



STATE OF NORTH CAROLINA

NC Department of Public Instruction

Invitation for Bid #: 24-RQ59413-WS

2023 – 2024 NC DPI School Bus Financing

Date of Issue: December 15, 2023

Bid Opening Date: January 11, 2024

At 2:00 PM ET

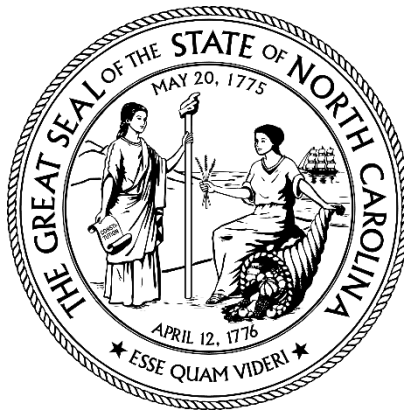
Direct all inquiries concerning this IFB to:

Wanda Simmons

Contract Specialist II

Email: procurement@dpi.nc.gov

Phone: 984-236-2362



STATE OF NORTH CAROLINA

Invitation for Bid

24-RQ59413-WS

For internal State agency processing, including tabulation of bids, provide your company's eVP (Electronic Vendor Portal) Number. Pursuant to G.S. 132-1.10(b) this identification number shall not be released to the public. **This page will be removed and shredded, or otherwise kept confidential**, before the procurement file is made available for public inspection.

**This page shall be filled out and returned with your bid.
Failure to do so may subject your bid to rejection.**

Vendor Name

Vendor eVP#

Note: For a contract to be awarded to you, your company (you) must be a North Carolina registered vendor in good standing. You must enter the vendor number assigned through eVP (Electronic Vendor Portal). If you do not have a vendor number, register at <https://vendor.ncgov.com/vendor/login>

STATE OF NORTH CAROLINA Division of Public Instruction

Refer <u>ALL</u> Inquiries regarding this IFB to the procurement lead through the Message Board in the Sourcing Tool. See section 2.5 BID Questions Wanda Simmons Email: procurement@dpi.nc.gov	Invitation for Bid #: 24-RQ59413-WS
	Bids will be publicly opened: January 11, 2024 @ 2:00 PM ET
Using Agency: Department of Public Instruction	Commodity No. and Description: 841016 – Aid Financing
Requisition No.: RQ59413	

EXECUTION

In compliance with this Invitation for Bid (IFB), and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein.

By executing this bid, the undersigned Vendor understands that false certification is a Class I felony and certifies that:

- this bid is submitted competitively and without collusion (G.S. 143-54),
- none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and
- it is not an ineligible Vendor as set forth in G.S. 143-59.1.

Furthermore, by executing this bid, the undersigned certifies to the best of Vendor's knowledge and belief, that:

- it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency.

As required by G.S. 143-48.5, the undersigned Vendor certifies that it, and each of its sub-Contractors for any Contract awarded as a result of this IFB, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system.

As required by Executive Order 24 (2017), the undersigned vendor certifies will comply with all Federal and State requirements concerning fair employment and that it does not and will not discriminate, harass, or retaliate against any employee in connection with performance of any Contract arising from this solicitation.

G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public contracts; or awarding or administering public contracts; or inspecting or supervising delivery of the public contract 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 this response to the IFB, the undersigned certifies, for Vendor's entire organization and its employees or agents, that Vendor is not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

By executing this bid, Vendor certifies that it has read and agreed to the **INSTRUCTION TO VENDORS** and the **NORTH CAROLINA GENERAL TERMS AND CONDITIONS** incorporated herein. These documents can be accessed from the Ariba Sourcing Tool.

Failure to execute/sign bid prior to submittal may render bid invalid and it SHALL BE REJECTED. Late bids shall not be accepted.

COMPLETE/FORMAL NAME OF VENDOR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO:
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO VENDORS ITEM #21):		
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR:		FAX NUMBER:
VENDOR'S AUTHORIZED SIGNATURE*:	DATE:	EMAIL:

Bid Number: 24-RQ59413-WS

Vendor: _____

VALIDITY PERIOD

Offer shall be valid for at least one hundred twenty (120) days from date of bid opening, unless otherwise stated here: _____ days, or if extended by mutual agreement of the parties in writing. Any withdrawal of this offer shall be made in writing, effective upon receipt by the agency issuing this IFB.

