibility, including costs, fare impacts and proposed funding sources;
2. Mechanisms for providing the ORCA business passport cards;
3. Potential policy changes that would be needed.

Feasibility Analysis –Currently, King County does not require contractors to indicate the number of staff needed to fulfill contract work. Because the County does not collect this and other required information, an estimate of cost and fare impacts is not included in this report. Nevertheless, given the financial situation facing King County Metro due to COVID-19, this report does not identify currently viable funding options via Metro for this program. If contractors were to fund the provision of ORCA cards, as other employers and organizations do through the ORCA Business Programs, then the costs for these cards would likely be passed along to the contracting department (i.e., King County agency) by the contractors. Notably, all King County departments and agencies are contending with deep budget reductions associated with falling revenues due to the COVID generated recession. The administrative category also presents hurdles. For example, companies interacting with the ORCA program need administrative resources to collect the necessary information and administer the cards.

Mechanisms for Providing ORCA Cards – A mechanism for providing ORCA cards to businesses or individuals who contract with King County exists through the current ORCA Business Program. The ORCA Business Program offers regional employers a variety of ways to provide staff with transportation benefits. Employers that contract with King County could use these existing programs to provide ORCA cards to their employees, but those contractors would need to invest in contract management, implement administrative structures for contract management, and provide funding for ORCA card costs. Expanding the existing ORCA Business Program as outlined in Ordinance 19021 whereby Metro provides and administers ORCA cards to contract employees would require a significant investment in Metro staffing.

Policy Changes – No changes to policy or code would be required for contractors providing services to King County to take advantage of the existing Metro ORCA Business Programs. Requiring contractors to

² Orca Business Passport website can be found here: [Metro ORCA Business Programs](#)

³ In depth discussion of each ORCA Business Passport option can be found in Section IV. Background.

⁴ [Ordinance 19021](#)

provide such benefits to their employees would require changes in the County's procurement policy and possibly King County Code.⁵

Currently the County does not have the authority to fund free fares for contractors, as Metro rates of fare are established in King County Code. In addition, the accountability requirements contained in the King County Charter, King County Code, and the Revised Code of Washinton (RCW) restrict the use of revenues in the public transportation fund to the operation of the public transportation enterprise and require reimbursement for services rendered or property transferred to other entities.⁶

This report was compiled by the Office of Performance, Strategy, and Budget (PSB), with assistance from Metro Transit; the Finance, Business and Operations Division (FBOD); the Department of Executive Services (DES); and the Department of Community and Human Services (DCHS). Metro provided information on the background, historical and current context, feasibility, mechanisms for implementation, and policy changes. FBOD provided information on procurement policy and on what data is available on employees that provide services to King County through contracted services. DES and DCHS reviewed the report.

⁵ KCC 3.15.100 and KCC 3.18 on providing living wages and 2.93 on procurement.

⁶ King County Charter Section 230.10.10 mandates that municipal functions be operated as distinct functional units and revenues received for such functions shall never be used for any purposes other than the operating expenses thereof; KCC 4A.200.030 regulates the use of dedicated and non-dedicated revenue; RCW 43.09.210, requires separate accounts for each fund and RCW 43.09.210(3) requires reimbursement for service rendered by or property transferred from one department, public improvement, undertaking, institution, or public service industry to another; and KCC 4A.200.540 establishes the public transportation operating fund to provide for the receipt and use of revenues for the operation of the public transportation enterprise.

IV. Background

Department Overview

Three departments were named in the proviso language, and each are described below.

The Department of Executive Services (DES) provides both internal services to King County agencies and public services directly to King County residents. The divisions and offices that make up DES include: Business Resource Center, Finance and Business Operations Division, Office of Emergency Management, Facilities Management Division, Fleet Services Division, Inquest Program, King County International Airport-Boeing Field, Office of Risk Management Services, and Records and Licensing Services Division. Within DES, the Procurement and Payables section in the Finance and Business Operations Division (FBOD) is responsible for overseeing and monitoring compliance with procurement policies and regulations.

The Department of Community and Human Services (DCHS) is responsible for a wide range of programs and services designed to strengthen communities and provide equitable opportunities for people to be healthy, happy, self-reliant, and connected to community. As the regional coordinator for many areas of human services, DCHS plays a strong role in sustaining the region's human services infrastructure. The majority of DCHS programs and services are delivered through contracts with community-based agencies. While the department provides a wide range of services, its efforts focus on five key areas: behavioral health and recovery services, developmental disabilities and early childhood services, job training and employment services, improving housing stability, and community development and services.

King County Metro is the largest public transportation agency in the Puget Sound region, delivering more than 130 million rides per year through a variety of mobility options, including fixed-route services (bus, rail, streetcar, and water taxi), contracted services (Dial-A-Ride Transit and Access paratransit service), and shared and connected services (Vanpool, Vanshare, Rideshare, and Community Access Transportation). Metro was recognized as the number one transit agency in North America in 2018 by the American Public Transportation Association.

