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COMPANY/NAME	Mecklenburg County et al
SUBJECT	Transit Governance (Regional Transit System)
DATE	02/16/1999
AMOUNT	

Clerk Rec. 6/15/99

**STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG**

**Transit Governance
Interlocal Agreement**

This Interlocal Agreement made as of February 16, 1999 by and among the **COUNTY OF MECKLENBURG**, a political subdivision of the State of North Carolina, the **CITY OF CHARLOTTE**, a municipal corporation organized under the laws of the State of North Carolina, and such other **MUNICIPAL CORPORATIONS ORGANIZED UNDER THE LAWS OF THE STATE OF NORTH CAROLINA LISTED IN SECTION III OF THIS AGREEMENT** whose governing board has adopted a resolution approving this Agreement and who are signatories to this Agreement.

WITNESSETH:

WHEREAS, the parties hereto have the power pursuant to General Statute 153A-445(a)(1) and Article 20 of Chapter 160A of the North Carolina General Statutes to jointly exercise any function which they have been granted the power to exercise alone, or to contract with the other for the exercise of any governmental function which they have been granted the power to exercise alone, and to enter into contracts and agreements to specify the details of these joint undertakings; and

WHEREAS, the purpose of this Agreement is to provide the relationships and mechanisms that will guide the planning, financing, and implementation of an effective, efficient, responsive, and accountable integrated regional transit system as more fully described in Section I of this Agreement;

NOW, THEREFORE, in consideration of the premises and the fulfillment of the terms of this Agreement, the parties hereto agree as follows:

I. Purpose

Building on a ten-year regional transit planning process, the parties to this Agreement recently undertook an intensive six-month community effort to develop a regional transit/land-use plan for the future. That process culminated in the production of the "2025 Integrated Transit/Land-Use Plan for Charlotte-Mecklenburg - July, 1998."

Based, in part, on the 2025 Integrated Plan, and pursuant to Article 43 of Chapter 105 of the North Carolina General Statutes (Session Laws 1997, ch. 417, sec. 1), the Mecklenburg County Board of Commissioners called an advisory referendum on the levy of a one-half percent local sales and use tax (hereinafter "transit sales tax") for the

purpose of financing public transit systems. The voters of Mecklenburg County approved the measure on November 3, 1998.

The 2025 Integrated Plan included a section on governance that called for the units of local government engaged in this regional effort to share responsibility and accountability for transit services under the following guiding principles:

Provide for coordinated transit operations on a county-wide basis.

Retain for the elected bodies the responsibility of approving long-range transit plans and the capital and operating programs that support these plans.

Ensure that public involvement is a component.

Assure that Town interests are represented.

Be flexible and expandable so jurisdictions outside Mecklenburg County could become part of the system.

Consistent with the guiding principles and other components of the 2025 Integrated Plan's governance recommendations, the parties have cooperatively developed this Interlocal Agreement to provide the relationships and mechanisms that will guide the planning, financing, and implementation of an effective, efficient, responsive, and accountable integrated regional transit system.

II. Authority

The parties to this Agreement derive their authority to provide transit services through this Interlocal Agreement from, *inter alia*, the following:

Article 43 of Chapter 105 of the North Carolina General Statutes (Session Laws 1997, ch. 417, sec. 1)(Local Government Public Transportation Sales Tax Act);

N.C.G.S. 160A-460 *et seq.* (Interlocal joint exercise of powers);

N.C.G.S. 160A-311 *et seq.* (Municipal public enterprises); and

N.C.G.S. 153A-274 *et seq.* (County public enterprises).

III. Parties

Each of the following units of local government may become a party to this Agreement upon approval of its governing board:

- Mecklenburg County
- City of Charlotte
- Town of Cornelius
- Town of Davidson
- Town of Huntersville
- Town of Matthews
- Town of Mint Hill
- Town of Pineville

The Towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville are referred to in this Agreement individually as “Town” and collectively as “Towns.”

Other units of local government may become a party to this Agreement pursuant to Section IX.B.

IV. Metropolitan Transit Commission (MTC)

A. Composition

A public body composed of two representatives from each party to this Agreement. One representative of each party shall be its mayor (chairman of the board of county commissioners) or his/her designee who shall serve at the pleasure of the mayor (chairman), and the other representative shall be the party’s manager (administrator) or his/her designee who shall serve at the pleasure of the manager (administrator). The mayor (chairman) or designee shall be a party’s primary voting representative and the manager (administrator) or designee shall be the alternate voting representative authorized to cast a vote in the absence of the primary voting representative.