ACCEPTANCE OF BIDS

If your bid is accepted, all provisions of this IFB, along with the written results of any negotiations, shall constitute the written agreement between the parties ("Contract"). The NORTH CAROLINA GENERAL TERMS AND CONDITIONS are incorporated herein and shall apply. Depending upon the Goods or Services being offered, other terms and conditions may apply, as mutually agreed.

FOR DEPARTMENT OF PUBLIC INSTRUCTION USE ONLY

Offer accepted and contract awarded this ____ day of _____ 20____, as indicated on attached certification,

By: _____ (Authorized representative of Department of Public Instruction),
Alexis Schauss, Chief Financial Officer, North Carolina Department of Public Instruction

By: _____ (Authorized representative of Department of Public Instruction),
Catherine Truitt, Superintendent North Carolina Department of Public Instruction

Contents

1.0	PURPOSE AND BACKGROUND.....	5
1.1	CONTRACT TERM	5
2.0	GENERAL INFORMATION	5
2.1	INVITATION FOR BID DOCUMENT	5
2.2	E-PROCUREMENT FEE	5
2.3	NOTICE TO VENDORS REGARDING IFB TERMS AND CONDITIONS	6
2.4	IFB SCHEDULE	6
2.5	BID QUESTIONS.....	7
2.6	BID SUBMITTAL.....	7
2.7	BID CONTENTS	8
2.8	DEFINITIONS, ACRONYMS, AND ABBREVIATIONS	8
3.0	METHOD OF AWARD AND BID EVALUATION PROCESS	8
3.1	METHOD OF AWARD	8
3.2	CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION	9
3.3	BID EVALUATION PROCESS	9
3.4	PERFORMANCE OUTSIDE THE UNITED STATES.....	10
3.5	INTERPRETATION OF TERMS AND PHRASES.....	10
4.0	REQUIREMENTS.....	10
4.1	PRICING.....	10
4.2	FINANCIAL STABILITY	10
4.3	HUB PARTICIPATION	11
4.4	VENDOR EXPERIENCE AND REFERENCES	11
4.5	PERSONNEL.....	11
4.6	VENDOR’S REPRESENTATIONS.....	11
4.7	ESTIMATED QUANTITY.....	12
4.8	HISTORICAL DATA	12
5.0	SPECIFICATIONS AND SCOPE OF WORK	12
5.1	SPECIFICATIONS	12
6.0	CONTRACT ADMINISTRATION.....	14
6.1	CONTRACT MANAGER AND CUSTOMER SERVICE	14

6.2 ACCEPTANCE OF WORK 14

6.3 TRANSITION ASSISTANCE..... 15

6.4 DISPUTE RESOLUTION..... 15

6.5 CONTRACT CHANGES..... 15

6.6 ATTACHMENTS..... 15

EXHIBIT I: MASTER FACILITATOR AGREEMENT.....17

EXHIBIT II: MASTER REPLACEMENT BUS FINANCING AGREEMENT20

1.0 PURPOSE AND BACKGROUND

The NC Department of Public Instruction (NC DPI) is seeking to contract with a Vendor to provide third party financing services for school buses made available through the North Carolina Local Education Agency (LEAs) through fixed rate loans based on North Carolina General Statute 115C-528.

NC DPI anticipates financing the purchase of approximately 500 school buses ranging in capacity from 41 to 72. Some vehicles will be equipped with wheelchair lifts. Most, but not all, vehicles will be equipped with air conditioning. The school buses are to be purchased from the State Term Contract for (Conventional) School & Activity Buses. Information regarding STC's can be found here: [State Term Contracts | NC DOA](#). The successful Vendor shall comply with the specifications and requirements as stipulated herein.

Background

The State of North Carolina provides funds to a vast majority of the school bus transportation program statewide. There are 115 LEAs in the State, transporting over 700,000 students daily for over 180 school days per year. Through an appropriation from the North Carolina General Assembly, the NC DPI allots a block grant to each LEA for operation of the school transportation system. From this block grant, the LEA pays expenses for drivers, benefits, other personnel, fuel, tires, etc. Of all eligible expenditures for school transportation, the State funds approximately 90%.

