



Cape Fear Public Transportation Authority
Request for Proposals
Fixed Route Transit and Vehicle Maintenance Management
Contract 20-01

Proposals are hereby requested by the Cape Fear Public Transportation Authority (Wave Transit or Authority) for Fixed Route Transit Management

1.0 SUBMISSION OF PROPOSALS & PROPOSED PROJECT(S)

Pursuant to the General Statutes of the State of North Carolina and Title 49 Code of Federal Regulations, proposals addressed to Albert Eby, Executive Director, Cape Fear Public Transportation Authority, 505 Cando Street, Wilmington, North Carolina, 28405, and marked

FIXED ROUTE TRANSIT AND VEHICLE MAINTENANCE MANAGEMENT

will be received until 5:00 p.m. EDT, Friday, April 03, 2020. Instructions for submitting proposals may be obtained from Wave Transit, P.O. Box 12630, 505 Cando Street, Wilmington, NC 28405 from 8:00 a.m. to 4:30 p.m., Monday through Friday. The Authority reserves the right to reject any or all proposals.

Applicants must submit four (4) printed copies and one electronic copy of its proposal. The responsibility for submitting proposals (including all documents requested herein) are solely and strictly that of the applicant. The Authority is not responsible for delays in the delivery of the mail or delays caused by any other occurrence.

The Cape Fear Public Transportation Authority does not discriminate on the basis of race, gender, ethnicity, age, national origin, religion or disability in its employment opportunities, programs, services, contracting opportunities or activities. It is the Authority's policy to ensure compliance with the Title VI of the Civil Rights Act of 1964 in its contracting opportunities. The Authority's Title VI Policy is available at: <https://www.wavetransit.com/wp-content/uploads/2018/01/Title-VI-Program-November-10-2017.pdf>.

The RFP can be accessed at the following URL: <https://www.wavetransit.com/wp-content/uploads/2020/03/2020-Management-RFP-5.pdf>.

Albert Eby
Executive Director
ADVERTISED: 03/02/2020

2.0 RFP POSTPONEMENT AND AMENDMENT & WITHDRAWAL

The Authority may postpone the deadline for submitting proposals and the opening of proposals and may revise or amend the RFP at any time up to the deadline for submitting proposals. Such changes, revisions and amendments, if any, shall be announced to each prospective applicant by written addenda to this RFP. Applicants are requested to contact the Authority if, upon review, material errors are found. Errors must be pointed out before the deadline for submitting proposals to allow time for review and subsequent clarifications by the Authority. In any case, the deadline for submitting proposals shall be at least seven (7) calendar days after the last addendum, and any addenda shall include an announcement, if applicable, of the new deadline for submitting proposals.

3.0 REQUESTS FOR ADDITIONAL INFORMATION

Firms and individuals requiring additional information may contact the Executive Director who will respond to questions and supply required information. Requests for additional information or clarification should be received in writing seven (7) days before the qualification deadline to allow time for response to the request. All contact should be directed to:



Albert Eby, Executive Director
Cape Fear Public Transportation Authority
P.O. Box 12630
Wilmington, NC 28405-0130
(910) 202-2035
(910) 343-8317 (fax)
aeby@wavetransit.com

The Authority will send all requests for information and responses in writing to all known potential applicants so that all parties have the same information. Any spoken communication given is not binding upon the Authority unless and until it is communicated in written form.

IMPORTANT - PLEASE NOTE: The Cape Fear Public Transportation Authority is an independent body politic and corporate as defined by North Carolina General Statute 160A Article 25. All inquiries regarding this proposal must be directed to the designated contact listed above. Approval of any contract resulting from this RFP will be made by the Authority. The decision of the Authority will be final. Proposers who fail to follow this directive are subject to disqualification.

4.0 FUNDING AND TERMS

Any contract resulting from this RFP may be subject to a financial assistance contract/agreement between the Authority and the North Carolina Department of Transportation (NCDOT), and between the Authority and the U.S. Department of Transportation, Federal Transit Administration (FTA). The contract shall be governed by all applicable state and federal regulations. The Authority shall negotiate a contract with the most qualified, responsive firm for Fixed Route Transit and Vehicle Maintenance Management Services at compensation set forth in this solicitation.

5.0 AGENCY BACKGROUND AND DESCRIPTION

The Cape Fear Public Transportation Authority (dba Wave Transit) provides public transportation in Southeastern North Carolina. The current service area of Wave Transit is 199 square miles including all of New Hanover County, portions of Southern Pender County and portions of Northern Brunswick County. Wave Transit has authority to serve an area up to 30 miles outside the limits of New Hanover County (County), as extended from time to time.

In 2004, rapid sprawl and rising traffic congestion throughout the region led the City of Wilmington and New Hanover County to create the Cape Fear Public Transportation Authority (Wave Transit). The Authority operates within the guidelines established under North Carolina General Statute 160A Article 25. The Authority is an independent local government.

The Authority is governed by nine members appointed by the New Hanover County Commissioners and the Wilmington City Council. The Authority currently provides directly operated Paratransit (administration and facilities management) and contracted fixed route (management and operations and vehicle maintenance) services.

The Authority provides service to New Hanover County, NC, as well as Northern Brunswick County. The Authority is also under contract with the University of North Carolina Wilmington to provide public transportation services in and around the university.

The primary responsibilities of the Authority are:

- Policy making
- Planning, including routes and fares
- Grants management
- Revenue acquisition
- Capital acquisition and management, including specification preparation and compliance

- Accounting, including required annual auditing
- Human resources management and oversight
- NTD reporting
- FTA and NCDOT reporting and compliance
- Budgeting
- Community relations
- Contractor oversight
- Marketing
- Legal oversight
- Drug & alcohol testing oversight and compliance
- Safety & training oversight and compliance
- Warrantly management
- Legislative advocacy

The selected contractor may be asked to assist the Authority with the above responsibilities, but ultimate accountability for these items is solely that of the Authority.

6.0

PROJECT SCOPE & TIMELINE

6.1 Period of Performance

Any contract arising from this solicitation will be for a term of five (5) years beginning July 01, 2020 and terminating June 30, 2025, barring early termination as outlined in Section 10.10. One additional five (5) year contract extension to the original contract is available by mutual agreement of the parties.

6.2 Project Scope

Currently, the Authority is managed under a contract with First Transit, Inc. of Cincinnati, Ohio. The current contract is under the third and final two year extension of the original contract and is scheduled to expire on June 30, 2020. All vehicles, equipment, buildings and facilities used in the operation of Wave Transit are owned by the Authority. The expenses incurred in the operation of the transit system are paid by the Authority as set forth in the *Management Agreement*. All revenues received are deposited in Authority bank accounts. The Authority works with the NCDOT, FTA, the City of Wilmington, New Hanover County and other funding partners to secure contracts for both operating and capital assistance. Full and part-time fixed route employees are employed by Transit Management of Wilmington (TMW) a wholly owned subsidiary of First Transit, Inc. Fixed route employees are represented by Amalgamated Transit Union (ATU) Local 1328 (see Attachment E for Collective Bargaining Agreement).

The Collective Bargaining Agreement (CBA) between First Transit and ATU 1328 expired on June 30, 2019. Negotiations for a new Collective Bargaining Agreement have not yielded an agreement. As of the date of publication of this solicitation, TMW employees are operating under a temporary extension to the most recent CBA. A copy of the most recent union contract is attached hereto and labeled Attachment E. The successful bidder will be responsible for all facets of the CBA, as well as negotiating any and all contracts with the union (within funding limits set by the Authority prior to the contract expiration date) and for settlement of all labor disputes within financial and policy parameters set forth by the Authority.

Special emphasis is required by the management firm to ensure that Wave Transit and its contractors meet all of the requirements and regulations of, and report to when required, the Authority, NCDOT and FTA, including but not limited to drug and alcohol testing, driver qualifications and training, and vehicle maintenance and inspection, civil rights, procurement and state of good repair.

All resident contract employees should be under the supervision of a four (4) corporate management employees. These employees must be identified as part of the proposal. Changes to the corporate supervision structure must be relayed to the Authority in a reasonable matter of time following any changes to the proposed corporate management team.

The scope of this solicitation is for the engagement of four (4) senior management level resident contract employees to manage the Authority's fixed route transit and vehicle maintenance program. The employees include:

- One (1) Contractor General Manager, who will be responsible for all facets of the fixed route program as defined by the *Management Agreement*. The Contractor General Manager will be housed at the Authority's Operations Center and will serve as the primary point of contact between the Authority and the contractor;
- One (1) Vehicle Maintenance Manager who will be responsible for oversight of all vehicle maintenance. The Vehicle Maintenance Manager will oversee vehicle repairs; inspections and other activities necessary to ensure scheduled service is met. The Vehicle Maintenance Manager will ensure compliance with the Authority's State of Good Repair requirements from FTA and or NCDOT. The contractor will be responsible for the repair of vehicles for both the fixed route and Paratransit functions of the Authority. Proposers are required to include the capability of its staff to repair vehicles in house and identify repairs that require outside repair;
- One (1) Contractor Assistant General Manager who will serve as the second in command for the selected contractor ensuring supervision is provided at times when the Contractor General Manager is not on duty; and
- One (1) Contractor Assistant Vehicle Maintenance Manager who will serve as second in command in the vehicle repair department ensuring supervision is provided at times when the Vehicle Maintenance Manager is not on duty.

Facility maintenance is the responsibility of the Authority and will not be a requirement of the contractor. It is expected that the contract managers will have the relevant education and experience to manage a system similar in size to Wave Transit. Résumés for each position are required with all proposals. The four managers will be employed and paid by the contractor. All personnel costs with the four management employees employed by the contractor will be the sole and exclusive responsibility of the contractor. The contractor will not be paid for any periods in which any of the four contract employee positions are vacant. This includes turnover and long term leave by contract managers. Authority concurrence with management changes does not require Authority approval, but contract management changes shall be relayed to the Authority prior to making modifications to the management team.

Positions including mid-level supervisors, bus operators, and maintenance employees will be paid by the Authority through an account in the name of the contractor. The account will be funded by the Authority.

Proposers must take into consideration requirements of the Urban Mass Transportation Act (UMTA) of 1964, as amended, particularly Section 13(c) and any labor contract implications that may affect the proposal. The Authority is the Federal Transit Administration (FTA) designated recipient for funding to the urbanized area (UZA). A copy of the Agreement pursuant to §13(c) is attached and labeled Attachment F. The Authority is not responsible for any oversight regarding UMTA/FTA and/or labor contract issues. The management firm will manage and operate the fixed route facet of the transit system, under the direction of the Authority as set forth in the *Management Agreement*. The Cape Fear Public Transportation Authority makes no claim to the §13(c) status of any employee, nor is the Authority aware of the §13(c) status of employees not covered by the collective bargaining unit (i.e. salaried supervisors, etc...). The Authority will not make any claim to

the status of these employees and it is the sole responsibility of the bidder to consult with legal counsel concerning any possible §13(c)/5333(b) issues.

6.3 Estimated Timeline

6.3.1	RFP advertised/issued	March 02, 2020	4:00 pm
6.3.2	Non-mandatory pre proposal meeting	March 11, 2020	10:00 am
	The meeting will be held at 1480 Castle Hayne Road, Wilmington, NC 28401.		
	The meeting is available via conference call.		
	Dial-in instructions:		
	Call in number: (800) 753-1965		
	Conference ID: 3430106#		
	In-person or conference call participation is not required		
6.3.3	Pre proposal question addendum issued	March 13, 2020	4:00 pm
6.3.4	Final questions due	March 20, 2020	5:00 pm
6.3.5	Final addendum issued	March 27, 2020	4:00 pm
6.3.6	Proposals due	April 03, 2020	5:00 pm
6.3.7	Proposal presentations	April 13 - 17, 2020	TBD
6.3.8	Contractor selection and contract negotiation	April 20 - 24, 2020	TBD
6.3.9	Award	May 25, 2020	12:30 pm
6.3.10	Notice to proceed/contract commencement	July 01, 2020	8:00 am

7.0 GENERAL SPECIFICATIONS & INSTRUCTIONS TO BIDDERS

7.1 Proposer Qualifications

By responding to this RFP, proposer warrants and assures that the Firm or Individual is qualified to meet the scope outlined herein. Proposer warrants that employees who participate in this project will be compensated in accordance with the law. Applicable insurance is a requirement of this contract for Firms as specified in Section 7.14.19.

7.2 Taxes

The Cape Fear Public Transportation Authority is exempt from and will not pay federal taxes where applicable. An exemption certificate will be furnished upon request. State and local sales tax, where applicable, shall be shown as a separate item. Sales tax will not be a consideration in the award.

7.3 Contract Type

Any resulting *Management Agreement* awarded in response to this solicitation will be a transit management contract. The selected contractor will serve as the employee of record for fixed route operators, vehicle maintenance personnel and supervision. Benefits provided to contract employees (with the exception of supervisory employees) are governed by the collective bargaining agreement between the contractor and ATU Local 1328. The Authority, in consultant with the contractor, is responsible for acquiring benefits for contract employees in accordance with the CBA. Benefits for non-union, supervisory contract employees, with the exception of direct corporate contract employees are also the responsibility of the Authority in consultation with the contractor. Benefit costs are paid by the contractor account funded by the Authority. Authorized and eligible operating expenses for the operation of Fixed Route Transit and Vehicle Maintenance Management services are paid directly by the Authority. Worker compensation insurance costs for fixed route contract employees are required to be submitted with proposals. The Authority reserves the right to utilize contractor provided worker compensation or secure worker compensation insurance for contract employees by other means. If accepted, unemployment benefits and premiums shall be secured by the contractor with reimbursement from the Authority. It is expected that the contractor selected will not be required to provide any funding for the operation of the fixed route transit system.



7.4 Contract Length

This solicitation is expected to result in a fixed price contract for a period not to exceed five (5) years beginning July 01, 2020 and ending June 30, 2025. One additional five (5) year contract extension to the original contract is available by mutual agreement of the parties.

7.5 Liquidated Damage Assessments

The following list of liquidated damages will be a condition of the contract.

Missed trips

Missed trips are defined as any instance where scheduled service is not performed along a given route for a period greater than 15 minutes, including late trips, where a passenger stop is skipped resulting in a passenger missing a trip, where passenger stops are skipped due to a vehicle going off route, or where a route fails to start its first scheduled trip of the day by more than 5 minutes. Legitimate contingency (approved detours, severe weather, or emergencies beyond the control of the contractor) may exempt these occurrences.

Liquidated Damage per Incident

\$2,500.00

Early over three (3) minutes

The contractor shall be assessed liquidated damages for each early incident along a route as defined by GPS tracking software of more than 3 minutes

Liquidated Damage per Incident

\$2,500.00

Accidents not reported within six (6) hours

The contractor shall be assessed liquidated damages for each incident of not reporting accidents in writing to Authority staff within six (6) hours of the incident

Liquidated Damage per Incident

\$5,000.00

Speeding Infractions more than 10 miles per hour over posted limit

The contractor shall be assessed liquidated damages for each incident of speeding more than 10 miles over the posted speed limit based on GPS triangulation reporting or traffic citations

Liquidated Damage per Incident

\$5,000.00

Cleanliness of Vehicles

The contractor shall be assessed liquidated damages if vehicles do not meet the cleanliness guidelines set by the Authority

Liquidated Damage per Incident

\$500.00

Maintenance of Vehicles

The contractor shall be assessed liquidated damages if for each vehicle which scheduled preventive maintenance exceeds 5% of the scheduled time or mileage

Liquidated Damage per Incident

\$2,500

Inventory Control

The contractor shall be assessed liquidated damages for each incident when an inventory part(s) are found missing, meaning they are listed as being in inventory, but the part is not present and there is no record of the part being removed from inventory in an authorized and accountable manner.

Liquidated Damage per Incident

\$250 plus the cost of replacing the part(s) missing

Safety Breach

The contractor shall be assessed liquidated damages for each occurrence of a safety breach. A safety breach is defined as any instance where a vehicle, or any part of the vehicle, mechanically or electrically fails due to improper repair or negligence in maintenance work or quality control in a manner that could put any persons at risk; where any persons are put at risk due to the negligence or failure of any contract employee to perform standard vehicle inspection procedures; or where any persons are put at risk due to the failure of any contract employee to operate a vehicle within the designed specifications of the vehicle and the roadways.

Liquidated Damage per Incident
\$2,500

7.6 Benchmarking

Should the following benchmarks be met during any fiscal year of the contract (July 01- June 30), the contractor will be eligible for incentive funding over and above the management fee:
Scheduled service adherence

Should the contractor maintain close schedule adherence, as determined by Wave Transit’s Director of Operations, the contractor will be eligible for the following incentives. Service will be calculated by the fiscal year, starting July 1, 2020. Percent schedule adherence is calculated using scheduled vehicle revenue miles, versus actual vehicle revenue miles, as reported to the NTD.

Incentive	Percent of scheduled service not provided
\$5,000.00	0.19% - 0.13%
\$10,000.00	0.12% - 0.07%
\$15,000.00	0.06% - 0.01%
\$20,000.00	Less than 0.01%

Overtime

Should the contractor reduce non-scheduled fixed route bus operator overtime during any fiscal year of the contract, the contractor will be eligible for an incentive. Should the contractor reduce non-scheduled vehicle maintenance overtime during any fiscal year of the contract, the contractor will be eligible for an incentive. To be eligible for the incentive, staffing levels for fixed route operators will not be allowed to exceed the Authority’s authorization. Fiscal year 2020 will serve as the baseline in determining overtime percentage. Following the initial baseline year, the previous year will serve as the baseline for determining the incentive.

Incentive	Non-scheduled overtime
\$5,000.00	Less than 4.0%
\$10,000.00	Less than 3.0%
\$20,000.00	Less than 2.0%
\$30,000.00	Less than 1.0%

7.7 Invoicing

Monthly invoicing for the four (4) contract employees salary and benefits and the monthly management fee should be presented to the Authority’s Director of Finance and Administration no later than the last day of the month following the month to be billed. Terms are net thirty (30) days.

7.8 Expectations of Contractor

All New Hanover County based contract employees are expected to provide the Authority with a minimum of forty (40) hours per week (exclusive of vacation and/or reasonable leave) for the exclusive purpose of providing Authority business.