Historical Context

From the initiation of operations in 1973, Metro has utilized various fare media and has offered discounted fares primarily based on need. In 1973, Metro offered an adult fare, reduced fares for youth and seniors, and a ride free zone in downtown Seattle.

For employers wishing to provide a transportation benefit to their employees, Metro offered a consignment purchase option starting in 1979. The U-PASS program was launched in 1991, and it became the model for the business FlexPass program for large employers in 1993. With the launch of ORCA in 2009, the consignment program transitioned into Business Choice, and the FlexPass program into Business Passport (both detailed below). Currently, over 2,000 employers participate in both programs to provide transit benefits to their employees.

With respect to discount fares, in 1980, Metro added a reduced fare for seniors and people with disabilities through the Regional Reduced Fare Permit Program. In 1993, the Human Services Ticket Program was initiated through a partnership with the King County Department of Human Services and the City of Seattle, which resulted in Metro subsidizing the cost of bus tickets for human services agencies, who provide these tickets at no charge to clients in crisis or experiencing homelessness. The Puget Pass was adopted in 1999 as a common fare payment media for Metro, Community Transit, Everett Transit, Pierce Transit, and Sound Transit. In 2009, the One Regional Card for All (ORCA) replaced the Puget pass. The ride free zone was eliminated in 2012, and in 2015 Metro implemented the \$1.50 LIFT ORCA fare, which is available to individuals and families with incomes at or below 200 percent of the federal poverty level. In 2020, Metro will launch an ORCA LIFT subsidy that provides fully subsidized ORCA LIFT cards to people in extreme poverty through benefit programs.

Current Context

The ORCA Business Program is designed to allow employers to provide their employees with transit benefits and mobility options that support non drive-alone commutes. This program grew out of a response to the state Commute Trip Reduction Act, originally passed in 1991. The business program elements aim to facilitate and increase transit ridership, which directly supports the King County Strategic Plan goals of delivering a safe, reliable, and seamless network of transportation options to get people and good where they need to go, when they need to get there. The program also supports goals in the Strategic Climate Action Plan related to county-wide emissions and vehicle miles traveled and Equity and Social Justice Plan goals related to mobility and access to various determinants of equity.

The ORCA Business Program includes two offerings: Business Choice and Business Passport.⁷ Both are designed to be provided as part of an overall employer benefits package. Each business organization is responsible for managing its transportation benefit package, including ORCA card purchase, distribution, and card management (activation/deactivation of cards, lost card replacement, etc.). As an organization, King County utilizes the Business Passport program to support employee mobility as part of its Employee Transportation Program.

Business Choice

The Business Choice option allows employers to purchase retail ORCA products on behalf of their employees. Employers may subsidize some or all of the cost, but there is no expectation or requirement of a subsidy. Employers may provide this benefit to any fraction of their employees. Some organizations do not provide a subsidy but allow employees to use pre-tax dollars to pay for their transit expenses (which is now a requirement for most businesses in Seattle as the result of a City ordinance⁸).

Examples of Business Choice products include:

- Monthly Puget Passes – valid for unlimited trips, up to the specified fare value, on all transit services provided by Community Transit, Everett Transit, King County Metro, King County Water Taxi, Kitsap Transit, Monorail, Pierce Transit, Seattle Streetcar, and Sound Transit;
- Washington State Ferry Monthly Passes; and,
- E-purse – stored value loaded onto the ORCA card to pay per trip.

⁷ <https://www.kingcounty.gov/depts/transportation/metro/employer-programs/business-orca.aspx>

⁸ [Seattle Municipal Code 14.30](#)

Business Passport

To participate in the ORCA Business Passport Program, a business enters into an annual agreement with an ORCA Lead Agency. King County Metro (KCM) serves as the Lead Agent for businesses based in King County. Each contract is invoiced separately on a regular schedule by KCM. As KCM cannot act as Lead Agency for their own program, Community Transit serves as Lead Agent for the King County program.

Passport is required to be offered to whole populations associated with an organization (i.e. all employees, all benefit-eligible employees, all students, etc.), regardless of usage level, usage type, or geographic location of any individuals in an organization. Companies are responsible for purchasing the ORCA cards, but they may ask participating employees to reimburse them up to 50 percent of the price per pass.