The MTC shall appoint or provide for the appointment of a minimum of three non-voting members representative of local governments from outside Mecklenburg County to ensure regional representation. In addition, the MTC shall appoint or provide for the appointment of one non-voting representative of the North Carolina Department of Transportation and one non-voting representative of the South Carolina Department of Transportation.

B. Officers

The MTC shall choose from its members a chair and vice-chair.

C. Quorum

A majority of the voting membership of the MTC shall constitute a quorum.

D. Responsibilities

Review and recommend long-range public transportation plans.

Work with all affected local Metropolitan Planning Organizations to develop the long-range transportation plan (including public transportation).

Establish priorities for two-year operating and five-year capital programs.

Review and recommend two-year transit operating programs and second-year program adjustments.

Review and recommend five-year capital programs.

Conduct public involvement programs to provide community input on proposed five-year capital and two-year operating programs.

V. Citizens Transit Advisory Group (CTAG)

A. Composition, Terms, and Officers

An advisory body composed of two members appointed by the Mecklenburg County Board of Commissioners, two members appointed by the Charlotte City Council, one member appointed by The Charlotte-Mecklenburg Board of Education, one member appointed by each Town that is a party to this Agreement, one member appointed by the Chairman of the Mecklenburg County Board of Commissioners who shall serve as co-chair, and one member appointed by the Mayor of the City of Charlotte who shall serve as co-chair. A publicly elected office holder shall not serve on the CTAG.

In order to ensure stability and continuity, the members of the CTAG shall serve two-year staggered terms that begin on July 1 and end on June 30. The initial terms of the appointees of the Mecklenburg County Board of Commissioners, the Charlotte City Council, The Charlotte-Mecklenburg Board of Education and the Mayor of the City of Charlotte shall end on June 30, 2001. The initial terms of the appointees of the Towns and the Chairman of the Mecklenburg County Board of Commissioners shall end on June 30, 2002.

B. Responsibilities

Review the chief transit official's proposed two-year operating programs and second-year program adjustments and five-year capital programs and make recommendations to the MTC.

Provide such other advisory functions as directed by the MTC.

Conduct the mandatory governance review pursuant to Section IX.C of this Agreement.

In addition to the CTAG, the MTC may establish and appoint other standing and/or *ad hoc* advisory committees as it deems appropriate.

VI. Administration

A. Chief Transit Official

The chief transit official shall be a City of Charlotte employee appointed by the Charlotte City Manager with the concurrence of the Mecklenburg County Manager and a MTC member representative (not a Charlotte or Mecklenburg County representative) selected by the MTC.

The chief transit official is subject to review and evaluation by the Charlotte City Manager with input from the Mecklenburg County Manager and an MTC member representative (not a Charlotte or Mecklenburg County representative) selected by the MTC.

The chief transit official's salary and benefits shall be established by the Charlotte City Manager.

The Charlotte City Manager has the authority to remove the chief transit official. In addition, if a majority of the total voting membership of the MTC approves a vote of “no confidence,” the City Manager shall remove or reassign the chief transit official.

B. Organization and Staffing

Except as may otherwise be provided for in a two-year operating program, transit activities will be organized and staffed by the City of Charlotte.

C. Responsibilities

The chief transit official shall develop and submit to the MTC:

- (1) proposed long-range public transportation plans;
- (2) lists of programs and services for MTC prioritization and approval;
- (3) proposed two-year transit operating programs and second-year program adjustments;
- (4) proposed five-year capital programs; and
- (5) annual assessments of service and other plan items.

The chief transit official shall carry out the approved operating and capital programs.

VII. Programs and Budgets

A. Five-year capital program and two-year operating program

Five-year capital programs are developed and approved annually and cover a rolling five-year term.

Two-year operating programs are developed and approved biennially. Adjustments and revisions may be made in the second year of an operating program. The two-year operating program cycle will coincide with the City of Charlotte’s two-year budget cycle.

Capital and operating programs shall specify those transit service investments in the Towns that demonstrate that such investments are at a level that equals or exceed each Town's theoretical local transit sales tax share.

Capital and operating programs shall implement the statutory obligation for the County's net transit sales tax proceeds to be equitably allocated in consideration of the identified needs of local public transportation systems in the county, countywide human service transportation systems, and expansion of public transportation service to unserved areas in the county.

