

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONSENT AGENDA REQUEST

TO: Board of County Commissioners

FROM: Mark McCauley, Interim County Administrator

DATE: January 18, 2022

SUBJECT: Request Board of County Commissioners approval of an Interlocal Agreement with the Jefferson Transit Authority to support Transit to Fast Ferry Service

STATEMENT OF ISSUE: Jefferson Transit proposes to create a new route that would provide express service from Jefferson County to the Kingston Fast Ferry Terminal located at 11264 State Route 104, Kingston, WA 98346 (Fast Ferry Route), with stops at the Haines Place Park & Ride Lot at 440 12th St, Port Townsend, WA 98368, the 4 Corners Park-and-Ride Lot located at 63 4 Corners, Port Townsend, WA 98368, and the Olympic Peninsula Gateway Visitors Center property located at 93 Beaver Valley Rd, Port Ludlow, WA 98365 (Visitors Center Property).

This new route has many benefits, among them:

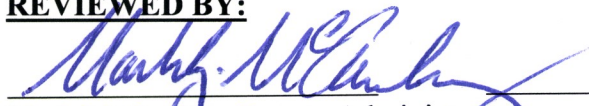
- Jefferson Transit estimates that the proposed fares for the new Fast Ferry Route will be less than half of the cost of driving to the terminal.
- Choosing to ride a bus on the Fast Ferry Route also should save considerable amounts of carbon, according to a detailed report by the sustainability organization Local 20/20.
- Local 20/20 also estimates that the Fast Ferry Route could replace 13,590 car trips annually and save up to 141 metric tons of greenhouse gases.

ANALYSIS: RCW [39.34.080](#) authorizes any local unit of government to enter into an interlocal agreement to permit another government entity to perform any governmental service, activity or undertaking which either entity is authorized by law to perform. The attached proposed Interlocal Agreement will help the Jefferson Transit Authority maximize the benefits associated with their new route/service by allowing them to use the Gateway Visitor Center as a stop on the new route.

FISCAL IMPACT: The Agreement has no fiscal impact.

RECOMMENDATION: That Board of County Commissioners approve the attached proposed Interlocal Agreement with the Jefferson Transit Authority.

REVIEWED BY:


Mark McCauley, County Administrator

1/12/22
Date



INTERLOCAL AGREEMENT IN SUPPORT OF TRANSIT TO FAST FERRY SERVICE

This Interlocal Agreement in Support of Transit to Fast Ferry Services (this Agreement) is made and entered into between Jefferson County, a Washington municipal corporation (Jefferson County), and Jefferson Transit Authority, a public transportation benefit area authority (Jefferson Transit).

WHEREAS, Jefferson Transit is the public transportation benefit area authority for Jefferson County, whose mission is to provide reliable, safe, comfortable public transportation service in Jefferson County which is cost-effective, reduces energy consumption, and contributes to the cultural and economic betterment of the residents of Jefferson County; and

WHEREAS, Jefferson Transit proposes to create a new route that would provide express service from Jefferson County to the Kingston Fast Ferry Terminal located at 11264 State Route 104, Kingston, WA 98346 (Fast Ferry Route), with stops at the Haines Place Park & Ride Lot at 440 12th St, Port Townsend, WA 98368, the 4 Corners Park-and-Ride Lot located at 63 4 Corners, Port Townsend, WA 98368, and the Olympic Peninsula Gateway Visitors Center property located at 93 Beaver Valley Rd, Port Ludlow, WA 98365 (Visitors Center Property); and

WHEREAS, Jefferson Transit estimates that the proposed fares for the new Fast Ferry Route will be less than half of the cost driving to the terminal; and

WHEREAS, choosing to ride a bus on the Fast Ferry Route also should save considerable amounts of carbon, according to a detailed report by the sustainability organization Local 20/20;

WHEREAS, Local 20/20 also estimates that the Fast Ferry Route could replace 13,590 car trips annually and save up to 141 metric tons of greenhouse gases; and

