

**INTERLOCAL AGREEMENT
FOR THE PROCUREMENT OF
BUSES AND BUS EQUIPMENT AND PARTS**

BETWEEN

CAPE FEAR PUBLIC TRANSPORTATION AUTHORITY

and

This **INTERLOCAL AGREEMENT** is entered into this ___ day of _____, 2009, by and between the **CAPE FEAR PUBLIC TRANSPORTATION AUTHORITY**, a North Carolina Public Transportation Authority (the "Procuring Agent") and the _____, a North Carolina entity with the status of _____ (the "Principal");

Section 1. Purpose of Agreement. The purpose of this Agreement ("Agreement") is to allow the parties to obtain buses and bus equipment and parts more quickly and less expensively than if they procured them independently.

Section 2. Delegation of Authority. The Principal hereby delegates to the Procuring Agent the authority to conduct a bid procurement for the manufacture and delivery of low floor transit buses, alternate equipment, optional equipment, and identified spare parts (said buses, equipment, and spare parts are referred to hereafter as the "Goods") and to enter into procurement contract(s) for the purchase of the Goods on behalf of the Principal. This Agreement does not obligate the Principal to purchase any of the Goods.

Section 3. Effective Date of Agreement. This Agreement shall become effective _____, ____ 2009.

Section 4. Procurement Procedures. The Procurement shall conform to the terms and Conditions set forth in the March 2009 document entitled "North Carolina Consolidated Bus Procurement - Cape Fear Public Transportation Authority, Lead Agency", except to the extent, if any, that the Procuring Agency finds, after consultation that it is appropriate to vary from that document.

Section 5. Award of Contract. The bids shall be reviewed by the persons designated by the Procuring Agent and the Principal, and they will present a

recommendation to the Authority Board of the Procuring Agent for the award of the procurement contract(s). The Authority Board of the Procuring Agent may consider, but is not bound by the recommendation. Once the procurement contract(s) have been executed by the Procuring Agent and the vendor(s), a copy of procurement contract(s) shall be forwarded to the Principal. Upon receipt of the procurement contract(s) the Principal may issue its individual Purchase Order(s) to the vendor(s) that has/have executed the procurement contract(s). The Principal shall thereby buy the Goods from the vendor(s) and not from the Procuring Agency. In no event will the Procuring Agent assume any responsibility for any contract resulting from this agreement between any Principal and any bus or bus equipment provider(s).

Section 6. Record Retention. The Procuring Agent and the Principal agree to retain all documentation relating to the procurement for a period of not less than three years after the date of the last vehicle delivery pursuant to the procurement, except in the event of litigation or settlement of claims arising from the performance of the procurement contract(s), in which case the Procuring Agent and Principal agree to maintain same until all such litigation, appeals, claims or exceptions related thereto have been resolved.

Section 7. Miscellaneous.

(a) Duration. This Agreement shall be perpetual, unless terminated earlier by mutual agreement. The governing body of each party hereto has determined that duration to be reasonable. On such termination, all obligations that are still executory on both sides are discharged but any right based on prior breach or performance survives.

(b) Appointment of Personnel. The Authority Board Chairperson shall designate persons to carry out the Procuring Agent's obligations under this Agreement. The _____ shall designate persons to carry out the Principal's obligations under this Agreement.

(c) Amendment and Termination. This Agreement may be amended or terminated by agreement of the parties.

(d) Benefit of Agreement. This Agreement is for the benefit of only the parties hereto and not any other person, firm, or corporation.

(e) Nature of Agreement and Transaction. The Procuring Agent's sole responsibilities under this Agreement are to conduct a bid procurement as described in this Agreement and to enter into the procurement contract(s) for the benefit of the Principal, also as described in this Agreement. In performing under this Agreement, the Procuring Agent is acting as the agent for the Principal, provided that the Procuring Agent may also purchase Goods for itself in the same procurement process. The Procuring Agent does not warrant, or give any opinion, that this procedure, by which the Procuring Agent solicits bids and enters into procurement contract(s) on behalf of the Principal, will be successful, lawful, in compliance with regulations, or effective. The Principal shall not hold the Procuring Agent liable for any deficiencies in, or failure of, this procedure. The Procuring Agency shall not be liable for any breach of the procurement contract(s) by the vendor(s) or by the Principal, and the Purchase Order(s) issued by the Principal shall so state. The Principal shall indemnify the Procuring Agent for, and hold the Procuring Agent harmless from, any claim by any person, firm, or corporation regarding this procedure or regarding the sale or purchase of the Goods. The Procuring Agent shall not be considered the buyer or seller of any of the Goods, and the PROCURING AGENT SHALL NOT BE LIABLE TO THE PRINCIPAL ON ANY EXPRESS OR IMPLIED WARRANTIES (INCLUDING BUT NOT LIMITED TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) with respect to any of the Goods.

Section 8. Governing Law and Forum. This Agreement shall be construed and interpreted in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this Agreement that are between the parties to this Agreement shall be the North Carolina General Court of Justice, in New Hanover County. The preceding sentence does not govern actions between the Principal and any person, firm, or corporation other than the Procuring Agent.

Section 9. Cape Fear Public Transportation Authority Policy. The Cape Fear Public Transportation Authority (Wave Transit) is committed to ensuring that no person is excluded from participating in or denied the benefits of any the authority's services on the basis of race, color, national origin, sex, age, disability or socioeconomic status as protected by Title VI of the Civil Rights Act of 1964 and the Executive Order on Environmental Justice. Anyone believing to have been subjected to discrimination under Title VI by the authority, its employees or agents, are entitled to file a complaint.

This Agreement has been executed by the Principal and the Procuring Agent by and through duly authorized representatives.

CAPE FEAR PUBLIC
TRANSPORTATION AUTHORITY

(seal)

By: _____
William Bryden, Chairman

ATTEST:

George Dolan, Secretary

Principal

By: _____

(seal)

name/title

ATTEST:

name/title

APPROVED AS TO FORM

Andrew W. Olsen, Legal Counsel

THIS INSTRUMENT HAS BEEN PREAUDITED IN THE MANNER REQUIRED BY THE
LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT

Catherine C. Beasley, CPA, Finance Director