B. Annual process and schedule for development and recommendation of capital and operating programs

By December 15 of 1999 and each year thereafter, the chief transit official shall submit to the MTC a proposed capital program and operating program/second-year adjustments. (The initial operating program shall be a one-year program so as to synchronize the two-year operating program cycle with the City of Charlotte's two-year budget cycle.)

The MTC review and recommendation process shall provide opportunities for input from the parties to this Agreement and the public.

By March 31 of 2000 and each year thereafter, the MTC shall approve a recommended capital program and operating program/second-year adjustments. (The initial operating program shall be a one-year program so as to synchronize the two-year operating program cycle with the City of Charlotte's two-year budget cycle.)

The Mecklenburg County Board of Commissioners and the Charlotte City Council must each approve the capital program and operating program/second-year adjustments. After the initial five-year capital program is approved, approval for subsequent five-year capital programs may be withheld only as to changes to the immediately preceding capital program and the new fifth year. Upon approval by both governing boards, the Charlotte City Council shall fund the programs through budget and/or project ordinances.

In the event that the Charlotte City Council and the Mecklenburg County Board of Commissioners do not both approve the recommended capital and/or operating programs/second-year adjustments, the Mayor of the City of Charlotte shall appoint three Charlotte City Council Members and the Chairman of the

Mecklenburg County Board of Commissioners shall appoint three County Commissioners to a conference committee which shall, within 60 days of appointment, develop and recommend to the Charlotte City Council and the Mecklenburg County Board of Commissioners a conference committee program report.

Any Town dissatisfied with the recommendation of the MTC or the capital and operating programs approved by the Mecklenburg County Board of Commissioners and the Charlotte City Council may withdraw pursuant to Section X.D of this Agreement.

C. Budget and Project Ordinances

Through its budget ordinance, each party shall appropriate for transfer to the City of Charlotte:

- (1) transit sales tax receipts;
- (2) transit fares, fees, rents, or other charges;
- (3) maintenance of effort obligation;
- (4) state and federal transit grants and other intergovernmental transit related transfers; and
- (5) other transit appropriations.

The City of Charlotte shall fund and implement approved capital and operating programs through budget, project, and other ordinances, resolutions, contracts, and other legislative and administrative measures.

In the event that the Charlotte City Council and Mecklenburg County Board of Commissioners have not both approved the capital and operating programs prior to the Charlotte City Council's adoption of a budget ordinance, the City Council shall appropriate only such funds that are sufficient to service previously approved debt and to fund the maintenance and operation of previously approved levels of transit service. If the Charlotte City Council and Mecklenburg County Board of Commissioners approve a capital and operating program after the Charlotte City Council adopts a budget ordinance, the Charlotte City Council shall adopt such budget ordinance amendments and/or project ordinances as are necessary to fully fund the approved capital and operating programs.

VIII. Financing

A. Transit Sales Tax Revenues

Beginning in FY00, each party eligible for receipt of a share of the transit sales tax shall annually appropriate all transit sales tax revenues for transfer to the City of Charlotte. Quarterly sales tax receipts shall be transferred to the City of Charlotte within five business days of receipt of the distribution.

B. Fares, Fees, Rents, and other Charges

Beginning in FY00, and except as may otherwise be provided in the two-year operating program, each party receiving transit fares, fees, rents and other transit charges shall annually appropriate same for transfer to the City of Charlotte. Such funds shall be transferred to the City of Charlotte by the tenth day of the month immediately following the month during which such funds are received.

C. Maintenance of Effort¹

Beginning in FY00, each party shall annually appropriate for transfer to the City of Charlotte a "maintenance of effort" amount equal to its agreed upon FY98 "local expenditure for transit services." Maintenance of effort obligations shall be transferred to the City of Charlotte no later than December 31 of each fiscal year. The City of Charlotte shall annually supplement all other sources of transit revenue with an appropriation equal to its agreed upon FY98 "local expenditure for transit services."

"Local expenditure for transit services" shall mean all capital and operating expenditures for transit services other than (1) those funded through state or federal grants; (2) other intergovernmental transfers; or (3) from fares, fees, rents, or other service charges.

¹ N.C.G.S. 105-510(b) provides, in part, that "[e]very unit of government shall use the net proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems."

D. State and Federal Grants and other Intergovernmental Transfers

Beginning in FY00, and except as may otherwise be provided in the five-year capital or two-year operating programs, each party receiving other transit revenues such as state and federal grants and other intergovernmental transfers shall annually appropriate same for transfer to the City of Charlotte. Such funds shall be transferred to the City of Charlotte within five business days of receipt.