At a minimum, the following are expected to be provided by the contractor as part of the



management fee:

- Direct corporate support for resident contract employees (i.e., Regional or Area VP)
- Management of fixed route transit operators
- Management of vehicle maintenance
- Labor relations including but not limited to grievances, arbitrations and collective bargaining agreement negotiation
- Oversight and consult of Contractor General Manager
- Attendance at monthly meetings of the Authority to address contract compliance and provide monthly contractor report
- One visit per year by corporate vice president or similar level employee of the management company
- Two visits per year by corporate regional vice president or similar level employee of the management company
- Four visits per year by corporate employee with direct supervision of the contract management team
- Provide third party assistance to Authority on matters of safety, training, planning, budgeting and other public transportation management initiatives
- Staffing recommendation and review
- Policy manual management for union employees detailing work rules that are not incorporated in the CBA
- Policy manual management for non-union employees
- Fixed route and vehicle maintenance employee selection, screening, engagement and training
- Data collection and analysis on fixed route and maintenance performance
- Regular training for operators and staff to ensure ADA compliance and a high level of customer service is being met

7.9 Expectations of Contractor Operations General Manager and Contract Operations Assistant General Manager (Resident Positions)

- Collective bargaining agreement interpretation and implementation
- Grievance review and management
- General management of fixed route operators and maintenance personnel
- Data compilation and review including, but not limited to, the following:
 - Scheduled, actual, deadhead, and revenue vehicle miles and hours, totals and averages, as defined by the NTD
 - Vehicle inventories, including end of year mileages, and mileages based on service mode
 - NTD sampling, currently performed every three years, for computing Passenger Miles Traveled
 - Accurate passenger counts using GFI operator inputs
 - Directional Route Miles
 - Fuel consumption
 - Maintenance road calls resulting in major and other failures, as defined by the NTD, separated by mode
 - Overtime data by employee category (operators versus maintenance employees)
 - Inventory controls and accuracy measures
 - Quality control data
 - Various performance measures as determined by the Authority

- Oversight and management of Assistant Contractor Operations General Manager
- Oversight and management of non-union contract employees
- Oversight and management of the following
 - o payroll processing for fixed route operators and maintenance personnel
 - o payroll processing for contract salary personnel
 - o fare collection and counting
 - o dispatching and road supervision
 - o incentive management

7.10 Expectations of Contractor Vehicle Maintenance Manager and Assistant Contractor Vehicle Maintenance Manager (Resident Positions)

- Collective bargaining agreement interpretation and implementation
- Grievance review and management
- General management of maintenance personnel
- Data review
- Management of daily input of maintenance data into Authority software database
- Oversight and management of Assistant Vehicle Maintenance Manager
- Oversight and management of non-union contract vehicle maintenance employees
- Parts procurement and parts inventory management
- Oversight and management of the following
 - o payroll processing for maintenance personnel
 - o road calls
 - o preventive maintenance program
 - o FTA state of good repair mandate
 - o revenue vehicle cleanliness
 - o vehicle warranty tracking and management

7.11 Optional Services

Proposals should include the following:

- Cost to provide employee health, dental, vision and other benefits compliant with the CBA for union and non-union contract employees
- Cost to provide worker compensation insurance for all union and non-union contract employees

The Authority may or may not utilize these additional services. A census of employees and current coverages is attached as Attachment H. Current levels of employee benefits are attached. Proposers are responsible for ensuring that all proposals for optional services are compliant with the provisions of the CBA.

7.12 Structure

The contractor may create an independent corporation for its employees and costs associated with the operation of Wave Transit’s fixed route service. Employees of the contractor may directly employ personnel assigned to the Authority directly. In any and all instances, the contractor will serve as the employer of record for all employees under any agreement arising from this solicitation. A bank account to provide payroll and related services will be authorized by the Authority. Signatories and management of the bank account will be determined by mutual agreement of the parties. Funding for the payroll account will be provided by the Authority. No advance payment will be necessary or authorized. Incorporation costs and the cost of managing the corporation should be considered and incorporated in the proposed management fee.

7.13 Required Proposal Contents and Format

Submitted proposal must include the required items and follow the format outlined below. Instructions for each exhibit are provided. Proposal size shall be sufficient in size to demonstrate competence of the contractor and management team without being overly lengthy. Graphic illustrations may be included in the proposal. Information submitted is to be relevant to this RFP and this project. Brochures and other promotional materials may not be substituted for filling out the requested forms or information. The forms supplied, or the same format, shall be used to provide a uniform response to the information requested. Proposals that do not follow the listed format, or fail to include the required material, may be removed from consideration. Each of the following items must be included in all submitted proposals in sufficient detail to enable the Authority to make a determination as to the responsiveness and responsibility of the proposer. Please make certain that all items are completed and labeled as instructed. Material submitted with a proposal will not be returned.

7.14 Submission Checklist

7.14.1 Cover Letter

On company letterhead, briefly introduce the firm. List the contents of the proposal, i.e., exhibits and any optional items by title. Do not list promotional material. Provide the name of a contact person with telephone and facsimile (FAX) numbers. The Authority will only correspond with the contact person designated in the cover letter. The letter must be signed by an individual authorized to commit the firm's personnel and financial resources to the project and to execute legal documents on behalf of the firm.

7.14.2 Pricing

Complete the attached Pricing Schedules (Attachment D) covering the five (5) year contract period. The contract cost shall be stated as a firm, fixed amount per year. Pricing should include all costs for the four (4) employees to be provided under the agreement as outlined in Section 8. Pricing for the four contract employees should be all inclusive including, but not limited to: salary; fringe benefits; taxes; travel and any other costs for which the employee may be contracted to be reimbursed. No reimbursement for preparation of any RFP in response to this solicitation is authorized or implied. In no case will the Authority reimburse the contractor for costs not directly associated with the operation of the Authority.

7.14.3 Legal Status

Provide a brief summary of the legal status of the firm, i.e., sole proprietor, partnership, corporation, etc. If the proposer is a corporation, it must furnish a sufficient proof attesting to its corporate existence and identify officers with the Authority to sign contracts and other documents on behalf of the corporation.

7.14.4 History

Provide a brief history of the firm, describing experience, size and headquarters location.

7.14.5 Experience and References

Provide a list of three (3) current and/or former clients as references. Indicate the dates and length of time the firm has served each client, and describe the service provided, the size of the operation, and any other relevant factors. Include the name and telephone number of a contact person for each current and former client listed.

7.14.6 Litigation

List and briefly describe the circumstances and status of any litigation involving the firm from January 1, 2015 to the present. Include any breach of contractual agreements.

7.14.7 Corporate Support

Include the corporate manager, vice president or company official that will be responsible for oversight of the contract. Include corporate management location(s). List corporate support that will be available to the Authority as a benefit of the contract. Examples include but are not limited to: training; legal support; bus inspection services; accrued checking services; accounting support; public relations and marketing support; bus line inspections, etc. Include a cost for these services if available.

7.14.8 Contractor General Manager

This position will be the lead onsite contractor representative. Provide a detailed résumé for the Contractor General Manager candidate. Include education, accomplishments, and relevant experience with this type of contract arrangement and size of transit system. If proposing a situation where the Contractor General Manager will have duties that are not affiliated with Wave Transit, please provide the number of hours the Contractor General Manager will spend on these duties. It is expected that the Contractor General Manager spend a minimum of forty (40) hours per week on management directly related to the operation of Wave Transit.

7.14.9 Vehicle Maintenance Manager

This position will be the lead onsite contractor vehicle maintenance representative. Provide a detailed résumé for the Vehicle Maintenance Manager candidate. Include education, accomplishments, and relevant experience with this type of contract arrangement and size of transit system. If you are proposing a situation where the Vehicle Maintenance Manager will have duties that are not affiliated with Wave Transit, please provide the number of hours the Vehicle Maintenance Manager will spend on these duties. It is expected that the Vehicle Maintenance Manager spend a minimum of forty (40) hours per week on management directly related to the operation of Wave Transit.

7.14.10 Management Support Team

Describe how the firm will support the Contract General Manager's efforts with Wave Transit. Discuss the organizational resources and services that the firm will provide at no extra charge as part of the *Management Agreement*, and describe other services the firm can provide at additional cost. Include a proposed organizational chart of how the firm envisions its employees will be structured.

7.14.11 Employee Relations

Describe philosophy of employee relations. Include a sample of work rules with the understanding that the proposal may be superseded by the collective bargaining agreement. Discuss the expected relationship of contractor general manager with employees. Steps or programs that improve employee morale should also be listed.

7.14.12 Labor Relations

Discuss the firm's relationship with labor unions. Discuss the firm's approach to handling grievances. Discuss how labor negotiations will be conducted with Wave Transit's union. List any contracts that the firm now manages that are operating under expired labor contracts.

7.14.13 Training

If the proposer has training materials that would be relevant to this type of arrangement, please include with bid. If not, describe what training programs are available to the Authority either as a cost provided as part of the proposal or for an additional cost.

7.14.14 Maintenance Programs

Describe the firm's maintenance philosophy, including a discussion of vehicle preventive maintenance (tire maintenance, oil analysis, miles between inspection, etc.) Include samples of the firm's preventive maintenance forms. Include description of maintenance quality control procedures used at other properties managed by the firm. If one does not exist, describe how one would be prepared for Wave Transit. Under agreement with the NCDOT, the Authority utilizes Asset Works software for vehicle maintenance. The contractor will be required to use Asset Works. List any current or former properties managed by the firm that currently use or have used Asset Works.

7.14.15 Safety and Security Program

Include a copy of a system safety program the firm has developed for another transit system that may be suitable for Wave Transit. If one does not exist, describe how one would be prepared for Wave Transit. The program should include the safety of passengers and employees, protection of Wave Transit vehicles, buildings, facilities and equipment, and the security of Wave Transit's funds and financial assets.

7.14.16 Incentive Program

Briefly describe how your company implements any safety or other incentive programs for employees, including the estimated annual cost of the program that would be reimbursed by the Authority outside of the base cost.

7.14.17 Customer Service

Provide corporate philosophy concerning customer service initiatives as well as a description or a copy of corporate customer training program for employees

7.14.18 Transition Plan

- The transition plan must emphasize that Vendor will be fully responsible for all tasks associated with ensuring the operation of services under contract and will commence by July 1, 2020 and an understanding that the Vendor will not receive any dedicated reimbursement for costs associated with start-up activities.
- A description of how Vendor will assure a smooth transition of responsibilities and start-up of services, including hiring, training, vehicles, and other specific start-up activities.
- An acknowledgement that the selected Vendor will be required to provide a more comprehensive and detailed transition and start-up plan and schedule following award.

7.14.19 Insurance

Proposals are required to provide proof of the following insurance:

- General liability \$1,000,000 each occurrence, \$2,000,000 Aggregate
- Auto liability \$1,000,000 Combined Single Limit (CSL)
- Workers Compensation \$500,000/\$500,000/\$500,000
- Umbrella that is equal to or greater than insurance limits at WAVE of \$4,000,000 that layers over all three lines above
- Hold harmless agreement (to benefit of WAVE)
- Waiver of subrogation
- Clear contractual transfer of liability (a subcontractor agreement)
- Cyber Liability

7.14.20 Required Certifications and Affidavits

Any proposal that does not contain all of the completed required forms will be considered non-responsive and will not be eligible for consideration

7.15 Selection Criteria

Evaluation Criteria	Points
Price	40
Experience of Proposer	10
Client References	5
Proposed Management Team	20
Corporate Support	10
Corporate Programs	5
Transition Plan	10

8.0 REQUIRED CLAUSES

8.1 General

The work performed under this contract will be financed, in part, by grants provided under programs of the Federal Transit Administration. Citations to federal law, regulation, and guidance references include, but are not limited to, the Master Agreement FTA MA (15), dated October 1, 2008; FTA Circular 4220.1F, dated November 1, 2008; "Best Practices Procurement Manual", dated November 06, 2001, with revisions through October 2005; 49 CFR Part 18 (State and Local Governments) and 49 CFR Part 19 (Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations) and any subsequent amendments or revisions thereto.

THE FOLLOWING MAY BE USED SYNONYMOUSLY:

“BIDDER” AND “CONTRACTOR”

“PURCHASER” AND “OWNER” “RECIPIENT” AND “AUTHORITY”

8.2 No Federal Government Commitment or Liability to Third Parties

The Recipient and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

8.3 Ethics

Code or Standards of Conduct

At a minimum, the Authority agrees to, and assures that its Subrecipients will, establish and maintain a written Code or Standards of Conduct that:

8.3.1 Applicability

Applies to the individuals who have a present or potential financial interest, or other significant interest, such as a present or potential employment interest:

- (a) The Recipient or its Subrecipients’ officers, employees, board members, or agents engaged in the selection, award, or administration of any third party agreement,
- (b) The immediate family members or partners of those listed in Section 8.3.1(a), and
- (c) An entity or organization that employs or is about to employ any person that has a relationship with the Recipient or its Subrecipient listed in Sections 8.3.1(a) and 8.3.1(b)

8.3.2 Prohibitions

Prohibits those individuals listed above in Section 8.3.1(a) of the Master Agreement from the following:

- (a) Third Party Agreements: Engaging in any activities involving the Recipient or any of its Subrecipients' present or potential Third Party Participants at any tier, including selection, award, or administration of a third party agreement in which the individual has a present or potential financial or other significant interest, and
- (b) Gift Acceptance: Accepting a gratuity, favor, or anything of monetary value from a present or potential Third Party Participant in the Recipient's Underlying Project, unless the gift is unsolicited, and has an insubstantial financial or nominal intrinsic value, and

8.3.3 Violations

As permitted by State or local law or regulations, the Recipient or its Subrecipients' Code or Standards of Conduct will establish penalties, sanction, or other disciplinary actions for violations that apply to:

- (a) Those individuals listed in section 8.3.1(a) of the Master Agreement, and
- (b) The Recipient or Subrecipient's Third Party Participants,

8.4 Government-wide Debarment and Suspension

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AUTHORITY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer.

The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

The Authority agrees and assures that its third party contractors and lessees will review the "Excluded Parties Listing System" at the System for Award Management (SAM)

<https://sam.gov/> before entering into any subagreement, lease or third party contract.

The Owner will be reviewing all third party contractors under the Excluded Parties Listing

System at the System for Award Management (SAM) before entering into any contracts.

8.5 Bonus or Commission

The Authority affirms that it has not paid, and agrees that it will not pay, any bonus or commission to obtain Federal funding for this Project.

8.6 Lobbying

8.6.1 The Recipient understands and agrees that neither it nor any Third Party Participant will use Federal funds to influence any officer or employee of a Federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Project or the Underlying Agreement for the Project, including any award, extension or modification, according to the following: (1) Laws, Regulations, and Guidance.

- (a) 31 U.S.C. § 1352, as amended,
- (b) U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended, and
- (c) Other applicable Federal laws, regulations, and guidance prohibiting the use of Federal funds for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a State legislature, except

8.6.2 If permitted by applicable Federal law, regulations, or guidance, such as lobbying activities described above that may be undertaken through the Recipient's or Subrecipient's proper official channels,

(a) Political Activity

The Recipient understands and agrees to comply with:

- (1) The Hatch Act, 5 U.S.C. chapter 15, which limits the political activities of State and local government agencies financed in whole or in part with Federal funding, including the political activities of State and local government officers and employees whose principal governmental employment activities are financed in whole or in part with Federal funding,
- (2) U.S. Office of Personnel Management regulations, "Political Activity of State or Local Officers or Employees," 5 C.F.R. part 151, and
- (3) 49 U.S.C. § 5323(l)(2) and 23 U.S.C. § 142(g), which limits the applicability of the Hatch Act, as follows:
 - (a) The Hatch Act does not apply to nonsupervisory employees of a public transportation system, or any other agency or entity performing related functions, based upon award of Federal financial assistance under 49 U.S.C. chapter 53 or 23 U.S.C. § 142(a)(2), but
 - (b) Notwithstanding section 3.e(3)(a) of the Master Agreement above, the Hatch Act does apply to a nonsupervisory employee if imposed for a reason other than assistance under 49 U.S.C. chapter 53 or 23 U.S.C. § 142(a)(2)

The requisite "Lobbying Certification" is included as ATTACHMENT A (attach Standard Form-LLL if necessary) and must be executed for contracts of \$100,000 or more and prior to the award of the contract.

8.7 Program Fraud and False or Fraudulent Statements or Related Acts.

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the

underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

8.8 Access to Third Party Contract Records

8.8.1 Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

8.8.2 Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

8.8.3 Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

8.8.4 Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

8.9 Changes to Federal Requirements and Guidance

8.9.1 New Requirements and Guidance
New Federal requirements and guidance may become effective after the FTA Authorized Official signs the Recipient's Underlying Agreement awarding funds for the Project, and apply to the Recipient or its Project

8.9.2 Modifications
Federal requirements and guidance that apply to the Recipient or its Project when the FTA Authorized Official awards Federal funds for the Recipient's Underlying Agreement may be modified from time to time, and apply to the Recipient or its Project, and

8.9.3 Most Recent Provisions Take Precedence
The most recent and applicable Federal requirements will apply to the Recipient or its Project, except as FTA determines otherwise in writing

8.10 Termination or Cancellation of Contract

8.10.1 Termination for Convenience (General Provision)

The AUTHORITY may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the AUTHORITY's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to AUTHORITY to be paid the Contractor. If the Contractor has any property in its possession belonging to AUTHORITY, the Contractor will account for the same, and dispose of it in the manner AUTHORITY directs.

8.10.2 Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the AUTHORITY may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the AUTHORITY that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the AUTHORITY, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

8.10.3 Opportunity to Cure (General Provision)

The AUTHORITY, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to AUTHORITY's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from AUTHORITY setting forth the nature of said breach or default, AUTHORITY shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude AUTHORITY from also pursuing all available remedies against Contractor and its sureties for said breach or default.