Through a separate legislative appropriation, NC DPI replaces school buses as needed, based on mileage and age criteria. Note that if an LEA needs to add an additional bus to its fleet, the LEA must purchase the initial bus with local funding. However, after purchase the bus is included in the State's replacement system for school buses, and the State will provide a replacement bus.

Current replacement criteria are as follows:

- 150,000 Miles and at least 20 years; OR
- 250,000 miles and at least 15 years; OR
- 300,000 miles

When a bus is replaced, it is removed from the State's replacement program and the LEA is allowed to retain it as a spare bus. Typically, an existing spare bus will be removed from the county – either sold or transferred to another county as a spare bus. The State Term Contract referenced (herein "State Term Contract") requires that buses be delivered within 270 days of the order. The bus is then immediately turned over to the LEA and titled in the name of the LEA.

Total available funding from State's replacement sources for school buses will not exceed \$96 million over FOUR (4) years.

The intent of this solicitation is to award an Agency Contract.

1.1 CONTRACT TERM

The Contract shall have a term of one (1) year, beginning on the date of final Contract execution (the "Effective Date"). The Vendor shall begin work under the Contract within fifteen (15) business days of the Effective Date.

Bids shall be submitted in accordance with the terms and conditions of this IFB and any addenda issued hereto.

2.0 GENERAL INFORMATION

2.1 INVITATION FOR BID DOCUMENT

This IFB is comprised of the base IFB document, any attachments, and any addenda released before Contract award, which are incorporated herein by reference.

2.2 E-PROCUREMENT FEE

ATTENTION: This is an NC eProcurement solicitation facilitated by the Ariba Network. The E-Procurement fee may apply to this solicitation. See the paragraph entitled ELECTRONIC PROCUREMENT of the North Carolina General Terms and Conditions.

General information on the E-Procurement Services can be found at: <http://eprocurement.nc.gov/>.

What is the Ariba Network?

The Ariba Network is a web-based platform that serves as a connection point for buyers and vendors. Vendors can log in to the Ariba Network to view purchase orders, respond to electronic requests for quotes, participate in Sourcing Events, and collaborate with buyers on contract documents.

For training on how to use the Sourcing Tool to view solicitations, submit questions, develop responses, upload documents, and submit offers to the State, Vendors should go to the following site: <http://eprocurement.nc.gov/training/vendor-training>.

2.3 NOTICE TO VENDORS REGARDING IFB TERMS AND CONDITIONS

It shall be the Vendor's responsibility to read the Instructions to Vendors, the North Carolina General Terms and Conditions, all relevant exhibits and attachments, and any other components made a part of this IFB and comply with all requirements and specifications herein. Vendors are also responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this IFB.

If Vendors have questions or issues regarding any component of this IFB, those must be submitted as questions in accordance with the instructions in the BID QUESTIONS Section. If the State determines that any changes will be made as a result of the questions asked, then such decisions will be communicated in the form of an IFB addendum. The State may also elect to leave open the possibility for later negotiation of specific provisions of the Contract that have been addressed during the question-and-answer period, prior to contract award.

Other than through the process of negotiation under 01 NCAC 05B.0503, the State rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor's bid or otherwise. This applies to any language appearing in or attached to the document as part of the Vendor's bid that purports to vary any terms and conditions or Vendors' instructions herein or to render the bid non-binding or subject to further negotiation. Vendor's bid shall constitute a firm offer that shall be held open for the period required herein ("Validity Period" above).

The State may exercise its discretion to consider Vendor proposed modifications. By execution and delivery of this IFB Response, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect, and will be disregarded unless expressly agreed upon during negotiations and incorporated by way of a Best and Final Offer (BAFO). Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor's bid as nonresponsive.

2.4 IFB SCHEDULE

The table below shows the *intended* schedule for this IFB. The State will make every effort to adhere to this schedule.