Area Passport

The ORCA region is divided into pricing zones, based on transit availability and levels of ridership. Each zone's price is based on the average ridership per employee in that zone. Area Passport is valid for full fare and unlimited rides on all transit service in the region, including Community Transit, Everett Transit, King County Metro, King County Water Taxi, Kitsap Transit, Monorail, Pierce Transit, Seattle Streetcar, and Sound Transit. It also includes a 100 percent vanpool and vanship fare subsidy on Community Transit, Kitsap Transit, Metro Transit, and Pierce Transit vanpool vans, and King County's emergency guaranteed ride home service (Home Free Guarantee Program).⁹ If an employer desires to provide employees with a transportation benefits on Washington State Ferries, that cost must be paid for separately.

Area Passport is available to small to medium sized businesses with fewer than 500 employees. Currently, about 1,000 businesses participate in this program. Many represent low wage and/or hourly workers, non-profit organizations, and businesses in the hospitality, and arts/entertainment industries.

Custom Passport

For the Custom Passport, pricing is based on the organization's specific ridership data. The program generally includes the same coverage for transit service as Area Passport. Subsidies vanpool and/or vanship are optional. If included, the customer determines the subsidy amount for each. Other customizations are available, such as adding the emergency ride home service (Home Free Guarantee) or, for some school district accounts, specifying which transit agencies will be included for pass usage.

Custom Passport is available for large employers, defined as those with more than 500 employees. King County Metro has about 80 businesses enrolled in the Custom Passport program.

⁹ Metro's Home Free Guarantee Program gives employees up to 8 free trips home per year if emergencies or unexpected late work makes them miss their normal transit, carpool, or bike home (<https://www.kingcounty.gov/depts/transportation/metro/employer-programs/business-orca.aspx>).

King County Employee Transportation Program

The Employee Transportation Program (ETP) manages all commuter benefits for King County employees. King County commute benefits include access to transit services, home free guarantee, vanpools, telework support, and information and support for biking and walking to work. The transit ETP benefit is provided through the ORCA Business Passport program. King County renews annual contracts with Community Transit (CT), who is the administrator, or ORCA Lead Agency, for the ETP. Contract pricing is based on program usage, determined through analysis of ORCA system user data. Community Transit invoices King County to pay for the ETP ORCA Passport agreement.

To cover the ETP budget, transit related costs, non-transit related costs, and Metro's administrative costs to determine the cost per employee, are identified and charged to County departments accordingly. All departments participating in the program must budget for this expense, including Metro. The cost of King County's ETP is borne by all County agencies and therefore is not foregone or unrealized revenue for Metro.

Report Methodology

This report was compiled by the Office of Performance, Strategy, and Budget (OPSB), with assistance from Metro Transit; the Finance, Business and Operations Division (FBOD); the Department of Executive Services (DES); and the Department of Community and Human Services (DCHS). Metro provided information on the background, historical and current context, feasibility, mechanisms for implementation, and policy changes. FBOD provided information on procurement policy and on what data is available on employees that provide services to King County through contracted services. DES and DCHS reviewed the report.

V. Report Requirements

The following sections are organized to align with the proviso requirements.

A. Feasibility Analysis

Financial Implications

Entities that contract with King County, such as construction companies, health care providers, and security services, are eligible to participate in the ORCA Business Program, just as other employers in King County. Providing ORCA Passport or Choice cards to any workforce requires an agreement between King County Metro and the employer or organization. The agreement specifies the responsibility of paying for costs associated with card use as well as card management expectations, such as ensuring that the cards are used only by the intended employee and so that the employee has access to a working card when they need it (addressing lost or malfunctioning cards).

Thus, if King County were to require contractors providing services on King County's behalf to offer the ORCA Business Cards, the costs would be assumed by the company or organization providing the contracted workers. Without additional resources, Metro cannot manage these account details.

Additionally, with the Passport option, companies and organizations would be required to provide the Passport benefit to their entire local workforce who are benefits eligible and/or fit the criteria of workers providing the contracted service. Given that Metro does not currently have the ability to provide a subsidy to contracted employees and that Metro is constrained in its use of funds to benefit other agencies, the Passport ORCA card costs would be borne by the contracting entity. Depending on the number of employees contracted to King County, this could have major cost implications for these organizations.

To estimate a cost for the contemplated program, the following information/assumptions would be needed:

- Whether Business Passport, Business Choice, or both would be implemented as part of the program;
- The number of employers that would choose which option;
- The cost the employers would cover as compared to employee cost sharing;
- How the program would address employees charging only part of their time to King County work
- The number of employees (and potentially what percent of their time) who would be eligible for each offering; and,
- The estimated cost of program administration.

Currently, the County does not require its contractors to specify the number of people employed under contracts with King County. The King County Procurement and Payables Section estimates that thousands of people are associated with the identified contracted services, but without more precise information, an estimated cost cannot be developed. Lastly, costs associated with providing ORCA cards

to identified contracted services would likely be passed along to the King County agencies contracting the work, thereby increasing the cost of King County contracted services and capital projects.