WHEREAS, Jefferson County supports Jefferson Transit's efforts to create the new Fast Ferry Route, as fitting well within Jefferson Transit's mission; and

WHEREAS, RCW [39.34.080](#) authorizes any local unit of government to enter into an interlocal agreement to permit another government entity to perform any governmental service, activity or undertaking which either entity is authorized by law to perform; and

WHEREAS, the governing bodies of each of the parties have determined to enter into this Agreement as authorized and provided for the Interlocal Cooperation Act, codified at Chapter [39.34](#) RCW, and other Washington law, as amended; and

NOW THEREFORE, in consideration of the mutual terms, provisions and obligations contained in this Agreement, it is agreed by and between the parties as follows:

1. Purpose. The purpose of this Agreement is to provide support for Jefferson Transit's proposed Fast Ferry Route.

2. Authority. RCW [39.34.080](#) authorizes any local unit of government to enter into an interlocal agreement to permit another government entity to perform any governmental service, activity or undertaking which either entity is authorized by law to perform.

3. Description of the Visitors Center Property. The Visitors Center Property is located on Tax Parcel Number 821302004, at 93 Beaver Valley Rd, Port Ludlow, WA 98365.

a. Photographs of the Visitors Center Property are in Appendix A.

b. A map showing the location the Visitors Center Property is in Appendix B.

4. A diagram of the Visitors Center Property is in Appendix C.

5. Term. The term of this Agreement is for three years from the Effective Date and will automatically renew for additional two-year terms, unless terminated pursuant to Section 7.

6. Effective Date. The effective date of this Agreement is the date that the last party signs this Agreement.

7. Termination. Either party may terminate its obligations under this Agreement upon 90 days advance written notice to the other party and subject to the following condition: Following a termination, the parties are mutually responsible for fulfilling any outstanding obligations under this Agreement incurred after the Effective date but before termination.

8. Non-Exclusive License to by Jefferson County to Jefferson Transit of a Portion of the Visitors Center Property. During the term of this Agreement, Jefferson County licenses to Jefferson Transit the non-exclusive use of the parking lot at the Olympic Peninsula Gateway Visitors Center property located on Tax Parcel: 821302004, 93 Beaver Valley Rd, Port Ludlow, WA 98365 (Visitors Center) for the purpose of creating a bus stop location for Jefferson Transit's proposed Fast Ferry Route, subject to all of the terms and conditions of this Agreement, including but not limited to the limitations and requirements in this Section 4. The limitations and requirements of the license are:

a. Non-exclusive. The license does not give Jefferson Transit exclusive use of the Visitor Center Property parking lot.

b. Passenger Pick up. Passengers for the Fast Ferry Route may be picked up and dropped of by Jefferson Transit in the Visitor Center Property parking lot.

c. Overnight Parking. Use of the Visitors Center Property parking lot is authorized for users of the Fast Ferry Route provided:

- i. Jefferson Transit pre-approves overnight parking pursuant to this Section 8.c.
 - ii. Jefferson Transit shall prepare and maintain a daily log of all pre-approved overnight parking, including the following information: (A) Owner name and contact information, including home address, telephone number and email address; (B) Vehicle license plate number; and, (C) Vehicle make, model and color; drop off and pick up dates. Daily logs must be maintained by Jefferson Transit for 6 years.
 - iii. Jefferson Transit shall not pre-approve overnight parking for more than at total of 20 vehicles at any time.
 - iv. Jefferson Transit shall inform every person seeking permission to park overnight at the Visitors Center that they should secure their vehicle and belongings and that neither Jefferson County nor Jefferson Transit are responsible for lost, stolen or damaged vehicles or their contents.
 - v. Prominently on its website, Jefferson Transit shall state that every person seeking park overnight at the Visitors Center should secure their vehicle and belongings and that neither Jefferson County nor Jefferson Transit are responsible for lost, stolen or damaged vehicles or their contents. For the avoidance of doubt, the current warning on Jefferson Transit's web site related to current Jefferson Transit Park and Rides meets the requirement in this section. (See <https://jeffersontransit.com/rider-services/jefferson-transit-park-and-rides/>.)
- d. Signage.
- i. Warning Signs. Within 15 days of the effective date, the parties shall agree on the location signs at up to two locations at the Visitor Center Property informing riders on the Fast Ferry Route that they should secure their vehicle and belongings and that neither Jefferson County nor Jefferson Transit are responsible for lost, stolen or damaged vehicles or their contents. If the parties cannot agree within 15 days of the effective date, then Jefferson County shall chose the location(s) for the warning signs.
 - ii. Bus Stop Signs for the Fast Ferry Route. Jefferson Transit may place up to two signs on the Visitor Center Property at location mutually agreed upon, identifying the location as a place where the Fast Ferry Route stops.
- e. Conditioned on Route Approval. This license is conditioned upon Jefferson Transit approving and funding the Fast Ferry Route.
9. Budget. Each party shall be responsible for their own budgets in implementing this Agreement.

10. No Separate Legal Entity. No separate legal entity is created by this Agreement.
11. Parties are Legally Separate and Legally Independent of Each Other. The parties are separate legal entities, legally independent of each other.
12. No Acquisition, Holding Or Disposing Of Property. This Agreement does not involve acquiring, holding or disposing of real or personal property.
13. Filing. A copy of this Agreement shall be filed with the Jefferson County Auditor immediately after the Effective Date.
14. General Terms and Conditions.
 - a. Entire Agreement. This Agreement memorializes the entire agreement of the parties and all parts of this Agreement are contained herein. The parties agree that: (i) No representation or promise not expressly contained in this Agreement has been made; (ii) They are not entering into this Agreement based on any inducement, promise or representation, expressed or implied, which is not expressly contained in this Agreement; and, (iii) This Agreement supersedes all prior or simultaneous representations, discussions, negotiations, and agreements, whether written or oral, within the scope of this Agreement.
 - b. Maintenance of Records. Each party shall maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of this Agreement. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration of agreement. The Office of the State Auditor, federal auditors, the Jefferson County Auditor, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period. If any litigation, claim or audit is started before the expiration of the 6 year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved. Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed.
 - c. Controlling Law. It is understood and agreed that this Agreement is entered into in the State of Washington. This Agreement shall be governed by and construed in accordance with the laws of the United States, the State of Washington and the County of Jefferson, as if applied to transactions entered into and to be performed wholly within Jefferson County, Washington between Jefferson County residents. No party shall argue or assert that any state law other than Washington law applies to the governance or construction of this Agreement.
 - d. Litigation/Jurisdiction/Venue. Should either party bring any legal action, each party in such action shall bear the cost of its own attorney's fees and court costs. The venue for any legal action shall be solely in the appropriate state court in Jefferson County, Washington, subject to the venue provisions for actions against counties in RCW [36.01.050](#).

e. Legal and Regulatory Compliance. While performing under this Agreement, Jefferson Transit and its employees are required to comply with all applicable local, state and federal laws, codes, ordinances, and regulations, including but not limited to: (i) Applicable regulations of the Washington Department of Labor and Industries, including WA-DOSH Safety Regulations; and, (ii) State and Federal Anti-Discrimination Laws.

f. Safety. While performing under this Agreement, Jefferson Transit and its employees shall be responsible for: (i) Compliance with all relevant state and federal workplace safety requirements to include compliance with Jefferson County's safety directives and policies; and, (ii) Ensuring that its employees are trained in the safety procedures appropriate to assigned work.

g. Compliance with JTA Substance Abuse & Alcohol Testing Program. JTA shall comply fully with its Substance Abuse & Alcohol Testing Program, as revised on June 16, 2020.

h. Indemnity.