Event	Responsibility	Date and Time
Issue IFB	State	December 15, 2023
Submit Written Questions	Vendor	January 2, 2024 – 5:00 PM ET
Provide Response to Questions	State	January 8, 2024
Submit Bids	Vendor	January 11, 2024 – 2:00 PM ET BID OPENING: Microsoft Teams Join on your computer, mobile app, or room device Click here to join the meeting Meeting ID: 266 286 775 19 Passcode: UanEMA Download Teams Join on the web Or call in (audio only) +1 919-230-4058, 278321089# United States, Raleigh Phone Conference ID: 278 321 089#

2.5 BID QUESTIONS

Upon review of the IFB documents, Vendors may have questions to clarify or interpret the IFB in order to submit the best bid possible. To accommodate the Bid Questions process, Vendors shall submit any such questions by the "Submit Written Questions" date and time provided in the IFB SCHEDULE Section above, unless modified by Addendum.

Questions related to the content of the solicitation, or the procurement process should be directed to the person on the title page of this document via the Sourcing Tool's message board by the date and time specified in the IFB SCHEDULE Section of this IFB. Vendors will enter "IFB # 24-RQ59413-WS – Questions" as the subject of the message. Question submittals should include a reference to the applicable IFB section. This is the only manner in which questions will be received.

Questions or issues related to using the Sourcing Tool itself can be directed to the North Carolina eProcurement Help Desk at 888-211-7440, Option 2. Help Desk representatives are available Monday through Friday from 7:30 AM ET to 5:00 PM ET.

Questions received prior to the submission deadline date, the State's response, and any additional terms deemed necessary by the State will be posted in the Sourcing Tool in the form of an addendum and shall become an Addendum to this IFB. No information, instruction or advice provided orally or informally by any State personnel, whether made in response to a question or otherwise in connection with this IFB, shall be considered authoritative or binding. Vendors shall rely *only* on written material contained in the IFB and an addendum to this IFB.

2.6 BID SUBMITTAL

IMPORTANT NOTE: This is an absolute requirement. Late bids, regardless of cause, will not be opened or considered, and will be automatically disqualified from further consideration. Vendor shall bear the sole risk of late submission due to unintended or unanticipated delay. It is the Vendor's sole responsibility to ensure its bid has been received as described in this IFB by the specified time and date of opening. Failure to submit a bid in strict accordance with instructions provided shall constitute sufficient cause to reject a Vendor's bids(s). Solicitation responses are subject to Sealed Bidding requirements.

Vendor's bids for this procurement must be submitted through the Sourcing Tool. For training on how to use the Sourcing Tool to view solicitations, submit questions, develop responses, upload documents, and submit offers to the State, Vendors should go to the following site: <https://eprocurement.nc.gov/training/vendor-training>.

Questions or issues related to using the Sourcing Tool itself can be directed to the North Carolina eProcurement Help Desk at 888-211-7440, Option 2. Help Desk representatives are available Monday through Friday from 7:30 AM EST to 5:00 PM EST.

Tips for Using the Sourcing Tool

1. Vendors should review available training and confirm that they are able to access the Sourcing Event, enter responses, and upload files well in advance of the date and time response are due to allow sufficient time to seek assistance from the North Carolina eProcurement Help Desk.
2. Vendors may submit their responses early to make sure there are no issues, and then submit a revised response any time prior to the response due date and time. The State will only review the most recent response.
3. Vendors should respond to all relevant sections of the Sourcing Event. Certain questions or items are required in order to submit a response and are denoted with an asterisk. The Sourcing Tool will not allow a response to be submitted unless all required items are completed. The Sourcing Tool will provide error messages to help identify any required information that is missing when response is submitted.
4. Simply saving your response in the Sourcing Tool is not the same as submitting your response to the State. Vendors should make sure they complete the submission process and receive a message that their response was successfully submitted.
5. **Only Bids submitted through the Content Section of the Ariba Sourcing Event will be considered. Bids submitted through the Message Board will not be accepted or considered for award.**

If confidential and proprietary information is included in the bid, also submit one (1) signed, REDACTED copy of the bid. Such information may include trade secrets defined by N.C. Gen. Stat. § 66-152 and other information exempted from the Public Records Act pursuant to N.C. Gen. Stat. §132- 1.2. Vendor may designate information, Products, Services, or appropriate

portions of its response as confidential, consistent with and to the extent permitted under the statutes and rules set forth above. By so redacting any page, or portion of a page, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors, that the portions determined to be confidential and proprietary and redacted as such, meet the requirements of the Rules and Statutes set forth above. However, under no circumstances shall price information be designated as confidential.