8.10.4 Waiver of Remedies for any Breach

In the event that AUTHORITY elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by AUTHORITY shall not limit AUTHORITY's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

8.10.5 Termination for Convenience (Professional or Transit Service Contracts)

The AUTHORITY, by written notice, may terminate this contract, in whole or in part, when it is in the AUTHORITY's interest. If this contract is terminated, the AUTHORITY shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

8.11 Contracting with Disadvantaged Business Enterprises

8.11.1 Any contract arising from this solicitation is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs* and

with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101. The Authority has an FTA approved DBE goal of 1.75% for the period of July 01, 2019 thru June 30, 2021.

- 8.11.2 The Authority currently has an agreement with the NC Department of Transportation authorizing the Department to serve as the Unified Certification Program (UCP) authorizing agency for the Authority. To count toward the DBE goal, all DBE contractors and subcontractors must be certified with NCDOT. Information regarding the NCDOT Disadvantaged Business Enterprise Program is available at the following URL:
<https://connect.ncdot.gov/business/SmallBusiness/Pages/default.aspx>
- 8.11.3 Good faith efforts must be identified if the proposer cannot meet the Authority's adopted DBE goal of 1.75%.
- 8.11.4 The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy the Authority deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- 8.11.5 The successful bidder/offeror will be required to report its DBE participation obtained. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than thirty (30) days after the contractor's receipt of payment for that work from the Authority. In addition, the Contractor is required to return any retainage payments to those subcontractors within thirty (30) days after the subcontractor's work related to this contract is satisfactorily completed.
- 8.11.6 The contractor must promptly notify the Authority whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Authority.

8.12 Breaches and Dispute Resolution

- 8.12.1 Disputes
Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s Executive Director. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision.
- 8.12.2 Performance During Dispute - Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.
- 8.12.3 Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his

employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

8.12.4 Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the (Recipient) is located.

8.12.5 Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Recipient or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

8.13 Clean Air Act & Federal Water Pollution Control Act

8.13.1 The Contractor agrees:

- 1) It will not use any violating facilities;
- 2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
- 3) It will report violations of use of prohibited facilities to FTA; and
- 4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

8.14 Reserved

8.15 Contract Work Hours and Safety Standards

8.15.1 Overtime requirements

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

8.15.2 Violation; liability for unpaid wages; liquidated damages

In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

8.15.3 Withholding for unpaid wages and liquidated damages

The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or

subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

8.15.4 Subcontracts

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

8.16 Transit Employee Protective Provisions

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. *U.S. DOL Certification.* Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.
2. *Special Warranty.* When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.
3. *Special Arrangements.* The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

8.17 Civil Rights

8.17.1 Nondiscrimination

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue. The third party contractor and all lower tiers shall comply with all provisions of FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients", dated October 01, 2012. A copy of the Authority Title VI Policy is available at: <https://www.wavetransit.com/wp-content/uploads/2018/01/Title-VI-Program-November-10-2017.pdf>

8.17.2 Equal Employment Opportunity

The following equal employment opportunity requirements apply to the underlying contract:

- (a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil

Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the Contractor agrees to comply and assures the compliance of each subcontractor at any tier of the Project, with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000(e) note, and also with any Federal laws, regulations, and directives affecting construction undertaken as part of the Project.

8.17.3 Nondiscrimination on the Basis of Age

The Contractor agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 et seq., and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance, 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625.

8.17.4 Access for Individuals with Disabilities

The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities

Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the Contractor agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the Federal Government determines otherwise in writing, as follows:

- (1) U.S. DOT regulations "Transportation Services for Individuals with Disabilities (ADA)" 49 C.F.R. Part 37;
- (2) U.S. DOT regulations "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F. R. Part 38;
- (4) U.S. DOJ regulations "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities." 28 C.F.R. Part 36;
- (6) U.S. GSA regulations "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 49 C.F.R. Part 64, Subpart F;
- (9) U.S. Architectural and Transportation Barriers Compliance Board regulations, "Electronic and Information Technology Accessibility Standards." 36 C.F.R. Part 1194;
- (10) FTA regulations, "Transportation of Elderly and Handicapped Persons," 49 C.F.R. part 609; and
- (11) Federal civil rights and nondiscrimination directives implementing the foregoing regulations.

8.17.5 Access to Services for Persons with Limited English Proficiency

The Contractor agrees to comply with Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 *Fed. Reg.* 74087, December 14, 2005.

8.17.6 Environmental Justice

The Contractor agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note.

8.17.7 Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections

To the extent applicable, the Contractor agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, with the Comprehensive Alcohol Abuse and

Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 201 *et seq.*, and any amendments to these laws.

8.17.8 Other Nondiscrimination Statutes

The Contractor agrees to comply with all applicable requirements of any other nondiscrimination statute(s) that may apply to this Contract.

8.17.9 The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

8.18 Charter Service and School Bus Operations

8.18.1 Charter Service Operations

The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

8.18.2 School Bus Operations

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605;
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities. The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

8.19 Drug and Alcohol Use and Misuse and Testing

8.19.1 FTA's drug and alcohol rules, 49 CFR 653 and 654, respectively, are unique among the regulations issued by FTA. First, they require recipients to ensure that any entity performing a safety-sensitive function on the recipient's behalf (usually subrecipients and/or contractors) implement a complex drug and alcohol testing program that complies with Parts 653 and 654. Second, the rules condition the receipt of certain kinds of FTA funding on the recipient's compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function on the recipient's behalf is in compliance with the rules. Third, the rules do not specify how a recipient ensures that its subrecipients and/or contractors comply with them.

How a recipient does so depends on several factors, including whether the contractor is covered independently by the drug and alcohol rules of another Department of Transportation operating administration, the nature of the

relationship that the recipient has with the contractor, and the financial resources available to the recipient to oversee the contractor's drug and alcohol testing program. In short, there are a variety of ways a recipient can ensure that its subrecipients and contractors comply with the rules.

Therefore, FTA has developed three model contract provisions for recipients to use "as is" or to modify to fit their particular situations.

8.19.2 Explanation of Model Contract Clauses

Under Option 1, the recipient ensures the contractor's compliance with the rules by requiring the contractor to participate in a drug and alcohol program administered by the recipient. The advantages of doing this are obvious: the recipient maintains total control over its compliance with 49 CFR 653 and 654. The disadvantage is that the recipient, which may not directly employ any safety-sensitive employees, has to implement a complex testing program. Therefore, this may be a practical option only for those recipients which have a testing program for their employees, and can add the contractor's safety-sensitive employees to that program.

Under Option 2, the recipient relies on the contractor to implement a drug and alcohol testing program that complies with 49 CFR 653 and 654, but retains the ability to monitor the contractor's testing program; thus, the recipient has less control over its compliance with the drug and alcohol testing rules than it does under option 1. The advantage of this approach is that it places the responsibility for complying with the rules on the entity that is actually performing the safety-sensitive function. Moreover, it reserves to the recipient the power to ensure that the contractor complies with the program. The disadvantage of Option 2 is that without adequate monitoring of the contractor's program, the recipient may find itself out of compliance with the rules.

Under option 3, the recipient specifies some or all of the specific features of a contractor's drug and alcohol compliance program. Thus, it requires the recipient to decide what it wants to do and how it wants to do it. The advantage of this option is that the recipient has more control over the contractor's drug and alcohol testing program, yet it is not actually administering the testing program. The disadvantage is that the recipient has to specify and understand clearly what it wants to do and why.

8.19.3 Drug and Alcohol Testing Option 1

The contractor agrees to participate in the Cape Fear Public Authority's drug and alcohol program established in compliance with 49 CFR 653 and 654.

8.19.4 Drug and Alcohol Testing Option 2

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the NCDOT, or the Cape Fear Public Transportation Authority, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 and to submit the Management Information System (MIS) reports before March 1st to Authority's Deputy Director. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration

Grants and Cooperative Agreements," which is published annually in the Federal Register.

8.19.5 Drug and Alcohol Testing Option 3

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the Cape Fear Public Transportation Authority, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before and to submit the Management Information System (MIS) reports to the Authority's Deputy Director. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees further to (a) adopt as its policy statement as required under 49 CFR 653 and 654; OR (b) submit for review and approval before a copy of its Policy Statement developed to implement its drug and alcohol testing program

8.20 Energy Conservation

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

8.21 Protest Procedures

To ensure that protests are received and processed effectively the Authority shall provide written bid protest procedures upon request. All protest requests and decisions must be in writing within five (5) days from the Authority announcing the award

The procedure shall be as follows:

1. Within five (5) days of announcement of award, a written statement is delivered to the Authority outlining the reason for the protest.
2. The Authority, upon request of the protesting party may review the protest with the protester. Follow-up phone conversations and/or meeting may be requested.
3. The Authority Executive Director informs the Authority Attorney that a formal protest has been received in the form of a written memo along with a copy of the protest letter.
4. The Executive Director, Finance Director and Attorney (Protest Committee) shall review the protest and justification for the award.
5. The Protest Committee makes a determination concerning the protest after a complete review of the data and interviews with the protester. The protester is notified, in writing, of the decision of the committee.
6. Should the Protest Committee deny the protest, the protester may file for an appeal by the Authority. The appeal must be in writing and filed with the Executive Committee within ten (10) working days of the denial. Reviews of protests by the Authority will be limited to the Authority's failure to have or follow its protest procedures, or its failure to review a complaint or protest.
8. The protester may appear before Authority and state the reason for the protest.
9. The decision of Authority is final. However the protester may have other remedies such as an appeal to the NCDOT or the FTA, if State and/or Federal funds are included

in the purchase. Other legal remedies, such as the court system, are also available to the protester should a protest be denied.

8.21.1 Bid Protest Procedures for Items Purchased With FTA and/or NCDOT Grants

Bids may be protested to FTA only after all administrative remedies on the local level have been exhausted (see above). Only projects that include FTA funding are appealable to the FTA. Prior to the bid opening date, a potential bidder may protest to the FTA the Authority's determination on the vendors request for approved equal, or clarification of the specifications. All protests concerning the bid language or the evaluation procedure must be filed before this date. Such a protest must be in writing and received by the FTA Regional Office prior to the bid opening. A vendor must inform the procuring agency that it is seeking an FTA review. The protest may only deal with a matter previously protested to the Authority. Protests concerning the bid language or the evaluation procedure must be filed prior to the bid opening. Following the bid opening, but prior to bid award, a bidder may only file a protest with the Authority concerning a violation of Federal Law, or failure of the Authority to follow the procedures outlined in these specifications. Such a protest must be in writing and must be received by the Authority not later than five (5) days after the Authority has received bids. Following the answer to the protest by the Authority, the bidder may protest the Authority's decision to FTA. Such a protest must be in writing and received by the FTA Regional Office not later than five (5) federal working days after the Procuring Agency answered the protest. The protest procedure contained in FTA circular 4220.1F will govern FTA's consideration of a protest.

Bids may be protested to NCDOT only after all administrative remedies on the local level have been exhausted (see above). Only projects that include NCDOT funding are appealable to NCDOT. All protest and decisions must be in writing. Reviews of protests by NCDOT will be limited to the Authority's failure to have or follow its protest procedures, or its failure to review a complaint or protest. An appeal to NCDOT must be received by NCDOT within three (3) working days of the date the protester knew or should have known of the violation.

Violations of Federal law or regulation will be handled by the complaint process stated within that law or regulation. Violations of State or local law or regulations will be under the jurisdiction of State or local authorities.

8.21.2 Purchases Using Federal Transit Funds

The Authority's purchasing procedures for all purchases which are paid for with FTA funds shall comply with the latest revision of FTA circular FTA C 4220.1F, Third Party Contracting Requirements (attached), the U. S. DOT purchase requirements (attached), Federal Transit Administration, BEST PRACTICES PROCUREMENT MANUAL, and shall include all required contract clauses as indicated in the attached Federal Transit Administration, Required Contract Clauses.

The purchases shall comply with the latest revision of these documents and/or any other requirements subsequently passed by the FTA, USDOT or other applicable Federal agencies.

It is the responsibility of the requisitioner to notify Purchasing that federal funds are being used for the purchase or contract.

8.22 National Intelligent Transportation Systems Architecture and Standards

To the extent applicable, the Owner agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by section 5206(e) of TEA-21, 23 U.S.C. § 502 note, and comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects"

66 Fed. Reg. 1455 *et seq.*, January 8, 2001, and other Federal requirements that may be issued (*applicable to ITS projects*).

8.23 Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

8.24 Hold Harmless

Except as prohibited or otherwise limited by State law, the Contractor agrees to indemnify, save, and hold harmless the Owner of this Contract and its officers, agents, and employees acting within the scope of their official duties against any liability, including all claims, losses, costs and expenses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor or subcontractor in the performance of this contract and that are attributable to the negligence or intentionally tortuous acts of the contractor.

The Contractor represents and warrants that it shall make no claim of any kind or nature against the Owner or its agents who are involved in the delivery or processing of contractor goods to the Owner. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

8.25 Seat Belt Usage

Pursuant to Executive Order No. 13043, April 16, 1997, 23 U. S. C. § 402, the Contractor is encouraged to adopt on the job seat belt use policies and programs for its employees when operating company owned, rented, or personally-operated vehicles and include this provision in any third party subcontracts entered into under this project.

8.26 North Carolina State Ethics Requirement

By Executive Order 24, issued by Governor Perdue, and N.C.G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted

Executive Order 24.

To be added near the signature portion of all contracts let by the Governor's Cabinet Agencies and the Office of the Governor:

"N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization."

APPENDIX 1 - FTA THIRD PARTY CONTRACT PROVISIONS

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

PROVISION	COMMENTS	MASTER AGREEMENT REFERENCE (based on FA MA(17) 10-1-2010)
All FTA Assisted Third Party Contracts and Subcontracts		
No Federal Government Obligations to Third Parties (Use of Disclaimer)		§ 2.f
False or Fraudulent Statements or Claims – Civil and Criminal Fraud		§ 3.f
Access to Third Party Contract Records		§ 15.t
Changes to Federal Requirements		§ 2.c(1)
Civil Rights (Title VI, ADA, EEO (except special DOL construction clause))		§ 12
Disadvantaged Business Enterprises (DBE's)	Contract awarded on the basis of a bid/proposal offering to use DBEs.	§ 12.d
Incorporation of FTA Terms	Per FTA C 4220.1F.	§ 15.a
Awards Exceeding \$10,000		
Terminations	If 49 CFR Part 18 applies.	§ 11 and § 15.a, which incorporate 49 CFR Part 18
Special EEO provision for construction contracts	If 49 CFR Part 18 or Part 19 indicate that the DOL EEOC regulations at 41 C.F.R. Chapter 60 apply.	§ 15.a, which incorporates 49 CFR Part 18 and Part 19
Awards Exceeding \$25,000		
Debarment and Suspension		§ 3.b
Awards Exceeding the Simplified Acquisition Threshold (\$100,000) (As of February 2011, OMB has not to date adopted the FAR clause 2.101 \$150,000 standard for grants.)		
Buy America	When tangible property or construction will be acquired.	§ 14.a
Resolution of Disputes, Breaches, or Other Litigation		§ 56
Awards Exceeding \$100,000 by Statute		
Lobbying	OMB Office of Federal Financial Management has not adopted the FAR clause 2.101 \$150,000 simplified acquisition threshold standard.	§ 3.d
Clean Air		§ 25.b
Clean Water		§ 25.c

Transport of Property or Persons		
Cargo Preference	When acquiring property suitable for shipment by ocean vessel.	§ 14.b
Fly America	When property or persons are transported by air between U.S. and foreign destinations, or between foreign locations.	§ 14.c
Construction Activities		
Construction Employee Protections – Davis-Bacon Act	For contracts exceeding \$2,000.	§ 24.a(1)
Construction Employee Protections – Contract Work Hours & Safety Standards Act	For contracts exceeding \$100,000. OMB Office of Federal Financial Management has not adopted the FAR clause 2.101 \$150,000 simplified acquisition threshold standard.	§ 24.a(2)
Construction Employee Protections – Sec. 1 Copeland Anti-Kickback Act – Sec. 2 Copeland Anti-Kickback Act	All contracts All construction contracts exceeding \$2,000.	§ 24.a(3)
Bonding for Construction Activities Exceeding \$100,000	5% bid guarantee bond. 100% performance bond. Payment bond equal to: – 50% for contracts < \$1M. – 40% for contracts >\$1M – < \$5M. – \$2.5M for contracts > \$5M.	§ 15.o(1)
Seismic Safety	Construction contracts for new buildings or for existing buildings.	§ 23.e
Nonconstruction Activities		
Nonconstruction Employee Protection – Contract Work Hours & Safety Standards Act	For all turnkey, rolling stock, and operational contracts (except transportation services contracts and open market contracts) exceeding \$100,000. OMB Office of Federal Financial Management has not adopted the FAR clause 2.101 \$150,000 simplified acquisition threshold standard.	§ 24.b
Transit Operations		
Transit Employee Protective Arrangements		§ 24.d
Charter Bus Operations		§ 28
School Bus Operations		§ 29
Drug Use and Testing	Safety sensitive functions.	§ 32.b
Alcohol Misuse and Testing	Safety sensitive functions.	§ 32.b

Planning, Research, Development, and Demonstration Projects		
Patent Rights		§ 17
Rights in Data and Copyrights		§ 18
Special Notification Requirements for States		
Special Notification Requirement for States		§ 38
Miscellaneous Special Requirements		
Energy Conservation		§ 26
Recycled Products	Contracts when procuring \$10,000 or more per year of items designated by EPA.	§ 15.k
Conformance with National ITS Architecture	Contracts and solicitations for ITS projects.	§ 15.m
ADA Access	Contracts for rolling stock or facilities construction/renovation.	§ 12.g
Assignability Clause	Procurements through assignments.	§ 15.a, which incorporates 49 CFR Part 18 and 49 CFR Part 19