Administrative Implications

The administrative capability of contractors to enter into Passport agreements and manage their accounts is not known and will depend on their organizational capacity. At a minimum, they need to identify a responsible party to manage the account and cards, a legal authority to enter into an agreement, most likely internal legal support to review the agreement, and funding for the cost of the contract.

King County Metro is not in a position to manage ORCA Business Accounts for contractors. To enable KCM to do so would require a significant investment in staffing to manage the increased workload.

Contract workers who provide services on behalf of businesses or organizations that contract with King County may simultaneously provide services for other companies, and may be seasonal, short-term, temporary and/or contract-only workers. Card management in these instances would be could be complex and costly.

Fare Impacts

Estimated additional revenue for Transit cannot meaningfully be determined at this time given the significant number of unknowns. As noted above, the number of employees/fraction of employees associated with the identified contract services is not known. It is unknown how many contracted employees already ride transit or already have passes (i.e., they already pay a fare to Metro). And the demand for such a service among the contracted employees is also unknown. For instance, many construction workers are provided parking at their worksite, so they may not ride transit even if a pass is provided to them.

Potential Funding Sources

Funding sources for this endeavor are limited, as Transit is not authorized to subsidize contractor fares under current fare policy and is restricted from using transit funds to support other County functions.¹⁰

Contractors would be required to fund this new benefit through existing programs, but it is likely that this cost would be charged back to the County through contract cost increases. Additionally, requiring contractors to provide a benefit to their employees increases the risk that contractor employees will assert that they are entitled to other County-offered benefits. Lastly, given current economic forecasts, neither Metro nor the General Fund nor other King County agencies are expected to have the resources to fund such a program.

B. Mechanisms for Providing the ORCA Business Passport Cards

If King County were to provide ORCA business cards to contracted social workers, construction workers, and Metro transit security workers, such cards would be provided through the established Business Passport and Business Choice programs. Any entity that contracts with King County would be eligible to participate in one of the programs in the same way that other businesses participate in these programs.

¹⁰ [KC Code Title 28 and KCC 4A.200.540.](#)

Similarly, such contractors would apply for and acquire cards in the same manner that current employers participating in the Business Choice and Business Passport programs do.

Contracting entities would need to create administrative structures to identify eligible employees and issue and manage the ORCA cards.

C. Potential Policy Changes Needed for Implementation

King County Metro does not currently have the authority to provide a fare subsidy for contractors, as Metro rates of fare are established in King County Code. In addition, King County fare policy has historically tied special fares to need, and recent fare proposals acted on by Council reflect this policy.¹¹ The accountability requirements contained in the King County Charter Section 230.10.10, King County Code Sections 4A.200.030 and 4A.200.540, and Revised Code of Washinton (RCW) 43.09.210 restrict the use of revenues in the public transportation fund to the operation of the public transportation enterprise and require reimbursement for services rendered or property transferred to other entities.¹²

Analyses finds that no change in the Business Passport programs are necessary for contractors to take advantage of these programs to offer transportation benefits to their employees. However, requiring contractors who provide the identified services to King County to provide ORCA cards to their employees would require a change in King County procurement policy and/or changes to applicable sections of King County Code, potentially including KCC 3.15.100 and 3.18 on providing living wages to contractors and KCC 2.93 on procurement requirements.

¹² King County Charter Section 230.10.10 mandates that municipal functions be operated as distinct functional units and revenues received for such functions shall never be used for any purposes other than the operating expenses thereof; KCC 4A.200.030 regulates the use of dedicated and non-dedicated revenue; RCW 43.09.210, requires separate accounts for each fund and RCW 43.09.210(3) requires reimbursement for service rendered by or property transferred from one department, public improvement, undertaking, institution, or public service industry to another; and KCC 4A.200.540 establishes the public transportation operating fund to provide for the receipt and use of revenues for the operation of the public transportation enterprise.

VI. Conclusion and Next Steps

The ORCA Business program offers regional employers a variety of ways to provide transportation options to employees. These options are currently available to employers who provide contract services to King County and could be used to implement any change in procurement policy requiring contractors to provide cards to employees engaged in the identified services. Formalizing such a requirement would result in additional administrative tasks for contractors relative to managing the contracts, eligibility criteria, distribution, card management, employee education, and overall contracts management. Some additional administrative burden would also be incurred within Metro.

The cost to provide ORCA cards to contract employees engaged in the identified services cannot be meaningfully estimated without significant assumptions about program design and potential participation. The same is true for fare impacts. It is likely that contractors would pass program cost along to King County agencies receiving contracted services, thereby increasing the cost of County services and capital projects.

Given the financial uncertainties facing King County and Metro and the statutory limitations for the Transit funds, this report concludes that implementing a program whereby Metro or King County provide ORCA Business cards to contracted social workers, construction workers, and Metro security workers is infeasible.

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