If the Vendor does not provide a redacted version of the bid with its bid submission, the Department may release an unredacted version if a record request is received.

2.7 BID CONTENTS

Vendors shall provide responses to all questions and complete all attachments for this IFB that require the Vendor to provide information and upload them to the Sourcing Event in the Sourcing Tool. Vendor may not be able to submit its response in the Sourcing Tool unless all required items are addressed. Vendors shall provide authorized signatures where requested. Failure to provide all required items, or Vendor's submission of incomplete items, may result in the State rejecting Vendor's bid, in the State's sole discretion.

Vendors shall upload the following items and attachments in the Sourcing Tool:

- a) Completed and signed version of all EXECUTION PAGES, along with the body of the IFB.
- b) Signed receipt pages of any addenda released in conjunction with this IFB, if required to be returned.
- c) Completed version of ATTACHMENT A: PRICING FORM
- d) Completed and signed version of ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION
- e) Completed and signed version of ATTACHMENT E: CUSTOMER REFERENCE FORM
- f) Completed and signed version of ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR
- g) Completed and signed version of ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION

2.8 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

Relevant definitions for this IFB are provided in 01 NCAC 05A .0112 and in the Instructions to Vendors found in the Sourcing Tool, which are incorporated herein by this reference.

3.0 METHOD OF AWARD AND BID EVALUATION PROCESS

3.1 METHOD OF AWARD

North Carolina G.S. 143-52 provides a general list of criteria the State shall use to award contracts, as supplemented by the additional criteria herein. The Goods or Services being procured shall dictate the application and order of criteria; however, all award decisions shall be in the State's best interest.

All responsive bids will be reviewed, and an award or awards will be based on the responsive bid(s) offering the lowest price that meets the specifications provided herein, to include any required verifications set out here in such as but not limited to past performance, references, and financial documents.

While the intent of this IFB is to award a Contract(s) to a single Vendor, the State reserves the right to make separate awards to different Vendors for one or more line items, to not award one or more line items, or to cancel this IFB in its entirety without awarding a Contract, if it is considered to be most advantageous to the State to do so.

The State reserves the right to waive any minor informality or technicality in bids received.

3.2 CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION

While this IFB is under evaluation, the responding Vendor, including any subcontractors and suppliers, is prohibited from engaging in conversations intended to influence the outcome of the evaluation. See Paragraph 29. of the Instructions to Vendors entitled COMMUNICATIONS BY VENDORS

Each Vendor submitting a bid to this IFB, including its employees, agents, subcontractors, suppliers, subsidiaries and affiliates, is prohibited from having any communications with any person inside or outside the using agency; issuing agency; other government agency office or body (including the purchaser named above, any department secretary, agency head, members of the General Assembly and Governor's office); or private entity, if the communication refers to the content of Vendor's bid or qualifications, the content of another Vendor's proposal, another Vendor's qualifications or ability to perform a resulting contract, and/or the transmittal of any other communication of information that could be reasonably considered to have the effect of directly or indirectly influencing the evaluation of proposals, the award of a contract, or both.

Any Vendor not in compliance with this provision shall be disqualified from evaluation and award. A Vendor's proposal may be disqualified if its subcontractor and/or supplier engage in any of the foregoing communications during the time that the procurement is active (*i.e.*, the issuance date of the procurement until the date of contract award or cancellation of the procurement). Only those discussions, communications or transmittals of information authorized or initiated by the issuing agency for this IFB, or inquiries directed to the purchaser named in this IFB regarding requirements of the IFB (prior to proposal submission) or the status of the award (after submission) are excepted from this provision.

3.3 BID EVALUATION PROCESS

Only responsive submissions will be evaluated.

The State will conduct an evaluation of responsive Bids, as follows:

Bids will be received according to the method stated in the Bid Submittal section above.

All bids must be received by the issuing agency not later than the date and time specified in the IFB SCHEDULE Section above, unless modified by Addendum. Vendors are cautioned that this is a request for offers, not an offer or request to contract, and the State reserves the unqualified right to reject any and all offers at any time if such rejection is deemed to be in the best interest of the State.