APPENDIX 2 - APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase	Construction	Materials & Supplies
No Federal Government Obligations to Third Parties (by Use of a Disclaimer)	All	All	All	All	All
False Statements or Claims Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000 if 49 CFR Part 18 applies	>\$10,000 if 49 CFR Part 18 applies	>\$10,000 if 49 CFR Part 18 applies	>\$10,000 if 49 CFR Part 18 applies	>\$10,000 if 49 CFR Part 18 applies
Civil Rights (Title VI, ADA, EEO except Special DOL EEO clause for construction projects)	All	All	All>\$10,000	All	All
Special DOL EEO clause for construction projects				>\$10,000	
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$100,000 As of Feb. 2011, FTA has not adopted the FAR 2.101 \$150,000 standard	>\$100,000 As of Feb. 2011, FTA has not adopted the FAR 2.101 \$150,000 standard	>\$100,000 As of Feb. 2011, FTA has not adopted the FAR 2.101 \$150,000 standard
Resolution of Disputes, Breaches, or Other Litigation	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Water	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Cargo Preference			Transport by ocean vessel	Transport by ocean vessel	Transport by ocean vessel
Fly America	Foreign air transp. /travel	Foreign air transp. /travel	Foreign air transp/travel	Foreign air transp/travel	Foreign air transp/travel
Davis-Bacon Act				>\$2,000 (also ferries)	
Contract Work Hours and Safety Standards Act		>\$100,000 (transportation services excepted)	>\$100,000	>\$100,000 (also ferries)	



Copeland Anti-Kickback Act Section 1 Section 2				All > \$2,000 (also ferries).	
Bonding				\$100,000	
Seismic Safety	A&E for new buildings & additions			New buildings & additions	
Transit Employee Protective Arrangements		Transit operations			
Charter Service Operations		All			
School Bus Operations		All			
Drug Use and Testing		Transit operations			
Alcohol Misuse and Testing		Transit operations			
Patent Rights	R & D				
Rights in Data and Copyrights	R & D				
Energy Conservation	All	All	All	All	All
Recycled Products		EPA-selected items \$10,000 or more annually		EPA-selected items \$10,000 or more annually	EPA-selected items \$10,000 or more annually
Conformance with ITS National Architecture	ITS projects	ITS project	ITS projects	ITS projects	ITS projects
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States	Limited to States	Limited to States	Limited to States	Limited to States

APPENDIX 3 - PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER - MATRICES
CERTIFICATIONS, REPORTS, AND FORMS

CERTIFICATIONS, REPORTS, AND FORMS	COMMENTS	REGULATORY REFERENCE
Bus Testing Certification	All procurements of new model transit buses and vans and existing models being modified with a major changeover changes.	49 CFR Part 665
TVM Certifications	All rolling stock procurements.	49 CFR Part 26
Buy America Certification	Procurements of steel, iron or manufactured products exceeding \$100,000.	49 CFR Part 661
Preaward Review	FTA Annual Certification for any rolling stock procurement.	49 CFR Part 663
Preaward Buy America Certification	Rolling stock procurements exceeding procurements exceeding \$100,000.	49 CFR Part 663
Preaward Purchaser's Requirement	All rolling stock procurements.	49 CFR Part 663
Post Delivery Review	FTA Annual Certification for any rolling stock procurement.	49 CFR Part 663
Post Delivery Buy America Certification	Rolling stock procurements exceeding procurements exceeding \$100,000.	49 CFR Part 663
Post Delivery Purchaser's Requirement	All rolling stock procurements to the extent required by Federal law and regulations.	49 CFR Part 663
On-Site Inspector's Report	Rolling Stock except for procurements of: -10 or fewer vehicles; - 20 or fewer vehicles serving rural (other than urbanized) areas or urbanized areas or 200,000 people or fewer; - any amount of primary manufactured standard production and unmodified vans that after visual inspection and road testing meet the contract specifications.	49 CFR Part 663
Federal Motor Vehicle Safety Standards Preaward Review and Post Delivery	Motor vehicle procurements (49 CFR 571).	49 CFR Part 663
Lobbying	Procurements exceeding \$100,000.	49 CFR Part 20 OMB Office of Federal Financial Management has not adopted FAR 2.101 \$150,000 simplified acquisition threshold standard.
Standard Form LLL and Quarterly Updates (when required)	Procurements exceeding \$100,000 where contractor engages in lobbying activities.	49 CFR Part 20 OMB Office of Federal Financial Management has not adopted FAR 2.101 \$150,000 simplified acquisition threshold standard.

APPENDIX 4 - PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER - MATRICES
OTHER MATTERS

OTHER MATTERS	COMMENTS	STATUTORY OR REGULATORY REFERENCES
Contract Administration System		49 CFR § 18.36(b)(2) 49 CFR § 19.47
Record of Procurement History		49 CFR § 18.36(b)(9) 49 CFR § 19.47
Protest Procedures		49 CFR § 18.36(b)(12)
Selection Procedures		49 CFR § 18.36(c)(3)
Cost/Price Analysis		49 CFR § 18.36(f) 49 CFR § 19.45
Justification for Noncompetitive Awards	If Applicable	49 CFR § 18.36(b)(9) by implication 49 CFR § 19.46(b)
No Excessive Bonding Requirements		49 CFR § 18.36(h) 49 CFR § 19.48(c)(5)
No Exclusionary Specifications		49 U.S.C. § 5325(h)
No Geographic Preferences	Except for A&E Services	49 CFR § 18.36(c)(2)

**ATTACHMENT A
CERTIFICATION REGARDING LOBBYING**

(To be submitted with all bids or offers exceeding \$100,000; must be executed prior to Award)

The undersigned _____ certifies, to the best of his or her knowledge and belief, that:
(Contractor)

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding to any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transactions imposed by 31, U.S.C. 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Section A 3801 *et seq.*, apply to this certification and disclosure, if any.

Date

Signature of Contractor's Authorized Official

Name and Title of Contractors Authorized Official

Subscribed and sworn to before me this ___ day of _____, 20___, in the State of _____ and
the County of _____.

Notary Public _____

My Appointment Expires _____



ATTACHMENT B
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY and VOLUNTARY EXCLUSION
LOWER TIER COVERED TRANSACTION

- (1) The prospective lower tier participant (Bidder/Contractor) certifies, by submission of this bid or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) The prospective Bidder/Contractor also certifies by submission of this bid or proposal that all subcontractors and suppliers (this requirement flows down to all subcontracts at all levels) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (3) Where the prospective lower tier participant (Bidder/Contractor) is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid or proposal.

The lower tier participant (Bidder/Contractor), _____, certifies or affirms the truthfulness and accuracy of this statement of its certification and disclosure, if any.

DATE _____

SIGNATURE _____

COMPANY _____

NAME _____

TITLE _____

State of _____

County of _____

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public _____

My Appointment Expires _____



**ATTACHMENT C
ACKNOWLEDGEMENT OF ADDENDA**

The following form shall be completed and included in the bid. Failure to acknowledge receipt of all addenda may cause the bid to be considered nonresponsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Offer.

The undersigned acknowledges receipt of the following addenda to the documents:

Addendum No.	_____	,	Dated	_____
Addendum No.	_____	,	Dated	_____
Addendum No.	_____	,	Dated	_____
Addendum No.	_____	,	Dated	_____

Name of Proposer

Address

City, State, Zip

Signature of Authorized Official

Date

**ATTACHMENT D
PRICING SHEET
All costs are Not to Exceed (NTE)**

- | | |
|---|-----------------|
| 1. Management cost for year one July 01, 2020 - June 30, 2021 | \$ _____ |
| 2. Management cost for year two July 01, 2021 - June 30, 2022 | \$ _____ |
| 3. Management cost for year three July 01, 2022 - June 30, 2023 | \$ _____ |
| 4. Management cost for year four July 01, 2023 - June 30, 2024 | \$ _____ |
| 5. Management cost for year five July 01, 2024 - June 30, 2025 | \$ _____ |
| 6. Worker compensation cost for year one July 01, 2020 - June 30, 2021 | \$ _____ |
| 7. Worker compensation cost for year two July 01, 2021 - June 30, 2022 | \$ _____ |
| 8. Worker compensation cost for year three July 01, 2022 - June 30, 2023 | \$ _____ |
| 9. Worker compensation cost for year four July 01, 2023 - June 30, 2024 | \$ _____ |
| 10. Worker compensation cost for year five July 01, 2024 - June 30, 2025 | \$ _____ |
| 11. Group health insurance cost for year one July 01, 2020 - June 30, 2021 | \$ _____ |
| 12. Group health insurance cost for year two July 01, 2021 - June 30, 2022 | \$ _____ |
| 13. Group health insurance cost for year three July 01, 2022 - June 30, 2023 | \$ _____ |
| 14. Group health insurance cost for year four July 01, 2023 - June 30, 2024 | \$ _____ |
| 15. Group health insurance cost for year five July 01, 2024 - June 30, 2025 | \$ _____ |

ATTACHMENT E
COLLECTIVE BARGAINING AGREEMENT

MEMORANDUM OF AGREEMENT

BETWEEN

TRANSIT MANAGEMENT OF
WILMINGTON

DBA

Wave



AND

AMALGAMATED TRANSIT UNION
LOCAL UNION 1328



REPRESENTING

OPERATORS – MAINTENANCE EMPLOYEES

Effective June 12, 2016, through June 30, 2019

WILMINGTON, NEW HANOVER COUNTY, NORTH CAROLINA

MEMORANDUM OF AGREEMENT

THIS AGREEMENT, entered into by and between Transit Management of Wilmington hereinafter called the “Company”, its Successors, Lessees and Assigns, party of the first part, at its Wilmington, North Carolina location, operated under contract to the Cape Fear Public Transportation Authority, d/b/a WAVE, and LOCAL UNION 1328 of the AMALGAMATED TRANSIT UNION, AFL-CIO, CLC, party of the second part, hereinafter called the “UNION”.

WITNESSETH: That in the operation of the buses in and about Wilmington, North Carolina by the party of the first part, and parties to this agreement hereto, in consideration of the mutual covenants and agreements herein contained, contract and agree with each other as follows, to wit:

ARTICLE 1 RECOGNITION

SECTION 1. The Company recognizes the Union as the sole collective bargaining agent for all employees classified as Bus Operators and Maintenance Employees in Wilmington, North Carolina, excluding clerical and supervisory employees, and agrees to meet and treat with the duly accredited officers and committees that are elected or selected by the Union upon all questions and grievances that may arise under this Agreement. Nothing in this agreement shall deny any individual employee or group of employees their right to present grievances directly to the Company and to have such grievances adjusted as long as the adjustment is not inconsistent with the term of this Agreement; and provided that representatives of the Union have been given an opportunity to be present at any such adjustment.

SECTION 2. Employees of the Company, members of said Union agree and this Union agrees, that said members will perform loyal and efficient service in their departments of work, that they will be attentive to their duties; that they will observe and conform to the rules and regulations of the Company; that they will comply with the instructions and directions of the Officer of the Company over them; that they will operate and repair the buses carefully and with the utmost regard at all times for the safety of the passengers and the public in a continuous program of increased patronage; that they will give the riding public courteous and respectful consideration and treatment at all times; that they will use their influence and best endeavors to protect the property of the Company and all of its interest. The Union agrees further for itself, and for its individual members, to give the Company the fullest cooperation to the end that the transportation system may grow, its service to the public increase in efficiency, volume and scope, and the revenue and resulting profit from its operation become greater.

SECTION 3. The Company and the Union agree to abide by all local, state and federal laws that are applicable to the agreement.

ARTICLE 2. WORK ENVIROMENT

SECTION 1. The Company, being charged with the duty of providing a safe, reliable and dependable transportation service, to the public in the area that it serves, and being charged with the highest degree of care in, and have the responsibility of, managing the operations of the Company with such efficiency and safety that transportation service shall be available

without interruption, and in general to promote the protection of life and property, retains the full right to manage the business and the properties of the Company. Nothing in this agreement shall abridge the right of the Company to hire employees, to establish reasonable rules, to discipline and discharge employees for just cause. Subject to the provisions of this agreement, to determine how many persons it will employ or retain in its employ, and further, to exercise full control of the conduct of its business to the end that the business shall be safely and efficiently managed and that proper service shall be rendered to the public.

SECTION 2. Except in cases of emergency requiring prompt implementation, a copy of any new rule or policy will be posted no less than ten (10) calendar days prior to implementation. In order to provide the Union an opportunity to review and comment on any new rule or policy, the company shall provide the Union a copy of such no less than ten (10) calendar days prior to the date the notice to employees is posted.

ARTICLE 3. PROBATION.

SECTION 1. An employee shall be on probation for the first 720 hours of working from the date the employee enters revenue service. The probationary period shall constitute a trial period during which the Company will determine the employee's ability, competency, fitness and other qualifications that the Company determines, in its sole judgment, is needed to do his or her required job. However, the Company has the right to discipline or discharge, which will not be subject to the grievance and arbitration procedure.

ARTICLE 4. WORK FORCE REDUCTION

SECTION 1. When forces are reduced, employees will be taken off in the reverse order of their seniority in their classification, provided, however, a MAINTENANCE employee in a higher classification, if qualified, shall be given the opportunity to displace a junior employee in a lower classification. When employees are again needed the employees laid off during the previous thirty-six (36) month period shall be offered reemployment in accordance with their length of previous service with the Company, provided they can, in the judgment of the Company, qualify for the job.

SECTION 2. When employees are laid off due to reduction in service, such employees shall retain for a period of three (3) years the seniority which they held at the time they were laid off, provided they advise the General Manager in writing of their desire to be re-employed, giving him or her the address at which they may be notified. If a former employee is notified by Certified Mail, return receipt requested at his or her last known address to return to work and fails to notify the Company within five (5) days after receipt of the letter from the Company of his or her desire to return, or fails to return for duty within twenty (20) days from the original date if such notice, he or she shall lose his or her seniority and the Company will be relieved of any obligation to again offer him or her re-employment.

SECTION 3. When an employee is furloughed by the Company due to a reduction in force he or she shall be given two (2) weeks' notice of furlough, or failing such notice or any part thereof, he or she shall be paid for the said two (2) weeks period or the part thereof for which he or she was not notified; provided that such two (2) weeks' notice or pay shall not apply to discharges or suspensions for cause or for Leave of Absence or resignations requested by the employee, or employees retiring.

SECTION 4. For the UNCW reduced summer service, see Article 9.

ARTICLE 5. UNION DUES

SECTION 1. The Company will deduct, on any designated regular payday of each month, from the pay of Union members, initiation fee, the monthly dues and special assessments of the Union, provided that said members individually request the Company in writing to make such

deductions. This request will also authorize the Company to base deductions on a list furnished by the Secretary of the Union, which is to show the regular monthly dues of each member, and to pay these deductions to the Secretary of the Union on or before the last day of the month for which deduction is made. The Union agrees to indemnify, defend, and hold the Company harmless from any claims, demands, suits, or other liabilities arising out of action taken by the Company in reliance upon union dues deductions authorized or submitted by the Union to the Company.

ARTICLE 6. UNION REPRESENTATIVES

SECTION 1. All officers or members of the Union Committee may secure relief from duty to transact legitimate business for the Union. Such notice shall be provided within reasonable time, which shall not be less than twenty-four (24) hours, if possible. The Company agrees that it will grant Leave of Absence to members of the Union when such members request such Leave of Absence for the purpose of entering the employment of the Union; and further agrees that such members will retain and accumulate their seniority with the Company while on such Leave of Absence. It is understood and agreed that Leave of Absence for this purpose will only be granted upon written application for such and upon reasonable notice to the Company.

ARTICLE 7. BULLETIN BOARD

SECTION 1. The Company will provide space for two (2) bulletin boards (one board in the shop and one in the drivers lounge), for the exclusive use of the Union. The Union shall designate an official who will have the privilege of posting information referring to Union business, such as announcements of time and place of meetings, results of elections, Union appointments and notice of Union conventions and conferences.

SECTION 2. The bulletin board shall not be used to post any discriminatory, inflammatory, offensive, defamatory, or derogatory statements/information, and shall not be used to post any propaganda, misstatements, or comments that demean or in any way injure or disparage the Company, its clients, customers, or any employee. If any such comments or documents are posted, the Union shall be required to remove them immediately (no later than 24 hours after notification from the Company).

SECTION 3. The Union shall pay for the bulletin board and all expenses related to the board and its posting, including the installation of any glass doors.

ARTICLE 8. RIDING PRIVILEGES

SECTION 1. The Company will furnish all employees, their spouse, dependent children under 18, and the retired employees and their spouse, with an unlimited ride pass for fixed route services. It is the responsibility of the bearer of the pass to provide and affix a legible photograph of themselves. Any misuse or loan of a pass will be cause for the Company to demand surrender of the same.

ARTICLE 9. UNCW SHUTTLE OPERATORS

SECTION 1. Operators that work the UNCW shuttles, will be guaranteed 40 hours of pay per pay period when the shuttles are closed for both weeks of a pay period. Further, when a UNCW shuttle ends early on a Friday, the Company will pay the operator the time stated in his or her run.

SECTION 2. UNCW reduced summer service

- a) The Company will first lay off all twelve (12) part time operators and will not utilize any part time operator during the summer reduction in service or while a full time operator is on lay off.

- b) The Company will notify the full time operators affected by the reduction in service by letter.
- c) The operators who are required to work the reduced hours will be able to work up to thirty (30) hours per week. They will keep their current rate of pay and will retain their benefits by paying their portion of the healthcare coverage. In the event an operator works less than twenty-five (25) hours a week they will be eligible to sign up for unemployment benefits.
- d) The operators who are laid off will retain their seniority as outlined in Article 4. They will be eligible to sign up for unemployment benefits. Their medical benefits will be suspended unless they exercise coverage under C.O.B.R.A.
- e) On the Friday of the week before a new pay period, the Company may change the status of an operator from reduced hours to full-time or in the reverse depending on manpower requirements for a minimum of one pay-period.

SECTION 3. Employees who would not have been scheduled to work are not eligible to receive accrued sick pay. However, UNCW operators' sick pay eligibility shall be as follows when there is reduced or no service operating at the college:

The operator must be out of work due to a personal injury or illness and on an approved FMLA leave at least seven (7) calendar days prior to the reduction or discontinuation of service. Pending, obviously approvable FMLA applicants will be eligible. Others with less than seven (7) calendar days of FMLA or no remaining FMLA will be reviewed on a case by case basis. The Fixed Route Operations Manager will make the final determination in these instances.

The operator must have bid a UNCW run prior to going on FMLA.