E. Other Appropriations

Any party may appropriate and transfer other funds to the City of Charlotte for identified activities.

F. Debt

All transit debt shall be issued in accordance with approved five-year capital programs.

G. Annual Reporting

The chief transit officer shall provide annual financial reports.

IX. Miscellaneous

A. Interim Program and Budget

Since, pursuant to Section VII of this Agreement, the MTC's first capital and operating program cycle will lead to budgetary actions that fund the programs in FY01, the MTC may recommend interim transit programs to be funded in FY00. Interim transit programs recommended by the MTC must be approved by the Mecklenburg County Board of Commissioners and the Charlotte City Council prior to any action by the City of Charlotte to fund such interim programs.

Notwithstanding the preceding paragraph, the Charlotte City Council may fully fund through its FY00 budget the FY00 capital and operating components of the City's approved five-year transit program and requested Mecklenburg County Human Services transportation activities.

B. Addition of other units of local government

Other units of local government may become party to this Agreement upon approval of all parties to this Agreement.

C. Mandatory Governance Review

During FY04, the CTAG shall undertake a comprehensive governance review which shall consider the effectiveness of this Agreement and the governance structure established hereunder as well as other possible governance structures including, but not limited to, various forms of a transit authority. The governance review shall be conducted in a manner that ensures public and transit stakeholder input and participation. No later than June 30, 2004, the CTAG shall provide the governing boards of the parties to this Agreement with its report and recommendations.

D. Except as modified or limited herein, and to the fullest extent authorized by law, the City of Charlotte and its officers, agents, and employees shall, with respect to public transit, have the jurisdiction, powers, functions, public enterprises, rights, privileges, and immunities of the other parties to this Agreement.

X. Effective Date, Term, Amendment, and Withdrawal

A. Effective Date

This Agreement shall become effective upon approval by the Charlotte City Council and Mecklenburg County Board of Commissioners, and the adoption by the Mecklenburg County Board of Commissioners of a resolution levying the transit sales tax.

B. Term

This Agreement shall continue until the later of: (1) June 30, 2024; or (2) the end of the fiscal year that expires at least five years but no more than six years after the maturation date of latest maturing debt issued pursuant to an approved five-year capital program.

C. Amendment

This Agreement may be amended or terminated by authorized agreement of all parties hereto other than those that have withdrawn from the MTC.

D. Town Withdrawal

Any Town may withdraw from this Agreement effective at the start of a fiscal year (July 1) by giving written notice to the other parties to this Agreement no later than the end of the immediately preceding fiscal year (June 30).

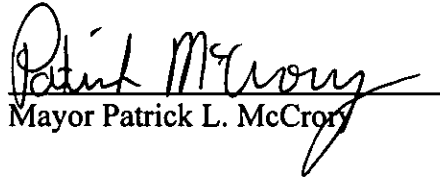
Except as provided herein, upon withdrawal from this agreement, a Town: (1) shall lose all rights under this Agreement; and (2) shall, except as provided in the following paragraph, no longer be obligated to appropriate and transfer to the City of Charlotte transit sales tax receipts, transit fares, fees, rents, or other charges, maintenance of effort obligation, or state and federal grants and other intergovernmental transfers.

Upon withdrawal from this Agreement, a Town shall be liable for, and shall annually appropriate and transfer to the City of Charlotte no later than December 31 of each fiscal year, a sum of money determined by multiplying (1) the current fiscal year costs of servicing all debt issued pursuant to this Agreement while the Town was a party to this Agreement (including any refunding debt) by (2) the Town's per capita percentage basis among Mecklenburg County and the other units of local government in Mecklenburg County that receive a distribution of the transit sales and use tax.

A town that has withdrawn may regain its status as a full party to this Agreement upon approval of its governing board effective on the first date of the fiscal year beginning immediately following the governing board's approval.

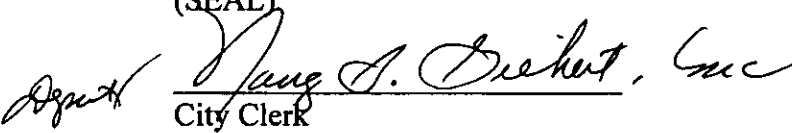
Executed as of the day and year first above stated by authority duly granted by the governing boards of the parties hereto.