- i. Jefferson Transit shall defend, indemnify and hold Jefferson County, its officers, officials, employees, agents and volunteers (and their marital communities) harmless from any and all claims, injuries, damages, losses or suits including attorney's fees, arising out of or resulting from the acts, errors or omissions of Jefferson Transit in performance of this Agreement, except for injuries and damages caused by the sole negligence of Jefferson County.
- ii. Should a court of competent jurisdiction determine that this Agreement is subject to RCW [4.24.115](#), then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Jefferson Transit and Jefferson County, its officers, officials, employees, agents and volunteers (and their marital communities) Jefferson Transit's liability, including the duty and cost to defend, hereunder shall be only to the extent of Jefferson Transit's negligence.
- iii. It is further specifically and expressly understood that the indemnification provided herein constitutes Jefferson Transit's waiver of immunity under Industrial Insurance, Title [51](#) RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.
- iv. The provisions of this section shall survive the expiration or termination of this Agreement.

i. General Insurance Requirements.

- i. Coverage provided on behalf of Jefferson Transit pursuant to this Agreement may be provided through the Washington State Transit Insurance Pool. For purposes of this Agreement, an "insurer" for Jefferson

Transit includes the Washington State Transit Insurance Pool and an "insurance policy" includes a memorandum of liability coverage or other similar document by which the Washington State Transit Insurance Pool provides coverage to Jefferson Transit.

- ii. If not provided by a memorandum of liability coverage other similar document through the Washington State Transit Insurance Pool, Jefferson Transit shall place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the State of Washington.
- iii. Insurance coverage shall be evidenced by one of the following methods: (A) Certificate of insurance; or, (B) Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.
- iv. Any deductibles or self-insured retention shall be declared to and approved by Jefferson County prior to the approval of this Agreement by Jefferson County. At the option of Jefferson County, the insurer shall reduce or eliminate deductibles or self-insured retention, or Jefferson Transit shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- v. Failure of Jefferson Transit to take out or maintain any required insurance shall not relieve Jefferson Transit from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification of Jefferson County.
- vi. Jefferson Transit's insurers shall have no right of recovery or subrogation against Jefferson County, its officers, officials, employees, agents and volunteers (and their marital communities), it being the intention of the parties that the insurance policies so affected shall protect all the parties and shall be primary coverage for all losses covered by the above described insurance.
- vii. Any insurer that issues Jefferson Transit's insurance policy or policies shall have no recourse against Jefferson County, its officers, officials, employees, agents and volunteers (and their marital communities) for payment of any premiums or for assessments under any form of insurance policy.
- viii. All deductibles in Jefferson Transit's insurance policies shall be assumed by and be at the sole risk of Jefferson Transit.

- ix. Any judgments for which Jefferson County may be liable, in excess of insured amounts required by this Agreement, or any portion thereof, may be withheld from payment due, or to become due, to Jefferson Transit until Jefferson Transit shall furnish additional security covering such judgment as may be determined by Jefferson County.
- x. Any coverage for third party liability claims provided to Jefferson County by a "Risk Pool" created pursuant to Chapter [48.62](#) RCW shall be non-contributory with respect to any insurance policy Jefferson Transit shall provide to comply with this Agreement.
- xi. Jefferson County may, upon Jefferson Transit's failure to comply with all provisions of this Agreement relating to insurance, withhold performance that would otherwise be due to Jefferson Transit.
- xii. Jefferson Transit shall provide a copy of all insurance policies specified in this Agreement.
- xiii. Written notice of cancellation or change in Jefferson Transit's insurance required by this Agreement shall be mailed to Jefferson County at the following address: Jefferson County Risk Management, P.O. Box 1220, Port Townsend, WA 98368.
- xiv. Jefferson Transit's liability insurance provisions shall be primary and noncontributory with respect to any insurance or self-insurance programs covering Jefferson County, its officers, officials, employees, agents and volunteers (and their marital communities).
- xv. Any failure to comply with reporting provisions of the insurance policies shall not affect coverage provided to Jefferson County, its officers, officials, employees, agents and volunteers (and their marital communities).
- xvi. Jefferson Transit's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- xvii. The insurance limits mandated for any insurance coverage required by this Agreement are not intended to be an indication of exposure nor are they limitations on indemnification.
- xviii. Jefferson Transit shall maintain all required insurance policies in force during the entire term of this Agreement. Certificates, insurance policies, and endorsements expiring before the term of this Agreement shall be promptly replaced.
- xix. Certificates of insurance as required by this Agreement shall be delivered to Jefferson County within 15 days of execution of this Agreement.