The operator will be entitled to use accrued sick time based upon the largest piece of extra work they would have been offered by seniority, had they been healthy and had they signed up for extra work during the period of reduced or discontinued service. The operator does not have to physically sign up for the extra work prior to the reduction or discontinuation of the UNCW service.

This extra work that could have been offered will be limited to eight (8) hours per day. At no time will the employee be eligible for an overtime calculation when receiving sick pay. At no time will the employee receive more than 40 hours of sick pay per week. All calculations will be based on a work week, not a pay period.

Employees who are out of work under these conditions are not eligible for observed holiday pay nor are they eligible to make it up. For example, the employee is out on FMLA for a personal injury or illness during the week of Thanksgiving. That employee is only eligible to collect up to 32 hours of sick pay if there would have been at least 16 hours of extra work available to them during the week, excluding the two days service actually ran.

ARTICLE 10. EXTRA BOARD AND OPEN WORK

SECTION 1. No extra run shall pay less than one hour. Operators of the extra board required to report at AM or PM shifts of regular operators, in order to be available to fill in for any absent regular operator or operators, shall receive one hours regular pay, unless such operator or operators so reporting shall be assigned to regular run or runs, and in such event such operators shall not receive one hours pay for reporting; but when operators reporting as above provided are assigned to runs of less duration than a regular run, such operator shall be paid for reporting as hereinabove provided.

SECTION 2. The workweek for extra board employees shall be 5-day week, with days off to run consecutively as much as possible. Each extra board employee who reports twice per day, each scheduled work day during any bi-weekly pay period, will be guaranteed a minimum equivalent

to seventy (70) hours pay at their regular basic rate for the period. In the event any extra board employee fails to report as required, or declines to accept any work available, his or her guarantee for that bi-weekly pay period will be proportionately reduced.

SECTION 3. All work performed by an extra board employee not included in a regular run in excess of eight (8) hours platform time shall be paid for one and one-half times the regular hourly basic wage rate.

SECTION 4. Open work for the next scheduled workday will be offered in the following order:

1. Extra Board Operators*
2. Part time Operators with less than twenty-seven (27) hours worked that week
3. Full time day off Operators who have signed up on the overtime sheet
4. All Regular Operators, including part time, who have signed up to work on the overtime sheet
5. All Operators by seniority, including part time.

Work that remains unfilled after following the order above and work that becomes open after the schedule is filled will be called Extra work. Extra work will be offered in the following order:

1. Extra Board Operators*
2. All Regular Operators, including part time, who have signed up to work on the overtime sheet
3. All Operators by seniority, including part time.

*Extra Board offered all extra work first and do not need to sign up to work on the overtime sheet.

SECTION 5. The extra board shall be a rotating board.

SECTION 6. All runs shall be posted in the following order: (1) early straight, (2) mid-day runs after 8 a.m., (3) split runs, (4) late straight runs. If there is more than one run in a category to be posted, the runs will be posted, starting with the highest paid. If more than one run to be posted pays the same time in the same category, the runs will be posted in numerical order.

ARTICLE 11. RUN SELECTION

SECTION 1. The selection of runs, the selection of days off, and the selection of vacations as posted shall be made by the operators according to their seniority, which is the length of their continuous service as the operators of former companies and of Transit Management of Wilmington, as shown on the seniority roster. Runs and days off will be selected three times each year and more often if necessary. One selection to become effective the first Sunday in January, one selection to become effective the first Sunday in May and one selection to become effective the first Sunday in September. When a change to college shuttle service falls within thirty (30) days of the new bid the start of bid will coincide with the Closest Sunday to the change of school.

Runs will be posted for bid 30 days prior to effective date of new run assignment. Bidding will begin one week after posting. Twenty percent of the driver force will be required to bid on the first day of the bid week, Monday, half in the morning and the other half in the afternoon. Bidding will proceed in this form the remaining days through Friday. Operators may bid in person, by phone, or by leaving choices with the company or their union representative. Any operator not bidding in their assigned slot will be passed. The company will post bid sheets with time and date to bid.

SECTION 2. When a regular run becomes permanently vacant within 30 days of a

Scheduled bid of runs, the vacancy will be filled by an extra operator. If the vacancy occurs 30 days or more from the date of the next scheduled bid of runs, the vacancy will be posted for bid

by operators who have less seniority than the operator who vacated the run.

SECTION 3. When a new run is established, it will be posted for one (1) week and will be filled by allowing the operators to select the run according to their seniority. Such vacancies shall be filled on the first Sunday following the close of posting.

SECTION 4. When a regular run becomes vacant because of illness of the regular operator, said run shall not be posted for bid until the next run selection. If an operator is off on account of illness at the time of the run selection he/she shall not select a run, but shall be permitted to select a run (bump) upon return to service. Such selection (bumping) shall become effective on the first Sunday following such selection.

SECTION 5. If an operator is out of work as indicated in ARTICLE 9 UNCW OPERATORS when a rebid is performed, and that operator is not eligible to bid, that operator will be considered to hold the status they held prior to going out on FMLA: for example, when the operator went out of work for FMLA and they had been a UNCW operator, they will continue to be considered a UNCW operator until they rebid. The same principal will apply to non-UNCW operators.

However, during the period where UNCW service has been reduced to summer session levels, employees out on FMLA for a personal injury or illness during the summer bid will be eligible to collect up to 30 hours of accrued sick pay if they have been placed on reduced hours and if they would have been offered up to 30 hours of work by rotation order during the week. Up to 40 hours of accrued sick pay if they have not been placed on reduced hours. Observed Holidays will reduce the eligibility for sick pay accordingly.

ARTICLE 12. WORK WEEK HOURS & DAYS OFF

SECTION 1. The workweek for all operators shall be a 5-day week. Days off are to run consecutively as much as possible.

ARTICLE 13. PREPARATION AND TRAVEL TIME AND PAY ALLOWANCES

SECTION 1. An additional thirty (30) minutes per day shall be included in all runs that are scheduled to depart the maintenance facility and commence service at the Forden Station, downtown transfer center, or UNCW campus to cover the check-in time, pre-trip inspection, check-out time, and travel time. An additional twenty (20) minutes per day shall be included in all runs that are scheduled to relieve other operators who already have the revenue vehicle at its remote starting location, except for relief's at UNCW campus which will receive 25 minutes travel time.

ARTICLE 14. RUN TIME AND OVERTIME

SECTION 1.

- a) Regular runs shall pay not less than eight (8) hours. All hours worked by an operator on his/her day, or days, off shall be paid for at one and one-half times his/her regular hourly basic wage rate, provided the operator has not had an unexcused absence that week. A Doctor's note in itself does not make an unpaid sick absence excused. Paid sick days will be considered an excused absence for this purpose.
- b) Overtime shall not be paid for any of the following non-revenue related work. Employees receiving training, attending meetings, incident reports, D&A or DOT exams
- c) No bus operator may operate a Company vehicle for over twelve (12) consecutive hours. Unless a sixty (60) minute rest period has been taken, no bus operator may operate a Company vehicle for over 13 hours in a single workday.

SECTION 2. All hours worked by an operator in excess of eight (8) hours shall be paid for at one and one-half times his/her regular hourly basic wage rate with the following exception:

The company may develop four (4) day work weeks, that pay ten (10) hours each day at the straight time rate without incurring overtime for these bid shifts. Any hours worked over the ten (10) hours would be paid at the overtime rate. If a ten (10) hour work day should happen to occur during a paid holiday, the employee who bid this shift shall receive ten (10) hours of holiday pay. If an employee calls out sick when scheduled to work a ten (10) hour shift, they may use up to ten (10) hours of sick time if they have at least ten (10) hours of sick time accrued. If an employee takes a vacation week while holding this bid shift, they will receive forty (40) hours of vacation pay provided they have at least forty (40) hours of vacation time accrued.

ARTICLE 15. WEATHER CONDITIONS

SECTION 1. If service is cancelled due to adverse weather conditions, meaning conditions beyond our control, the regularly scheduled operators will be paid not less than eight (8) hours or the actual time worked if they report. If they are called in during adverse weather conditions they will be paid for the time worked but not less than eight (8) hours. If they are not called in or cannot report they will be allowed to use any available vacation time or floating holiday to make up for time lost due to the adverse weather conditions.

ARTICLE 16. OPERATOR WAGE INCREASE

SECTION 1. The regular basic hourly rate for Bus Operators will be:

<u>Effective Date</u>	<u>Current</u>	<u>7/1/2016</u>	<u>1/1/2017</u>	<u>7/1/2017</u>	<u>7/1/2018</u>
First Six Months	\$14.65	\$14.80	\$14.94	\$15.24	\$15.70
Second Six Months	\$14.92	\$15.07	\$15.22	\$15.52	\$15.99
Third Six Months	\$15.24	\$15.39	\$15.55	\$15.86	\$16.33
Fourth Six Months	\$15.54	\$15.70	\$15.85	\$16.17	\$16.65
Fifth Six Months	\$15.89	\$16.05	\$16.21	\$16.53	\$17.03
Sixth Six Months	\$16.21	\$16.37	\$16.54	\$16.87	\$17.37
Thereafter	\$19.78	\$19.98	\$20.18	\$20.58	\$21.20

ARTICLE 17. CHRISTMAS BONUS

SECTION 1. The Company will pay to each employee covered by this agreement on the first Friday of December, a Christmas Bonus in the amount of \$(250) two hundred fifty dollars each year of this contract. Employees on probationary status at this time will be eligible to receive the bonus upon successful completion of the probation period. These payments are to be made in a separate check.

ARTICLE 18. SAFETY MEETINGS & ACCIDENT PREVENTION

SECTION 1. Employees shall receive actual time, but not less than one (1) hour, at the straight time rate of pay for each safety meeting they attend, provided they are not already being paid, and attendance at such meetings will be required. If an employee is on vacation, or on sick leave, he/she will not be required to attend, however, the Company may require a make-up meeting to be attended within four weeks of the employee’s return to duty.

SECTION 2. The Company will pay all operators thirty (30) minutes at the regular hourly base



rate for the proper preparation of accident and/or incident forms required by the Company.

ARTICLE 19. OPERATOR TRAINING

SECTION 1. Operators shall be paid one dollar (\$1.00) per hour over and above their regular wage rate while training new operators.

ARTICLE 20. CDL RENEWAL

SECTION 1. The Company will pay the fee for renewal of Commercial Driver's License for all employees with one or more years of seniority who are required to have a Commercial Driver's license.

ARTICLE 21. UNIFORMS

SECTION 1. It is agreed by the Union that operators will wear the type, quality and color of uniform provided by the Company.

- a) Effective June 30, 2014 uniform allowance will be \$300. Drivers who have been employed for less than 12 months will receive a pro rata allowance for uniforms on that date based on their months of employment.
- b) All new operators will receive an initial set of uniforms purchased by the Company. This initial set will include five trousers, shorts, or skirts, one belt, six long sleeve or shirt sleeve shirts, and one winter jacket. Hats and caps will continue to be provided by the Company. Employees will be responsible for cleaning their uniforms.
- c) Effective June 30th of each year each operator will be provided an annual uniform allowance of \$300 for replacing his or her uniforms.
- d) In the event the style or specifications of uniforms are changed at any time (such as occurred on October 2012, employees may continue to wear their old style uniform for another year so long as they are serviceable.
- e) All uniform items issued prior to October, 2012 will not be acceptable and must not be worn on or after October 1, 2013.

SECTION 2. The Company will provide uniforms for MAINTENANCE employees. The Company will pay the full cost of the maintenance employees' uniform service. Maintenance employees shall wear the uniform designated by the Company. Each service employee will be issued one set of foul weather gear, pants, jacket, hat, and boots and such items will be replaced as needed

ARTICLE 22. MAINTENANCE EMPLOYEE ALLOWANCE

SECTION 1. The Company agrees to allow each Master Technician, Senior Technician, Technician, and Mechanic a tool allowance and one pair of safety shoes.

SECTION 2. In August of each year Master Technicians, Senior Technicians, and Technicians will receive a tool allowance of \$425 and Mechanics a tool allowance of \$350. The safety shoe allowance will be limited to \$125 for each maintenance employee to be received in August of each year.

SECTION 3. In order to be entitled to a tool allowance an employee must have worked 75% of his or her assignments during the twelve-month period immediately preceding the allowance date of uniforms or tools. If an employee works less than 75% of his or her assignments he or she will be entitled to a prorated uniform or tool allowance credit equal to the percentage derived by the ratio of his or her days actually worked to 75% of his assignments. Any employee with less than 12 months seniority on August 1, shall receive 1/12 of the allowance for each full month of seniority.

ARTICLE 23. CUSHION ALLOWANCE

SECTION 1. The Company will furnish up to two (2) Cool Cushions per year to operators

turning in worn out cushions.

ARTICLE 24. VACATION SCHEDULES

SECTION 1. A vacation schedule is hereby established to provide rest and relaxation for the employee and in order that he or she may return to his or her duties refreshed and invigorated to a degree that he or she can perform more efficient and able service.

SECTION 2. Employees will only earn and be allowed annual vacation as of December 31, of each calendar year, in accordance with the following schedule:

Each employee with less than one (1) full year of seniority and has worked seventy-five percent (75%) of his or her assignments for the period will be allowed one twelfth (1/12) of their annual vacation for each month worked where seniority has been compiled sixteen (16) days of the calendar month. Vacation periods are not to exceed one (1) week with pay. Each employee with one (1) full year of seniority to two (2) full years of seniority and has worked seventy-five percent (75%) of his or her assignments for the year will be allowed an annual vacation of one (1) week with pay.

SECTION 3. Vacation bidding will be held each year in October. Vacation accrued between 10/1 of the previous year and 9/30 of the current year will be available for employees to bid for use beginning 1/1 of the next year and ending 12/31 of the next year.

SECTION 4. Each employee with two (2) full years of seniority to six (6) full years of seniority and who has worked seventy-five percent (75%) of his assignments for the year, will be allowed an annual vacation of two (2) weeks with pay.

SECTION 5. Each employee with six (6) full years of seniority to twelve (12) full years of seniority and who has worked seventy-five percent (75%) of his assignments for the year will be allowed an annual vacation of three (3) weeks with pay.

SECTION 6. Each employee with twelve (12) full years of seniority to twenty (20) full years of seniority and who has worked seventy-five percent (75%) of his assignments for the year will be allowed an annual vacation of four (4) weeks with pay.

SECTION 7. Each employee with twenty (20) or more full years of seniority and who has worked seventy-five percent (75%) of his assignments for the year will be allowed an annual vacation of five (5) weeks with pay.

SECTION 8.

The company will provide a minimum of one vacation slot each week of the year. During the period while UNCW is not operating mid-May to mid-August the Company will offer 6 vacation slots for each full week during this period. During the period while UNCW is not operating during the week of Spring Break or during full weeks the service does not operate around the Christmas/New Year's break the Company will offer 4 vacation slots. This number of slots may be reduced if service levels are reduced by 10 percent or more.

SECTION 9. Vacation periods shall not be cumulative and shall be arranged by mutual agreement between the employees and the Company.

SECTION 10. The selection of vacation periods shall be governed by seniority. Any employee leaving the service prior to the end of a calendar year shall be allowed his prorated vacation for the current year to date of his leaving the service.

SECTION 11. In determining prorated vacation, an employee will be allowed one-twelfth (1/12) of annual vacation for each month worked where seniority has been compiled sixteen (16) days of the calendar month.

SECTION 12. Vacation pay for regular operators shall be computed on the basis of the hours of

the regular run at his regular straight time basic rate. Vacation pay for Maintenance employees and extra operators shall be at his regular straight time basic rate for eight (8) hours per day.

ARTICLE 25. HOLIDAY

SECTION 1. The following days, or the days on which they are publicly observed, are hereby recognized as holidays: Martin Luther King's Birthday, Easter Sunday, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day and Employee's Birthday.

SECTION 2. FLOATING HOLIDAYS: In addition to the above listed holidays, each employee will be allowed a total of three (3) floating holidays each year: one (1) floating holiday between January 1st. and April 30th: one (1) floating holiday between May 1st. and August 31st. and one (1) floating holiday between September 1st. and December 31st. of each year. Starting July 1, 2018, employees with 5 years of continuous full-time seniority will receive one (1) additional floating holiday. To be eligible for a floating holiday an employee must have nine months of continuous full-time seniority. The floating holiday will be granted on any assigned workday upon five (5) days advance request. Requests of less than 5 days may be granted by the Company if sufficient manpower is available so the work may be covered at no additional cost to the Company. The Company agrees to allow one employee off per day during the year using accrued paid time off (floating holiday, birthday, individual vacation day). During the summer months (mid-May through mid-August) the company may allow a second person off for accrued paid time off, 24 hours in advance if it has sufficient staffing to cover the work at no additional cost to the company.

The notification procedure will apply to all day off requests, single day vacations, floating holidays, birthdays.

The Company has the right to designate the number of employees off on any given day. Should any employee be unable to take the floating holiday during the four month period, they will be paid for that holiday after the end of the four month period.

SECTION 3. Employees who work on these days shall receive a minimum day's pay of eight (8) hours at their straight time basic rate in addition to the pay for their hours worked (it being understood that the assignments operated on a holiday shall begin at the straight time basic rate of pay, in accordance with the provisions of this agreement). Employees who do not work on these days shall receive a minimum day's pay of eight (8) hours, except employees on Leave of Absence, Inactive Status, Drawing Sick Pay, or employees not available for work both the day before and the work day after the holiday. To be considered available under this paragraph an employee must advise the dispatcher where he can be reached by telephone and be able to report within one (1) hour. If above mentioned holiday should fall within a regular vacation period, an employee shall be paid holiday pay (at straight time basic rate), in addition to the vacation pay.

ARTICLE 26. BEREAVEMENT

SECTION 1. In the event of the death in the family of an employee's present spouse, children, father or mother, blood brother or sister, mother-in-law, father-in-law, grandparents, grandchildren, current step-father, current step-mother, current step-children and current foster children, the employee shall be granted, upon application thereof, necessary time off to attend to funeral arrangements, etc., up to a maximum of three (3) calendar days and shall receive straight time pay for all time lost within these limits. It is agreed that the days indicated should be consecutive calendar days, one of which must be the day of the funeral.