CITY OF CHARLOTTE



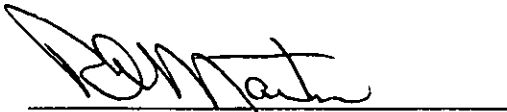
Mayor Patrick L. McCrory

(SEAL)



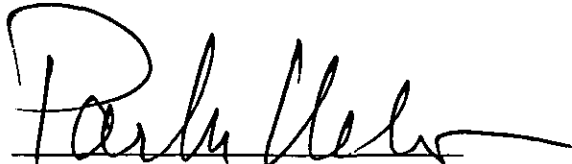
City Clerk

This instrument has been preaudited
in the manner required by the Local
Government Budget and Fiscal
Control Act.

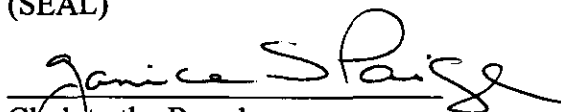


Director of Finance
City of Charlotte

COUNTY OF MECKLENBURG


Chairman Parks Helms

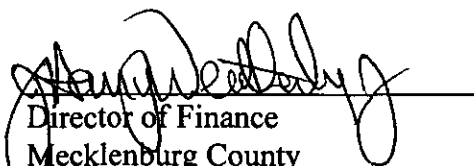
(SEAL)


Clerk to the Board


Approved as to form:


County Attorney

This instrument has been preaudited
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Director of Finance
Mecklenburg County

TOWN OF CORNELIUS



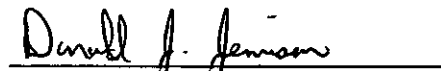
Mayor Wes Southern

(SEAL)



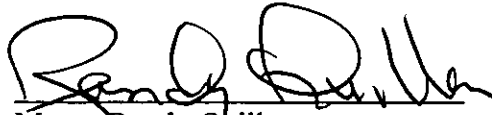
Clerk to the Town

This instrument has been preaudited
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Control Act.




Director of Finance
Town of Cornelius

TOWN OF HUNTERSVILLE



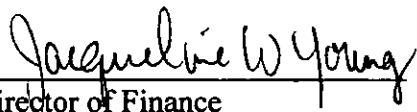
Mayor Randy Quillen

(SEAL)

Deputy 

Clerk to the Town

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Government Budget and Fiscal
Control Act.



Director of Finance
Town of Huntersville

TOWN OF DAVIDSON




Mayor Randy Kincaid

(SEAL)



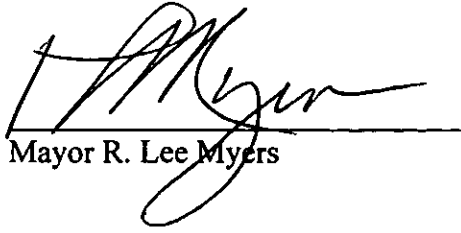
Clerk to the Town

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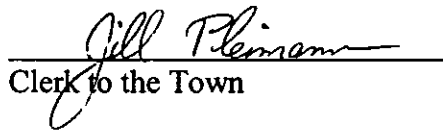
Director of Finance
Town of Davidson

TOWN OF MATTHEWS



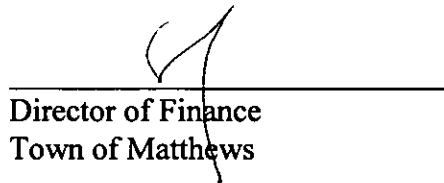
Mayor R. Lee Myers

(SEAL)



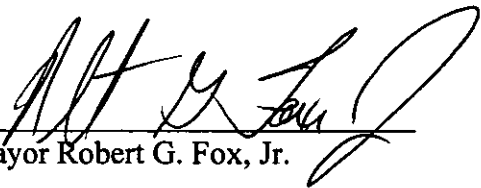
Clerk to the Town

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Director of Finance
Town of Matthews

TOWN OF MINT HILL



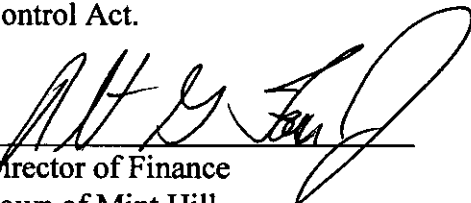
Mayor Robert G. Fox, Jr.

(SEAL)



Clerk to the Town

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Director of Finance
Town of Mint Hill

TOWN OF PINEVILLE



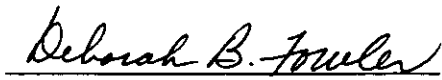
Mayor George C. Fowler

(SEAL)



Clerk to the Town

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Control Act.



Director of Finance
Town of Pineville