- xx. Jefferson County shall be named as an "additional insured" on all insurance policies required by this Agreement.
- xxi. Jefferson Transit shall furnish Jefferson County with properly executed certificates of insurance that, at a minimum, shall include: (A) The limits of coverage; (B) The certificate holder as Jefferson County, Washington and its elected officials, officers, and employees with the address of Jefferson County Risk Management, P.O. Box 1220, Port Townsend, WA 98368, and, (C) A statement that the insurance policy shall not be canceled or allowed to expire except on thirty (30) days prior written notice to Jefferson County.
- xxii. To the extent a certificate of insurance lists or refers to any endorsements solely by name, description or number it shall be the responsibility of Jefferson Transit to obtain and provide to the Jefferson County Risk Management full and complete copy of the texts of such endorsements.
- xxiii. If the proof of insurance or certificate indicating Jefferson County is an "additional insured" to an insurance policy obtained by Jefferson Transit refers to an endorsement (by number or name) but does not provide the full text of that endorsement, then it shall be the obligation of Jefferson Transit to obtain the full text of that endorsement and forward that full text to Jefferson County.

j. Commercial General Liability.

- i. Jefferson Transit shall maintain commercial general liability coverage on a form acceptable to Jefferson County Risk Management for bodily injury, personal injury, and property damage, in in the amount of at least \$5 million per occurrence, for bodily injury, including death, and property damage.
- ii. If Jefferson Transit's general liability coverage provided by the Washington State Transit Insurance Pool, the general liability coverage shall contain all of the Washington State Transit Insurance Pool's standard terms and conditions for members of that risk pool. If Jefferson Transit's general liability coverage is not provided by the Washington State Transit Insurance Pool, the commercial general liability insurance coverage shall contain no limitations on the scope of the protection provided and include the following minimum coverage: (A) Broad form property damage, with no employee exclusion; (B) Personal injury liability, including extended bodily injury; (C) Broad form contractual/commercial liability, including completed operations and product liability coverage; (D) Premises – operations liability (M&C); (D) Independent contractors and subcontractors; and, (E) Blanket contractual liability.

- iii. Jefferson Transit's commercial general liability policy shall include employer's liability coverage with limits of not less than the amounts listed in the Basic Agreement Terms.
- iv. Jefferson County, its officers, officials, employees, agents and volunteers (and their marital communities) shall be named as an additional insured party under this insurance policy.

k. Automobile Liability.

- i. Jefferson Transit shall maintain business automobile liability insurance on a form acceptable to Jefferson County Risk Management with a limits of not less than in the amount of at least \$5 million per occurrence.
- ii. Coverage shall include owned, hired, and non-owned automobiles, and shall cover every vehicle operated by Jefferson Transit.

l. Worker's Compensation (Industrial Insurance).