SECTION 2. Employees will be granted one (1) day without pay to attend a funeral with proper notice of at least seventy-two (72) hours. Proper documentation must be provided or an unexcused absence will be recorded.

ARTICLE 27. SICK LEAVE



SECTION 1.

- a) On the 1st day of each month, all employees with more than sixty (60) days seniority will accumulate one additional day of accumulated sick leave, to a maximum of 120 days. However, any payment of sick time under this provision will be charged against the employee's accumulation and will diminish such accumulation by the number of days of sick time paid. Since the purpose of this provision is to build up the maximum amount of accumulated sick time, the employee agrees not to call upon it for minor ailments.
- b) Full time employees may be eligible for one of the following:
 - (1) Any full time employee who completed at least one (1) year of service and has not used any sick leave during the previous year from the date of contract ratification may use a maximum of 32 hours paid sick time as personal paid time off (PPT) per year.
 - (2) Any full time employee with more than 480 hours of accrued sick time July 1 of each contract year (starting July 1, 2016) may use a maximum of 32 hours of paid sick time as personal paid time off (PPT) per year.
 - (3) At no time may any employee convert more than a total of 32 hours per contract year.
- c) Full Time employees are allowed up to four (4) hours (five hours for 10 hour runs) of paid sick time. Employees may use these partial sick days up to three times per year.
- d) Employees leaving services of the Company after 25 years of continuous service shall be paid 50% of their banked sick leave at the time of their retirement. This amount will be paid as a contribution to their 401k plan.

SECTION 2. Employees who do not have attendance problems and who are eligible for sick leave shall be paid from the first full day of illness. Employees requesting sick pay for absences of three or more days shall be paid only if they provide a doctor's note (the doctor's note must be a signed physician's statement on the physician's letterhead, completed by the employee and the physician to designate date of examination, and estimated date of return to work.) If there is a pattern of apparent abuse by an employee, the Company reserves the right to establish a three-day waiting period for sick leave pay for employees with a pattern of abuse. Employees shall have their attendance records reviewed after ninety (90) days of being required to provide a doctor's note. It is understood and agreed that this accumulation of sick time shall be considered solely for the protection of a person while in the employment of the Company; that it will not be considered as accruing to any employee for any other purpose and the Company will not be required to pay to any employee any amount accumulated to his credit upon the termination of such active employment, except as agreed to for employees who retire with 25 years or more of service.

SECTION 3. Employees holding outside employment with employers covered by the Worker's Compensation Act who have a compensable accident in such employment shall not be entitled to the above sick leave. Employees entitled to Worker's Compensation shall not be entitled to the above sick leave.

SECTION 4. Employee 's who have called out sick or are on FMLA on a day service has been cancelled due to weather conditions or some other regional crisis will not be paid accrued sick time for the days the service has been cancelled.

Employees are welcome to cash in accrued vacation time or roving holiday time to make up for the loss of service if they desire.

Employees who cash in vacation time for loss of service hours will be eligible to take their scheduled bid vacation during the week they had signed up for but will only be paid for the remaining vacation accrued from the prior year's accrual.

Employees who have no vacation time remaining may not take the week of vacation they had bid if they have used up all of their vacation prior to the week bid.

ARTICLE 28 ABSENTEEISM

SECTION 1.

- a) The absenteeism policy will monitor the number of occurrences of absenteeism in a rolling 12-month period. An occurrence will result when an employee misses all or part of an assigned shift due to illness, or injury, leaving early for any other reason, a miss out or no show. Absences of consecutive workdays will count as one occurrence. Company approved Leaves of Absence or approved unpaid bereavement leave; workers compensation days off, FMLA, or any paid leave, excluding sick pay will not count as an occurrence.
- b) Employees who in a rolling 12 months have six occurrences will not receive discipline for these occurrences.
- c) Any employee that incurs a seventh (7th) occurrence may receive a written warning.
- d) Any employee incurring an 8th or 9th occurrence will not be paid for the first three days on any illness or injury for those occurrences unless they have been admitted overnight into a hospital.
- e) Any employee incurring a 10th occurrence within a rolling 12 month period may be disciplined up to and including discharge.

ARTICLE 29. DOT PHYSICALS

SECTION 1. Each employee shall provide the Company, at any time designated by the Company (at least every two (2) years during his or her seniority month), upon forms to be provided by the Company, with a physical examination report. Such physical examination to have been made and said report to have been rendered by a physician designated as acceptable to the Company, the cost of said examination to be borne by the Company. If such aforementioned physical examination shows the employee to be physically incapable of performing his duties and said employee is not satisfied, he may, at his own expense, be examined by a physician of his own choice. If the conclusion of the physician of his own choice and the physician designated by the Company is at variance as to the said employee's capability to perform the required work, then and in that event the two physicians shall choose a third physician and the cost of the examination of the third physician shall be divided equally between the Company and the employee, and a majority decision of the three physicians shall be considered final.

SECTION 2. The Company shall pay the employee two (2) hours pay at his/her straight time rate for the initial physical examination and follow up examinations required by the issuing of temporary DOT physical cards but not for follow up visits due to failures to pass the DOT physical

ARTICLE 30. ALCOHOL/SUBSTANCE ABUSE

SECTION 1. The Company and the Union agree to adopt the WAVE drug and alcohol program dated December 18, 2015, Revision 005. Any regulatory change shall have precedence over this contract and the policy.

ARTICLE 31. PENSION PLAN

SECTION 1. The Company and Union agree to establish the Amalgamated Transit Union National 401K Pension Plan (Plan) as the retirement savings program for employees. Participation in the Plan is mandatory. The Company will contribute into each employee's account 5% of each employee's gross earnings and each employee must contribute 4% of his or her gross earnings. The Company will make appropriate payroll deductions from each

participating employee's pay, and forward all amounts to the Plan.

SECTION 2. The Plan will be governed by the rules and regulations as established by the Plan trustees. No assurances of performance or otherwise are given or offered by the Company beyond making the required contributions to the Plan. It shall be the Union's responsibility to provide necessary Plan documents and required reports to participating employees, although the Company will cooperate with the Union in assuring that Plan information is distributed to employees through the Company's location communication system, whenever reasonably practical.

ARTICLE 32. COURT

SECTION 1. When an employee attends court at the request of the Company and in its behalf, he/she will be paid at his/her regular hourly rate for the hours he/she would normally have worked during the time he/she was attending court (extra board employees eight (8) hours). When an employee is required to appear as a juror or as a witness in a work-related incident under subpoena before any court having the power to subpoena, he or she will be paid at his or her regular hourly rate for the hours he or she would normally have worked. An employee required to appear in court under subpoena will not have such time counted against him/her as an unexcused absence.

SECTION 2. In case of emergency an employee called to work extra when on jury duty will be paid over and above his/her regular jury allowance for time worked.

ARTICLE 33. SENIORITY STATUS

SECTION 1. Company seniority shall be established as of the date of hire, in any department of the Company. The Departments of the Company shall be defined as Operations Department and Maintenance Department.

SECTION 2. In addition to Company seniority, each employee shall have Department Seniority. Operations Department seniority for operations shall be established as of the completion of training and the hour and date of first regular assignment. Seniority of Maintenance Department employees shall be established as of the hour and date service is first performed for which pay is received.

SECTION 3. In addition to Maintenance Department seniority, each Maintenance Department employee shall have Classification seniority. Seniority in each classification shall be established as of the hour and date service is first performed in a classification for which pay is received.

ARTICLE 34. TRANSFER STATUS

SECTION 1. Employees may transfer from one department to another when vacancies occur. Employees who transfer to another department shall retain and accumulate their department seniority for a period of 720 working hours from the date of transfer. Employees may return to their former department within such 720 working hours period and suffer no loss of seniority. Employees who do not return within such 720 working hours period shall forfeit their former department seniority and in the event they later return to their former department would be placed on the bottom of the department seniority roster. Transferring employees will keep the seniority for the purposes of earning vacation but not for the purposes of progression pay, bidding, or selecting work.

SECTION 2. The 720 working hours period referenced herein may be extended by mutual agreement of the Union and the Company, on a case by case basis, to accommodate circumstances not anticipated by the parties.

ARTICLE 35. MAINTENANCE PROMOTIONS

SECTION 1. Promotions of MAINTENANCE employees will be made from class to class as

positions in higher classes are available and as employees qualify for same, but it is understood that employees, although qualified for higher classifications, will not be moved up until positions in higher classifications are available. All qualifications being equal, including the employees' work records, vacancies in higher classifications and new jobs will be filled on the basis of seniority.

SECTION 2. Choice of work and shifts within the classification will be governed by seniority, with the understanding that ability to perform is to be considered.

SECTION 3. Maintenance classifications will be as follows: 1) Master Technician, 2) Senior Technician, 3) Technician, 4) Mechanic, and 5) Service Employee.

ARTICLE 36. TOOLS

SECTION 1. Mechanics will furnish all small tools, including wrenches, up to one (1) inch, for their individual use in their work and the Company will furnish all other tools. Flashlights, batteries, rubber gloves, rubber boots, raincoats, rags and other safety equipment will be furnished to those employees whose work requires such equipment. Employees will be required to turn in used or worn out flashlights, batteries, rubber gloves, rubber boots, raincoats, safety equipment, and dirty rags to the stockroom and/or tool room before securing replacements. When leaving the employment of the Company, equipment will be returned or paid for, reasonable wear and tear excepted.

SECTION 2. The Company will continue its present practice of passing on to mechanics any discount it may be able to obtain in the purchasing of tools and also the replacement of worn out or broken tools upon the same being turned in. No mechanic will be required to loan his/her personal tools to other individuals or mechanics in the maintenance department.

ARTICLE 37. FIRST AID SUPPLIES

SECTION 1. The Company agrees to purchase and furnish for the use of employees a kit containing all necessary first-aid materials.

ARTICLE 38. MAINTENANCE WORK SCHEDULE

SECTION 1. The work week of MAINTENANCE employees shall be seven consecutive calendar days, beginning at 12:00 AM Sunday morning and ending at 11:59 PM Saturday night, and the work day shall be any period of twenty-four (24) consecutive hours. The hours of work for MAINTENANCE employees shall be forty (40) hours per week, to consist of five (5) consecutive days per week for mechanics and technicians and to the extent possible for service employees, said days to be eight (8) consecutive hours each, excluding a lunch period not to exceed one (1) hour.

SECTION 2. No employee will be compelled to lose time in place of any overtime worked or time worked beyond his/her regular scheduled work week, or for any time on his/her day or days off.

ARTICLE 39. PAYRATE FOR MAINTENANCE AND EMPLOYEE CLASSIFICATION

SECTION 1. The following basic rates of pay shall be established for MAINTENANCE Employees for hours worked only.

<u>Effective Date</u>	<u>Current</u>	<u>7/1/2016</u>	<u>1/1/2017</u>	<u>7/1/2017</u>	<u>7/1/2018</u>
Master Technician					
Start	\$20.87	\$21.60	\$22.36	\$22.80	\$23.49



Senior Technician	<u>Current</u>	<u>7/1/2016</u>	<u>1/1/2017</u>	<u>7/1/2017</u>	<u>7/1/2018</u>
Start	\$18.88	\$19.54	\$20.22	\$20.63	\$21.25
After 1 Year	\$19.01	\$19.68	\$20.36	\$20.77	\$21.39
After 2 Years	\$19.12	\$19.79	\$20.48	\$20.89	\$21.52
After 3 Years	\$19.23	\$19.90	\$20.60	\$21.01	\$21.64

Technician	<u>Current</u>	<u>7/1/2016</u>	<u>1/1/2017</u>	<u>7/1/2017</u>	<u>7/1/2018</u>
Start	\$18.14	\$18.77	\$19.43	\$19.82	\$20.42
After 1 Year	\$18.26	\$18.90	\$19.56	\$19.95	\$20.55
After 2 Years	\$18.37	\$19.01	\$19.68	\$20.07	\$20.67
After 3 Years	\$18.48	\$19.13	\$19.80	\$20.19	\$20.80

Mechanic	<u>Current</u>	<u>7/1/2016</u>	<u>1/1/2017</u>	<u>7/1/2017</u>	<u>7/1/2018</u>
Start	\$17.22	\$17.82	\$18.45	\$18.82	\$19.38
After 1 Year	\$17.33	\$17.94	\$18.56	\$18.94	\$19.50
After 2 Years	\$17.45	\$18.06	\$18.69	\$19.07	\$19.64

Service Employee	<u>Current</u>	<u>7/1/2016</u>	<u>1/1/2017</u>	<u>7/1/2017</u>	<u>7/1/2018</u>
Start	\$13.15	\$13.40	\$13.65	\$13.92	\$14.34
After 1 Year	\$13.26	\$13.51	\$13.76	\$14.04	\$14.46
After 2 Years	\$13.41	\$13.66	\$13.91	\$14.19	\$14.61

Serv. Emp. Non-CDL	<u>Current</u>	<u>7/1/2016</u>	<u>1/1/2017</u>	<u>7/1/2017</u>	<u>7/1/2018</u>
Start	\$9.03	\$9.28	\$9.53	\$9.72	\$10.01

An additional .25 for each Transit ASE certification, up to a max of 6. HVAC recovery is the only Non-transit ASE that will be accepted.

Should any employee be appointed by the Company as a working foreman, he shall be paid fifty (50) cents per hour over and above the rate allowed to his classification. All employees in the maintenance department must receive their CDL within 6 months of employment. The



Company will provide CDL training.

SECTION 2. Service requirements shown above with respect to classification refer to time employed in the specific classification involved, and not to length of total employment in any or all classifications.

SECTION 3. The Company agrees to give MAINTENANCE employees a ten (10) minute break. The time of such break to be set by the MAINTENANCE Superintendent, but the Company reserves the right to require any employee to work during such break by substituting another time for such employee.

SECTION 4. Master Technician (without supervision) capable of making all diagnostic tests and repairs on or to any vehicle or equipment assigned to the transit property. Shall be qualified to accept the responsibility of supervising and training (when assigned) maintenance employees in a lower classification.

SECTION 5. Senior Technician (under general supervision) is capable of overhauling, repairing and adjusting all functional parts of buses and other automotive equipment.

SECTION 6. Technician (under direct supervision) performs to a less degree and with less responsibility the duties of a Senior Technician.

SECTION 7. Mechanics perform such duties in and around the MAINTENANCE area that require more training and experience than common labor but not requiring the skill, training and experience of technicians. They may also assist technicians in their work.

SECTION 8. Service Employees shall be responsible for cleaning the interior and exterior of any vehicle and other cleaning duties as assigned. Such other duties will include the maintenance area from the hallway door (bathrooms, offices, shop area, parts room, and maintenance breakroom), the operator breakroom (not to include floor tile), and trash pick-up in the parking lot all located at 1480 Castle Hayne Road and under the control of the Company. Such other duties will also include existing bus stops and shelters.

SECTION 9. The foregoing paragraphs are only intended to describe in part, work performed by said classes of employees and to give some distinction between the works of said classes of employees, but does not prohibit other work being performed by them.

ARTICLE 40. ARBITRATION/GRIEVANCE PROCEDURES

SECTION 1. The Union reserves the right to grieve and/or arbitrate any Company rules that it believes are unreasonable or unreasonably applied.

SECTION 2.

- a) The Company shall not discipline an employee nor will entries be made against an employee's record without just cause. However, nothing shall prevent the Company from removing an employee from work while it conducts an investigation. When disciplinary action is anticipated, the employee will be notified in writing of the charges prior to commencement of the discipline. Such notification to the employee shall be issued not later than ten (10) days after the Company receives the report of the possible violation or incident on which discipline would be based. A copy of this written notice shall be sent to the Union President simultaneously with issue to the employee.
- b) A meeting will be conducted within seven (7) days after the date of the written notice of alleged charges and possible discipline is issued to the employee. The Company will provide a written statement of its discipline decision to the employee within seven (7) days of such meeting, and the Union President will be provided a copy of the written statement at the same time it is issued to the employee.

- c) Discipline rendered as a result of the written statement of discipline shall commence no later than 10 days following the date of the written statement of discipline.
- d) The Company shall notify an employee, by copy, at the time discipline or commendation is placed into his or her personnel/service record and permit an employee, or Union representative upon the employee's request, to check or copy his or her record.
- e) Anonymous and unidentifiable complaints shall not be entered on an employee's record nor given points. The Company agrees that it will not take disciplinary action against any employee solely on the basis of anonymous complaints.
- f) Time limits shall be determined by date of postmark or hand delivery. The periods of time set forth in this Section shall exclude Saturdays, Sundays, and Holidays. This item applies to the entire Article 40.

SECTION 3. Grievances -- All grievances that may arise during the life of this Agreement will be handled in the following manner:

- a) The employee and/or the Union shall present the grievance, in writing, to the supervisor designated by the Company within ten (10) days from the happening upon which the grievance is based.
- b) The written grievance shall be in such detail so as to identify the nature of the complaint, the name of the aggrieved employee or employees, and the date and place of the occurrence.
- c) Failing satisfactory disposition of such grievance on this level by written decision within ten (10) days from date of receipt of grievance, the matter may be presented in writing to the General Manager or his or her designee, of the Company, if such appeal is made in writing within ten (10) days following receipt of the supervisor's written decision.
- d) The General Manager or his or her designee will render his written decision in the matter within ten (10) days, excluding Saturdays, Sundays and holidays, following the date of receipt of appeal.
- e) Time limits shall be determined by date of postmark or hand delivery. It is agreed that either party who fails to comply with the time limits outlined in this Article shall forfeit its case if the parties don't mutually agree in writing to extend the time limitations, or agree to waive the forfeiture. The periods of time set forth in this Section shall exclude Saturdays, Sundays, and Holidays.

SECTION 4.