At the date and time provided in the IFB SCHEDULE Section above, unless modified by Addendum, the bids from each responding Vendor will be opened publicly and all offers (except those that have been previously withdrawn, or voided bids) will be tabulated. The tabulation shall be made public at the time it is created. When negotiations after receipt of bids is authorized pursuant to G.S. 143-49 and 01 NCAC 05B.0503, only the names of offerors and the Goods and Services offered shall be tabulated at the time of opening. Cost and price shall become available for public inspection at the time of the award. Interested parties are cautioned that these costs and their components are subject to further evaluation for completeness and correctness and therefore may not be an exact indicator of a Vendor's pricing position.

At their option, the evaluators may request oral presentations or discussions with any or all Vendors for clarification or to amplify the materials presented in any part of the bid. Vendors are cautioned, however, that the evaluators are not required to request presentations or other clarification—and often do not. Therefore, all bids should be complete and reflect the most favorable terms available from the Vendor. Prices bid cannot be altered or modified as part of a clarification.

Bids will generally be evaluated, based on completeness, content, cost and responsibility of the Vendor to supply the requested Goods and Services. Specific evaluation criteria are listed in Section 3.1 METHOD OF AWARD.

Upon completion of the evaluation process, the State will make Award(s) based on the evaluation and post the award(s) to the electronic Vendor Portal (eVP), <https://evp.nc.gov>, under the IFB number for this solicitation. Award of a Contract to one Vendor does not mean that the other bids lacked merit, but that, all factors considered, the selected bid was deemed most advantageous and represented the best value to the State.

The State reserves the right to negotiate with one or more Vendors, or to reject all original offers and negotiate with one or more sources of supply that may be capable of satisfying the requirement, and in either case to require Vendor to submit a Best and Final Offer (BAFO) based on discussions and negotiations with the State.

3.4 PERFORMANCE OUTSIDE THE UNITED STATES

Vendor shall complete ATTACHMENT F: LOCATION OF WORKERS UTILIZED BY VENDOR. In addition to any other evaluation criteria identified in this IFB, the State may also consider, for purposes of evaluating proposed or actual contract performance outside of the United States, how that performance may affect the following factors to ensure that any award will be in the best interest of the State:

- a) Total cost to the State
- b) Level of quality provided by the Vendor
- c) Process and performance capability across multiple jurisdictions
- d) Protection of the State's information and intellectual property
- e) Availability of pertinent skills
- f) Ability to understand the State's business requirements and internal operational culture
- g) Particular risk factors such as the security of the State's information technology
- h) Relations with citizens and employees
- i) Contract enforcement jurisdictional issues

3.5 INTERPRETATION OF TERMS AND PHRASES

This IFB serves two functions: (1) to advise potential Vendors of the parameters of the solution being sought by the State; and (2) to provide (together with other specified documents) the terms of the Contract resulting from this procurement. The use of phrases such as "shall," "must," and "requirements" are intended to create enforceable contract conditions. In determining whether bids should be evaluated or rejected, the State will take into consideration the degree to which Vendors have proposed or failed to propose solutions that will satisfy the State's needs as described in the IFB. Except as specifically stated in the IFB, no one requirement shall automatically disqualify a Vendor from consideration. However, failure to comply with any single requirement may result in the State exercising its discretion to reject a bid in its entirety.

4.0 REQUIREMENTS

This Section lists the requirements related to this IFB. By submitting a bid, the Vendor agrees to meet all stated requirements in this Section as well as any other specifications, requirements, and terms and conditions stated in this IFB. If a Vendor is unclear about a requirement or specification or believes a change to a requirement would allow for the State to receive a better bid, the Vendor is urged to submit these items in the form of a question during the question-and-answer period in accordance with the Bid Questions Section above.

4.1 PRICING

Bid price shall constitute the total cost to the State for complete performance in accordance with the requirements and specifications herein, including all applicable charges for handling, transportation, administrative and other similar fees. Complete ATTACHMENT A: PRICING FORM included in this IFB. The pricing provided in ATTACHMENT A, or resulting from any negotiations, is incorporated herein and shall become part of any resulting Contract.