- i. Jefferson Transit shall maintain workers' compensation insurance at its own expense, as required by Title 51 RCW, for the term of this Agreement and shall provide evidence of coverage to Jefferson County Risk Management, upon request.
- ii. Worker's compensation insurance covering all employees with limits meeting all applicable state and federal laws. This coverage shall include Employer's Liability with limits meeting all applicable state and federal laws.
- iii. This coverage shall extend to any subcontractor that does not have their own worker's compensation and employer's liability insurance.
- iv. Jefferson Transit expressly waives by mutual negotiation all immunity and limitations on liability, with respect to Jefferson County, under any industrial insurance act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim.
- v. If Jefferson County incurs any costs to enforce the provisions of this subsection, all cost and fees shall be recoverable from Jefferson Transit.

m. No Harassment or Discrimination. Any form of harassment, discrimination, or improper fraternization with any County employee is strictly prohibited. Jefferson Transit shall not discriminate on the grounds of race, color, national origin, religion, creed, age, sex, sexual orientation, or the presence of any physical or sensory disability in the selection and retention of employees or procurement of materials or supplies.

n. Section Headings. The headings of the sections of this Agreement are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the provisions of the sections or this Agreement.

o. Limits of Any Waiver of Default. No consent by either party to, or waiver of, a breach by either party, whether express or implied, shall constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by either party.

p. No Oral Waiver. No term or provision of this Agreement will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. Failure of a party to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default.

q. Order of Precedence. If there is an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order: Applicable state and federal statutes and rules, local laws and rules, and case law.

r. No Severability. The terms of this Agreement are not severable. If any provision of this Agreement or the application of this Agreement to any person or circumstance shall be invalid, illegal, or unenforceable to any extent, the remainder of this Agreement and the application this Agreement shall not be enforceable.

s. Binding on Successors, Heirs and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties' successors in interest, heirs and assigns.

t. No Assignment. Jefferson Transit shall not sell, assign, or transfer any of rights obtained by this Agreement without the express written consent of Jefferson County.

u. No Third-party Beneficiaries. The parties do not intend, and nothing in this Agreement shall be construed to mean, that any provision in this Agreement is for the benefit of any person or entity who is not a party.

v. Modification of this Agreement. This Agreement may be amended or supplemented only by a writing that is signed by duly authorized representatives of all the parties.

w. Signature in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity of this Agreement, so long as all the parties execute a counterpart of this Agreement.

x. Facsimile and Electronic Signatures. The parties agree that facsimile and electronic signatures shall have the same force and effect as original signatures.

y. Arms-Length Negotiations. The parties agree that this Agreement has been negotiated at arms-length, with the assistance and advice of competent, independent legal counsel.

z. Public Records Act. Each party shall be responsible for its own compliance with the Washington Public Records Act, Chapter [42.56](#) RCW (as may be amended). This Agreement, once executed, will be a "public record" subject to production to a third party if it is requested pursuant to the Chapter [42.56](#) RCW.

aa. Authority. Each individual executing this Agreement on behalf of a party represents and warrants that such individual is duly authorized to execute and deliver the Agreement on behalf of that party.

bb. Attachments. Any attachment to this Agreement is part of this Agreement and is incorporated by reference into this Agreement.

15. Notice. Any notice required to be given by either party to the other shall be in writing and shall be considered sufficient notice if deposited in the United States mail, postage prepaid, addressed as follows:

To Jefferson County at:

Jefferson County Administrator
P.O. Box 1220
Port Townsend, WA 98368

To Jefferson Transit at:

Jefferson Transit General Manager
63 4 Corners Road,
Port Townsend, WA 98368

Personal service of any required notice may be provided in the manner prescribed for personal service of a summons or other legal process.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

IN WITNESS THEREOF, the parties have executed this Agreement.

JEFFERSON COUNTY WASHINGTON

Board of County Commissioners
Jefferson County, Washington

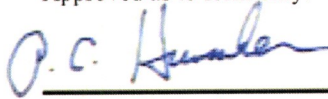
By: _____
Heidi Eisenhour, Date
Chair

SEAL:

ATTEST:

Carolyn Galloway Date
Clerk of the Board

Approved as to form only:

 _____
Philip C. Hunsucker Date
Chief Civil Deputy Prosecuting Attorney
January 12, 2022

JEFFERSON TRANSIT AUTHORITY

By: _____
Tammi Rubert, Date
General Manager

SEAL:

ATTEST:

"SJ" Sara Peck, Date
Clerk of the Board