- a) Failing satisfactory settlement of any grievance by the General Manager or his or her designee, such grievance may be submitted to arbitration provided the aggrieved party notifies the other party hereto of its intent within thirty (30) days following receipt of the General Manager, or his or her designee's decision.
- b) Within ten (10) days of providing notification under part (a), the party requesting arbitration must request the Federal Mediation and Conciliation Service to furnish a list of five (5) persons from which one (1) may be selected as the impartial arbitrator. The parties shall jointly share the applicable fee for securing the FMCS list.
- c) The parties, no later than ten (10) days after receipt of such list, shall determine by lot the order of elimination, and thereafter each shall in that order alternately eliminate one (1) name until only one (1) name remains. The remaining person on the list shall be the impartial arbitrator.
- d) The findings of the impartial arbitrator to be final and binding on the parties hereto.
- e) The impartial arbitrator shall meet as soon as possible to hear the parties and weigh all evidence and arguments on the matter and shall give his written decision thereon within thirty (30) days following the date of the hearing.

- f) Each party, or their representatives, will have the right to examine all papers, or documents offered in evidence and to examine the report of the Board, and will have the right to examine or cross examine all witnesses.
- g) Time limits shall be determined by date of postmark or hand delivery.
- h) It is agreed that either party who fails to comply with the time limits outlined in this Article shall forfeit its case if the parties don't mutually agree in writing to extend the time limitations, or agree to waive the forfeiture. The periods of time set forth in this Section shall exclude Saturdays, Sundays, and Holidays.
- i) The Company and the Union may, by written request, waive any steps in this section in cases involving a discharge.

ARTICLE 41. NO STRIKE, NO LOCKOUTS

SECTION 1. During the term of this Agreement, the grievance machinery of this Agreement and the administrative and judicial remedies provided by statute for remedying unfair labor practices shall be the sole and exclusive means for settling any dispute between the employees or the Union and the Company. Accordingly, during the term of this Agreement, neither the Union nor the Employees will instigate or engage in any strike, including a sympathy strike, slowdown, work stoppage, or any other intentional interruption of service or production, regardless of the reason for doing so.

SECTION 2. The Union recognizes that in the event of a work action, as described above, the Union its Officers and Stewards, have an obligation and a duty to urge any and all employees who may be involved in such activity to cease such activity and to immediately return to work. In no event shall a Union Officer or Steward who is an employee of the Company engage in any activity prohibited by this Article.

SECTION 3. An employee who has been determined by the Company to have violated the provisions of the Article may be disciplined up to and including discharge. Such discipline shall not be subject to the Grievance and Arbitration provisions of this Agreement.

SECTION 4. The Company shall institute no lockout of employees during the terms of this Agreement.

ARTICLE 42. INSURANCE

SECTION 1. The Company will make available to all employees the Company's basic medical insurance plan. The insurance plan premiums are subject to change each July 1. If the premium increase is 10% or more on any plan anniversary date, the Company and the Union will meet to consider alternative levels of coverage to hold the rate increase down. However, if the Company and Union do not reach agreement, the benefit levels in effect on January 1, 2017, will be continued. The Company may provide alternative insurance plans but will have no duty to continue to provide multiple plan choices.

SECTION 2. Effective January 1, 2016, the Company will pay 75% towards the cost of employees-only coverage and 81% toward the cost of dependent-level coverage for all employees. No insurance supplement will be paid.

SECTION 3. The Company will provide life insurance equal to or better than the current life insurance plan as of July 29, 2010.

SECTION 4. The Company agrees to provide each bus operator with a \$100,000 felonious assault insurance coverage (currently Policy No. C-2881 with Union Labor Life Insurance Company).

ARTICLE 43. DISCRIMINATION

SECTION 1. The provisions of this Agreement shall be applied equally to all employees. The

Company and the Union agree that there shall be no discrimination against any employee on the basis of sex, race, color, age, religion, or national origin, or disability for which with or without a reasonable accommodation the employee can perform the essential functions of the job.

ARTICLE 44. PART-TIME EMPLOYEES

SECTION 1. The Company may hire a maximum of twelve (12) part-time operators; however, no part-time operator may be utilized if a full-time operator is on lay off.

SECTION 2. The wage rates and fringe benefits provided part-time bus operators shall be limited to:

- a) Hourly rates for part-time bus operators shall be 80% of the hourly rates under Section 16.
- b) Part-time operators shall be limited to 30 hours of work per week on fixed route service (with the exception of the Article 10 procedure). However, the Company may, at its discretion, assign work in excess of 30 hours per week fixed-route service if the extra board is exhausted or if regular operators are not available for the extra work.
- c) Part-time bus operators shall be entitled to holiday and holiday pay as outlined in Article 25, except that holiday pay shall be on the basis of two hours for each holiday. Part-time bus operators shall also receive 25% of the Christmas Bonus.
- d) Part-time bus operators shall receive a vacation allowance on the basis of 4 hours pay for each 208 hours worked during the previous calendar year.
- e) Participation of part-time bus operators in a pension plan will be governed by the provisions of the Transit Management of Wilmington Local Union 1328 Retirement Plan.
- f) Part-time operators who have worked at least thirty (30) hours in a week will not be assigned to open bid runs if a full-time operator is available.
- g) Promotion of a part-time employee to a full-time position will be determined by the sole discretion of the Company; however, the Company agrees to consider hours worked, customer service record, safety record, and attendance record.

ARTICLE 45. EMERGENCY RESPONSE

SECTION 1. In the event of an emergency that threatens our community, it is our responsibility to respond with the ability to use every vehicle to assist the local governments with evacuations, transporting goods or emergency personnel to the affected area, and /or protecting our equipment by moving it to a safe location. During adverse weather or emergency events all employees must report to work at their assigned time unless otherwise instructed by their supervisor. If not scheduled to work and an emergency is declared it is the responsibility of all employees of Transit Management of Wilmington to contact their supervisor for instructions. Employees that fail to report to work will face discipline up to and including the possibility of termination.

ARTICLE 46. SUPERVISOR ROLES

SECTION 1. Supervisory employees shall not be permitted to do any work performed by employees covered by this Agreement, with the exception of emergency conditions when no bargaining unit employees are available.

The Company will make every effort to relieve the supervisor with a bus operator as soon as possible.

ARTICLE 47. LEGAL AGREEMENT

SECTION 1. Should any part or portion of this Agreement as herein contained be rendered or declared illegal, legally invalid or unenforceable by reason of any existing or subsequently enacted legislation, or by any decree of a court of competent jurisdiction, or by decision of any

authorized government agency, such invalidation of such part or portion shall not invalidate the remaining parts or portions thereof. In the event of such occurrences, the parties agree to meet immediately and, if possible, negotiate substitute provisions for such parts or portions rendered or declared illegal or invalid. The remaining parts, portions or provisions shall remain in full force and effect.

SECTION 2. No provisions or terms of this Agreement may be amended, modified, changed, altered or waived except by written document executed by the Company and the Union.

SECTION 3. The terms set forth in this Agreement constitute the complete and entire agreement between the Company and the Union. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in the Agreement. Therefore, the Company and the Union, for the life of this Agreement, each voluntarily and unqualifiedly waiver the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter referred to or covered in this Agreement, or to any subject or matter which the parties could have known of by reasonable diligence. This Contract ends any prior past practices.

ARTICLE 48. COMPLETE AGREEMENT AND WAIVER

- a) During the negotiations resulting in this Agreement, the Company and the Union each had the unlimited right and opportunity to make demands and proposals with respect to any subject matter as to which the National Labor Relations Act imposes an obligation to bargain. This Agreement contains the entire understanding, undertaking, and the agreement of the Company and the Union and finally determines all matters of collective bargaining for its term. Changes in this Agreement must be reduced to writing and executed by both the Company and the Union.
- b) This Agreement comprises the total and entire Agreement pertaining to wages, rates of pay, hours of employment and other terms and conditions of employment with respect to the employees covered by this Agreement. There are no side agreements, oral agreements, or other agreements not encompassed herein, which either the Union or any employee in the unit may hereafter raise based on past practice or otherwise, which will entitle the Union or any employee to any right, privilege or other benefit not specifically set out herein. All past practices, whether written or oral, existing prior to the effective date of this Agreement are terminated as of the effective date of this Agreement unless they have been reduced to writing and expressly incorporated into the terms of this Agreement.
- c) No provisions or terms of this Agreement may be amended, modified, changed, altered or waived except by written document executed by the Company and the Union.
- d) The Company and Union agree that they will comply with all Local, State, and Federal Laws.

ARTICLE 49. TERMS OF AGREEMENT

This Agreement shall remain in effect starting at Ratification through JUNE 30, 2019, and from year to year thereafter if neither party shall give the other written notice sixty (60) days prior to JUNE 30, 2019, or JUNE 30 of each year thereafter, of its desire to terminate, negotiate changes in, additions to, or deletions from the existing agreement.

TM of WILMINGTON

ATU, LOCAL 1328

By: _____

By: _____

By: _____

By: _____

Date: _____

Date: _____

ATTACHMENT F
13(c) AGREEMENT

AGREEMENT PURSUANT TO SECTION 13(c) OF THE URBAN
MASS TRANSPORTATION ACT OF 1964, AS AMENDED

WHEREAS, the City of Wilmington, North Carolina ("Public Body"), has filed an application under the Urban Mass Transportation Act of 1964, as amended ("Act"), for a capital grant to assist in the acquisition of Wilmington City Lines, Inc. ("Company"), purchase of office and garage facilities, and other transit-related equipment, as more fully described in the project application ("Project"); and

WHEREAS, upon acquisition of the Company, the Public Body will create the Wilmington Transit Authority which will operate the transit system through contract with Wilmington Transit Company ("Management Company"); and

WHEREAS, employees of the Company are represented by Local Division 708, Amalgamated Transit Union AFL-CIO ("UNION"); and

WHEREAS, it is the intention of the parties to this agreement that the employees represented by the Union will, upon public acquisition of the Company, be transferred to employment by the Management Company and as such retain their status and rights as private employees covered by the federal labor laws; and

WHEREAS, sections 3(e)(4) and 13(c) of the Act require, as a condition of assistance thereunder, that fair and equitable arrangements be made as determined by the Secretary of Labor "to protect the interests of employees affected by such assistance"; and

WHEREAS, the parties have agreed upon the following arrangements as fair and equitable;

NOW, THEREFORE, it is agreed that in the event this Project is approved for assistance under the Act, the following terms and conditions shall apply:

- (1) The Project shall be carried out in such a manner and upon such terms and conditions as will not in any way adversely affect employees represented by the Union.
- (2) All rights, privileges, and benefits (including pension rights

and benefits) of employees covered by this agreement (including employees having already retired) under existing collective bargaining agreements or otherwise, shall be preserved and continued; provided, however, that such rights, privileges and benefits not previously vested may be modified by collective bargaining and agreement of both parties hereto to substitute rights, privileges, and benefits of equal or greater economic value.

(3) The collective bargaining rights - of employees represented by the Union, including the right to arbitrate labor disputes and to maintain checkoff arrangements, as provided by applicable laws, policies and/or existing collective bargaining agreements shall be preserved and continued. The Management Company agrees that it will bargain collectively with the Union or otherwise arrange for the continuation of collective bargaining, and that it will enter into agreements with the Union or arrange for such agreements to be entered into, relative to all subjects of collective bargaining which are or may be proper subjects of collective bargaining with a private employer. Upon the Public Body's acquisition and operation of the Company, the Management Company shall assume and continue to operate said system under the agreement between the Company and the Union then in effect.

(4) The Management Company agrees to employ or to arrange for the employment of all persons who are employees of the Company represented by the Union on the date of acquisition of the Company, and the seniority rights of all such employees shall be in accordance with the seniority roster of the Company. At least thirty (30) days prior to the date the Management Company acquires the Company's transit system, the parties hereto will obtain from the Company, and have posted on the Company's premises, a current seniority roster based on the Company's records, setting forth the names and relative seniority of all employees of the Company represented by the Union. At any time on or before the date of acquisition, such roster shall be subject to correction by mutual agreement between the Union and the Management Company. Thereafter, such roster may not be changed as to the status of employees as of the data of the roster except upon mutual agreement by

the employees, the Union, and the Management Company.

(5) All of the employees of the Company, represented by the Union, shall be appointed to comparable positions with the Management Company without examination, and these employees shall be credited with their years of service with respect to the Company, for purposes of sick leave, seniority, vacation and pension in accordance with the records and labor agreements of the Company, at the time of acquisition. Members and beneficiaries of any pension or retirement system, or other benefits established by the Company, shall continue to have the rights, privileges, benefits, obligations and status with respect to such established system. The Management Company shall assume the obligations of the Company with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. No employee of the Company shall suffer any worsening of his wages, seniority, pension, sick leave, vacation, health and welfare insurance or any other benefits by reason of his transfer to a position with the Management Company.

(6) Any employee covered by this agreement who is laid off or otherwise deprived of employment or placed in a worse position with respect to compensation, hours, working conditions, fringe benefits, or rights and privileges pertaining thereto at any time during his employment as a result of the Project, including any program of efficiencies or economies directly or indirectly related thereto, shall be entitled to receive any applicable rights, privileges and benefits as specified in the employee protective arrangements (attached hereto and made a part hereof as Exhibit "A"); provided, however, that nothing in Exhibit "A" shall be deemed to supersede or displace any other provisions of this agreement, and in the event of any conflict or inconsistency between them, the other provisions of this agreement shall control.

(7) The Management Company will make the necessary arrangements with the Union to provide for a mutually satisfactory claims handling procedure under this agreement. In the case of an adversely affected employee, the Management Company will either honor the claim by restoring the claimant to his former position with full back pay and

allowances, or give notice to the Union of its basis for failing to honor such claim, giving reasons therefore. In the event the Management Company fails to honor such claim, the Union may invoke the following procedures for further joint investigation of the claim by giving notice of its desire to pursue such procedures. Within ten (10) days from the receipt by the Management Company of such notice, the parties shall exchange such factual information as may be available to them relevant to the disposition of the claim and shall jointly take such steps as may be necessary or desirable to obtain from any third parties such additional factual information as may be relevant. As soon as practicable thereafter, the parties shall meet and attempt to agree upon the proper disposition of the claim. If no such agreement is reached, and the Management Company decides to reject the claim, it shall give written notice of its final rejection of the claim, detailing its reasons therefore. In the event the claim is so rejected by the Management Company, the claim may be processed to arbitration as provided by paragraph (11) of this agreement. Throughout the claims handling and arbitration procedures, the Management Company or other operator of the transit system shall have the burden of affirmatively establishing that any deprivation of employment, or other worsening of employment position, has not been a result of the Project, by proving that only factors other than the Project affected the employee.

(8) Any employee in the bargaining unit represented by the Union who has been terminated or laid off for lack of work as a result of the Project shall be granted priority of employment or reemployment to fill any vacant position on the transit system for which he is, or by training or re-training can become, qualified. In the event training or re-training is required by such employment or reemployment, the Management Company or other operator of the transit system shall provide or provide for such training or re-training at no cost to the employee, and such employee shall be paid, while training or re-training, the salary or hourly rate of his former job classification or the training rate of the classification for which he is training, whichever is higher.

(9) Employees covered by this agreement will be given the first

opportunity for employment in any new jobs, included in the bargaining unit or comparable to those included in the bargaining unit, created as a result of the Project for which they are, or by training or re-training can become, qualified. All such jobs shall be filled in accordance with seniority and allocated on a fair and equitable basis under arrangements to be mutually determined by the Management Company, or other operator of the transit system, and the Union prior to the filling of such jobs, or by arbitration at the request of either party, if such arrangements are not agreed upon prior to such date. The Management Company or other operator of the transit system will not tender such jobs to any other individual or individuals so long as there are members of the bargaining unit who are qualified, or after a reasonable training period can become qualified, and are willing to bid these jobs.

The Management Company or other operator of the transit system will give written notice to the Union prior to commencing any new operations which create additional jobs, and the parties shall thereafter meet at mutually agreeable times to negotiate concerning the details of a preferential employment opportunity plan, and the wages, hours, and working conditions for employees assigned to such new operations. Any agreement reached upon such provisions shall be executed by all parties and made a part of this agreement. In the event the parties are unable to agree upon such provisions, the dispute may be submitted to arbitration as hereinafter provided.

(10) In the event the Management Company contemplates any significant change in its organization or operations which will result in the dismissal or displacement of employees, or rearrangement of the working forces represented by the Union as a result of the Project, the Management Company shall give reasonable written notice of such intended change to the Union. Such notice shall contain a full and adequate statement of the proposed changes to be effected, including an estimate of the number of employees of each classification affected by the intended changes. Thereafter, within thirty (30) days from the date of said notice, the Management Company and the Union shall meet for the purpose of reaching agreement with respect to the application of the

terms and conditions of this agreement to the intended changes. Any such change involving a dismissal, displacement, or rearrangement of the working forces represented by the Union shall provide for the selection of forces from the employees represented by the Union on bases accepted as appropriate for application in the particular case; and any assignment of employees made necessary by the intended changes shall be made on the basis of an agreement between the Management Company and the Union. In the event of a failure to agree, the dispute may be submitted to arbitration by either party pursuant to paragraph 11 of this agreement. In any such arbitration, the terms of this agreement are to be interpreted and applied in favor of providing employee protections and benefits no less than those established pursuant to §5(2)(f) of the Interstate Commerce Act.

(11) In case of any labor dispute or controversy regarding the application, interpretation, or enforcement of any of the provisions of this agreement which cannot be settled by collective bargaining within sixty (60) days after the dispute or controversy first arises hereto, such dispute or controversy may be submitted at the written request of either party hereto to a board of arbitration as hereinafter provided. Each party shall, within ten (10) days after such request, select one member of the arbitration board, and the members thus chosen shall select a neutral member who shall serve as chairman. Should the members selected by the parties be unable to agree upon the appointment of the neutral member within ten (10) days, any party may request the Federal Mediation and Conciliation Service to furnish a list of five (5) persons from which the neutral member shall be selected. The parties shall, within five (5) days after receipt of such list, determine by lot the order of elimination, and thereafter the Union and the other interested party or parties shall, in that order, alternately eliminate one name until only one name remains. The remaining person on the list shall be the neutral member. The decision by majority vote of the arbitration board shall be final, binding and conclusive. Each party shall pay the fees and expenses of the arbitrator it selects. The fees and expenses of the third or impartial arbitrator, as well as any other joint expenses incidental to the arbitration, shall be borne equally by the

parties.

The above time limitations may be extended by mutual agreement of the parties hereto and such agreement shall not be unreasonably withheld by either party. Nothing in this agreement shall be construed to enlarge or limit the right of any party to utilize, upon the expiration of any collective bargaining agreement or otherwise, any economic measures that are not inconsistent or in conflict with applicable laws.

It is specifically agreed that the arbitration procedures outlined above are not to be construed as requiring or permitting the arbitration of any collective bargaining agreement.

(12) Nothing in this agreement shall be construed as an undertaking by the Union or the employees covered by this agreement to forego any rights or benefits under any other agreement or under any provision of law.

(13) The term "Project", as used in this agreement, shall not be limited to the particular facility assisted by federal funds, but shall include any changes, whether organizational, operational, technological, or otherwise, which are traceable to the assistance provided, whether they are the subject of the grant contract, reasonably related thereto, or facilitated thereby. The phrase "as a result of the Project" shall, when used in this agreement, include events occurring in anticipation of, during, and subsequent to the Project.

(14) This agreement shall be binding upon the successors and assigns of the parties hereto, and no provisions, terms or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by reason of the arrangements made by Wilmington Transit Company to manage and operate the system. Any person, enterprise, body, or agency, whether publicly or privately owned, which shall undertake the management or operation of the transit system, shall agree to be bound by the terms of this agreement and accept the responsibility for full performance of these conditions.

(15) The employees in the bargaining unit represented by the Union shall continue to receive coverage under Social Security, Workmen's

Compensation, unemployment compensation, and the like. In no event shall these benefits be worsened as a result of the Project.

(16) In the event any provision of this agreement is held to be invalid or otherwise unenforceable under the federal, State, or local law, such provision shall be renegotiated for the purpose of adequate replacement under section 13(c) of the Act. If such negotiation shall not result in mutually satisfactory agreement, either party may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements which shall be incorporated in this agreement and any other appropriate action, remedy, or relief.

(17) No obligation or liability is assumed by, or shall accrue to, the Management Company under or by reason of the terms and provisions of this agreement for any period of time during which it is not the operator of the Wilmington transit system or the employer of the employees covered by this agreement.

(18) If this Project is approved for assistance under the Act, the foregoing terms and conditions shall be made part of the contract of assistance between the Federal Government and the applicant for federal funds, provided, however, that this agreement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties hereto, in accordance with its terms, nor shall the collective bargaining agreement between the Union and the operator of the transit system merge into this agreement, but each shall be independently binding and enforceable by and upon the parties hereto, in accordance with its terms.

IN WITNESS WHEREOF, the parties hereto have executed this agreement by their respective duly authorized representatives this 29th day of May 1974.

WILMINGTON TRANSIT COMPANY BY:



EXHIBIT "A"

The employee protective arrangements for the Project to which this Exhibit "A" applies shall include the following rights, privileges, and benefits to the extent applicable to any covered employees

(1)(a) Whenever an employee retained in service is placed in a worse position with respect to compensation as a result of the Project, he shall be considered a "displaced employee" and shall be paid a monthly "displacement allowance", to be determined in accordance with this paragraph. Said displacement allowance shall be paid during the protective period following the date on which the employee is first displaced, so long as the employee is unable, in the normal' exercise of his seniority rights, to obtain a position producing compensation equal to or exceeding the compensation of the position from which he was displaced.

(b) The displacement allowance shall be a monthly allowance determined by computing the total compensation received by, the employee and his total time paid for during the last twelve (12) months in which he performed service immediately preceding .the date of his displacement as a result of the Project, and by dividing separately the total compensation and the total time paid for by 12, thereby producing the average monthly compensation and the average monthly time paid for. Such allowance shall be further adjusted to reflect any subsequent wage adjustments increasing employee compensation. If the displaced employee's compensation' in his current position is less in any month in which he performs work than the aforesaid average compensation (adjusted to reflect subsequent wage adjustments), he shall be paid the difference, less compensation for any time lost on account of voluntary absences to the extent that he

is not available for service equivalent to his average monthly time, but he shall be compensated in addition thereto at the rate of the current position for any time worked in excess of the average monthly time paid for. It is not intended that the provisions of this paragraph shall affect in any way the retirement on pension or annuity rights and privileges of any employee. If a displaced employee fails to exercise his seniority rights to secure another position available to him, which does not require a change in his place of residence as hereinafter defined, to which he is entitled under the working agreement and which carries a wage rate and compensation exceeding those of the position which he elects to retain, he shall thereafter be treated, for the purposes of this paragraph, as occupying the position he elects to decline.

(2)(a) Whenever any employee is laid off or otherwise deprived of employment as a result of the Project, he shall be considered a "dismissed employee", and shall be paid a monthly dismissal allowance to be determined in accordance with this paragraph. This dismissal allowance shall be first paid each dismissed employee on the 30th day following the day on which he "dismissed", and continue payable monthly for the following periods of time:

Employee's length of service	Period of payment
<u>Prior to adverse effect</u> _____	<u>Period of payment</u>
1 day to 6 years	equivalent period
6 years or more	6 years

During the 6-year period following the date on which the employee is deprived of employment, the monthly dismissal allowance shall be equivalent to 1/12 of the compensation received by him in the last twelve (12) months of his employment in which he earned compensation (adjusted to reflect subsequent wage adjustments increasing compensation) prior to the date on which he was first deprived of employment as a result of the Project.

(b) An employee shall be regarded as deprived of employment and entitled to a dismissal allowance when the Position he holds

is abolished as a result of the Project and he is unable to obtain by the exercise of his seniority rights another position; or, when the position he holds is not abolished but he loses that position as a result of the exercise of seniority rights by an employee whose position is abolished as a result of the Project; or, as a result of the exercise of seniority rights by other employees brought about as a result of the Project. Any such deprivation of employment which occurs as a result of an agreement reached or arbitration award rendered in accordance with these employee protective arrangements which require a selection from, or reassignment of, the working forces, shall not be deemed to be any less a result of the Project by reason of such agreement or award. In the absence of proper notice of an intended change, and an agreement or arbitration award specifying arrangements for the selection from, or reassignment of the working forces, as required by the protective conditions applicable to the Project, no employee who has been deprived of employment as a result of the Project shall be required to exercise his seniority rights to secure another position in order to qualify for a dismissal allowance hereunder.

(c) Each employee receiving a dismissal allowance shall keep the Public Body informed as to his current address and the current name and address of any other person by whom he may be regularly employed.

(d) The dismissal allowance shall be paid to the regularly assigned incumbent of the position abolished. If the position of an employee is abolished when he is absent from service, he will be entitled to the dismissal allowance when he is available for service. The employee temporarily filling said position at the time it was abolished will be given a dismissal allowance on the basis of that position until the regular employee is available for service, and thereafter shall revert to his previous status and will be given the protections of this agreement in said position, if any are due him.

(e) An employee receiving a dismissal allowance shall be subject to call to return to service by his former employer after being notified in accordance with the terms of the workin^g agreement,

and such employee may be required to return to service of his former employer for other reasonably comparable employment for which he is physically and mentally qualified and which does not require a change in his place of residence, as hereinafter defined, if his return does not infringe upon the employment rights of other employees under the working agreement.

(f) When an employee who is receiving a dismissal allowance returns to service, said allowance shall cease while he is so reemployed and the period of time during which he is no reemployed shall be deducted from the total period for which he is entitled to receive a dismissal allowance. During the time of such reemployment he shall be entitled to all other applicable provisions of this agreement.

(g) The dismissal allowance of any employee who is otherwise employed shall be reduced to the extent that his combined monthly earnings from such other employment, any benefits received under any unemployment insurance law, and his dismissal allowance exceed the amount upon which his dismissal allowance is based. Such employee, or his Union representatives, and his former employer, shall agree upon a procedure by which the Public Body shall be currently informed of the wages earned by such employee in employment other than with his former employer, and the benefits received.

(h) The dismissal allowance shall cease prior to its normal expiration date, as described in paragraph (2)(a) above, in the event of the failure of the employee without good cause to return to service in accordance with the working agreement by the exercise of his seniority rights to secure an available position in his former classification, or for other reasonably comparable employment for which he is physically and mentally qualified and which does not require a change in his place of residence, as hereinafter defined, or in the event of his resignation, death, retirement, or dismissal for cause in accordance with the working agreement.

(3) In determining length of service of a displaced or dismissed employee for purposes of this agreement, such employee shall be given full service credits in accordance with the records and labor agreements applicable to him and he shall be given additional service

credits for each month in which he receives a dismissal or displacement allowance as if he were continuing to perform services in his former position.

(4) No employee receiving a dismissal or displacement allowance shall be deprived, during his protected period, of any rights, privileges, or benefits attaching to his employment, including without limitation group life insurance, hospitalization, and medical care, free transportation for himself and his family, sick leave, continued status and participation under any disability or retirement program, and such other employee benefits as Social Security, Workmen's Compensation and unemployment compensation, as well as any other benefits to which he may be entitled under the same conditions and so long as such benefits continue to be accorded to other employees of the bargaining unit, in active service or furloughed as the case may be.

(5) No employee shall be entitled to an allowance under paragraphs (1) or (2) hereof because of the abolishment of a position to which, at some future time, he could have bid, been transferred or promoted.

(6)(a) Any dismissed or displaced employee, who is retained in service or who is later restored to service after being entitled to receive a dismissal or displacement allowance, and who is required to change the point of his employment as hereinafter defined, in order to retain or secure active employment with his employer and is thereby required to move his place of residence, shall be reimbursed for all expenses of moving his household and other personal effects, for the traveling expense for himself and his immediate family, and for his own actual wage lees during the time necessary for such transfer, and for a reasonable time thereafter(not to exceed five (5) working days) used in securing a place of residence in his new location. The exact extent of the responsibility of the Public Body under this paragraph, and the ways and means of transportation shall be agreed upon in advance between the Public Body and the employees affected, or their Union representatives. Claims under this paragraph must be submitted to the Public Body within ninety (90) days after they are incurred.

(b) If any such employee is furloughed within three (3) years after changing his point of employment in accordance with paragraph (a) hereof, and elects to move his place of residence back to his original point of employment, the Public Body shall assume the expense of moving his household and other personal effects under the provisions of paragraph (a) hereof.

(c) Except as otherwise provided in this paragraph, changes in place of residence, subsequent to the initial changes caused by the action taken pursuant to the Project, which do not result from said action but grow out of the normal exercise of seniority, shall not be considered within the purview of the provisions of this paragraph.

(7)(a) The following conditions shall apply to the extent they are applicable in each instance to any employee who is retained in the service of the Public Body (or who is later restored to service after being entitled to receive a dismissal allowance) and who is required to change the point of his employment, by a distance of twenty (20) straight line miles in order to retain or secure active employment with his employer, within his protective period as a result of the Project, and is, thereby, required to move his place of residence; provided, however, that these conditions shall not apply where the change of the point at which the employee is employed results in bringing that point nearer his place of residence.

If the employee owns his own home in the locality from which he is required to move, he shall, at his option, be reimbursed by the public Body for any loss suffered in the sale of his home for less than its fair market value, such loss to be paid within thirty (30) days of the sale of the home. In each case, the fair market value of the home in question shall be determined, as of a date sufficiently prior to the date of the transaction of sale, so as to be unaffected thereby. The Public Body shall, in each instance, be afforded an opportunity to purchase the home at such fair market value before it is sold by the employee to any other person. It is the intent of this paragraph that the fair market value so determined and to be received by the employee, is not to be reduced by any expenses incident to the

closing of the transaction of sale of home, such as loan discount, loan closing costs, preparation of abstract, or deed of sale, and the employee will be made whole for any such expense involved.

If the employee is under a contract to purchase his home, the public Body shall protect him against loss under such contract and in addition, shall relieve him from any further obligation thereunder.

If the employee holds an unexpired lease of a dwelling occupied by him and his home, the Public Body shall protect him from all loss and cost in securing the calculation of said lease.

(b) Changes in place of residence which are made subsequent to the initial changes caused by the project, and which grow out of the normal exercise of seniority rights, shall not be considered within the purview of this paragraph.

(c) No claim for loss shall be paid under the provisions of this paragraph unless such claim is presented to the Public Body within one (1) year after the date the employee is required to move.

(d) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through joint conference between the employee, or his union representative, and the Public Body. In the event they are unable to agree, the dispute or controversy may be referred by the Public Body or the Union to a board of competent real estate appraisers, selected in the following manner: one to be selected by the representatives of the employee, and one by the Public Body, and these two, if unable to agree within thirty (30) days upon a valuation, shall endeavor by agreement within ten (10) days thereafter to select a third appraiser, or to agree to a method by which a third appraiser shall be selected, and failing such agreement, either party may request the State or local real estate board or commission, or comparable body, to designate within ten (10) days a third appraiser whose designation will be binding upon the parties. A decision of a majority of the appraisers shall be required and said decision shall be final and binding. The salary and expenses of the neutral appraiser, including

expenses of the appraisal board, shall be borne equally by, the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

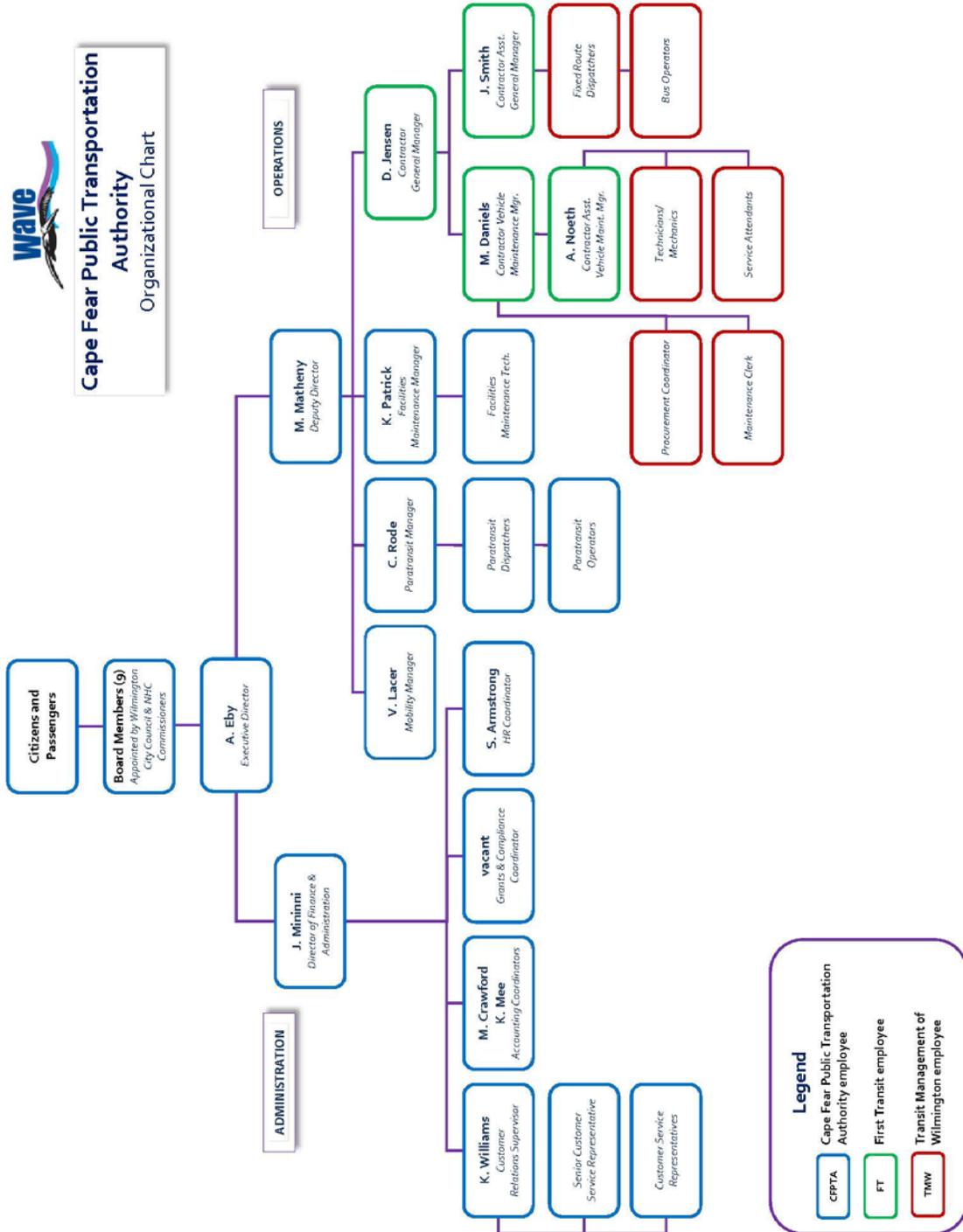
(8) A dismissed employee entitled to protection under this Exhibit "A" may, at his option within twenty-one (21) days of his dismissal, resign and (in lieu of all other benefits and protections provided in this agreement) accept a lump sum payment computed in accordance with section (9) of the Washington Job Protection Agreement of May 1936,

(9) Whenever used herein, unless the context requires otherwise, the term "protective period" means that period of time during which a displaced or dismissed employee is to be provided protection hereunder and extends from the date on which an employee is displaced or dismissed to the expiration of six (6) years therefrom, provided, however, that the protective period for any particular employee during which he is entitled to receive the benefits of these provisions, shall not continue for a longer period following the date he was displaced or dismissed than the employee's length of service as shown by the records and labor agreements applicable to his employment prior to the date of his displacement or his dismissal.

(10) If any employer of the employees covered by this Exhibit "A" shall have rearranged or adjusted its forces in anticipation of the Project, with the effect of depriving an employee of benefits to which he should be entitled under this exhibit as an employee affected by the Project, the provisions of this agreement shall apply to such employees as of the date when he was so affected. "Public Body" as used herein shall be construed to mean Wilmington Transit Authority.



Cape Fear Public Transportation Authority
Organizational Chart



**ATTACHMENT H
HEALTH INSURANCE INFORMATION AND CENSUS**

Coverage Type	Enrollment
Employee only	31
Employee + spouse	8
Employee + child(ren)	8
Family	6

Detailed plan information available upon request
Enrollment data based on contract employees as of February 01, 2020
Enrollment and plan information subject to change prior to award