4.2 FINANCIAL STABILITY

As a condition of contract award, the Vendor must certify that it has the financial capacity to perform and to continue to perform its obligations under the Contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

Each Vendor shall certify it is financially stable by completing ATTACHMENT G: CERTIFICATION OF FINANCIAL CONDITION. The State is requiring this certification to minimize potential issues from contracting with a Vendor that is financially unstable. From the date of the Certification to the expiration of the Contract, the Vendor shall notify the State within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification. The Contract Manager may require annual recertification of the Vendor's financial stability.

4.3 HUB PARTICIPATION

Pursuant to North Carolina General Statute G.S. 143-48, it is State policy to encourage and promote the use of small, minority, physically handicapped, and women contractors in purchasing Goods and Services. As such, this IFB will serve to identify those Vendors that are minority owned or have a strategic plan to support the State's Historically Underutilized Business program by meeting or exceeding the goal of 10% utilization of diverse firms as 1st or 2nd tier subcontractors. Vendor shall complete ATTACHMENT D: HUB SUPPLEMENTAL VENDOR INFORMATION.

4.4 VENDOR EXPERIENCE AND REFERENCES

Vendor shall upload to the Sourcing Tool at least three (3) references with a minimum of three (3) years of experience providing services to the public sector (state, city, or county government), using ATTACHMENT E: CUSTOMER REFERENCE FORM, for which it has provided services of similar size and scope to those proposed herein. The State may contact these users to determine whether the Services provided are substantially similar in scope to those proposed herein and whether Vendor's performance has been satisfactory. The information obtained may be considered in the evaluation of the Bid.

1. Vendor has the required minimum of three (3) years of experience providing similar services to public sector (state, city, or county government) clients with similar or greater size and complexity to the State of North Carolina as proposed by this IFB? YES ☐ NO ☐
2. Vendor has listed the government entity and services provided in the ATTACHMENT E: CUSTOMER REFERENCE FORM? YES ☐ NO ☐

4.5 PERSONNEL

Vendor warrants that qualified personnel shall provide Services under this Contract in a professional manner. "Professional manner" means that the personnel performing the Services will possess the skill and competence consistent with the prevailing business standards in the industry. Vendor will serve as the prime contractor under this Contract and shall be responsible for the performance and payment of all subcontractor(s) that may be approved by the State. Names of any third-party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).

Should the Vendor's bid result in an award, the Vendor shall be required to agree that it will not substitute key personnel assigned to the performance of the Contract without prior written approval by the Contract Lead. Vendor shall further agree that it will notify the Contract Lead of any desired substitution, including the name(s) and references of Vendor's recommended substitute personnel. The State will approve or disapprove the requested substitution in a timely manner. The State may, in its sole discretion, terminate the Services of any person providing Services under this Contract. Upon such termination, the State may request acceptable substitute personnel or terminate the contract Services provided by such personnel.

4.6 VENDOR'S REPRESENTATIONS

If Vendor's bid results in an award, Vendor agrees that it will not enter any agreement with a third party that may abridge any rights of the State under the Contract. If any Services, deliverables, functions, or responsibilities not specifically described in this solicitation are required for Vendor's proper performance, provision and delivery of the Service and deliverables under a resulting Contract, or are an inherent part of or necessary sub-task included within such Service, they will be deemed to be implied by and included within the scope of the Contract to the same extent and in the same manner as if specifically described in the Contract.

Unless otherwise expressly provided herein, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and/or other Deliverables.

4.7 ESTIMATED QUANTITY

An estimated quantity based on history or other means may be used as a guide but shall not be a representation by the State of any anticipated purchase volume under any contract made pursuant to this solicitation. The estimated expenditure on this contract is up to \$96,000,000, however, no minimum or maximum quantities are guaranteed.

4.8 HISTORICAL DATA

The following table shows the number of replacement buses financed by the NC DPI for North Carolina LEAs during the past years. Indicated also is the dollar amount of these purchases.

Year	Number Buses	Purchase Amount
2002-03	472 financed	\$28,976,911 (total amount financed, to be paid in 3 equal payments over 3 years)
2003-04	756 financed	\$44,847,198 (total amount financed, to be paid in 3 equal payments over 3 years)
2004-05	612 Financed	\$37,947,889 (total amount financed, to be paid in 3 equal payments over 3 years)
2005-06	476 Financed	\$30,371,550 (total amount financed, to be paid in 3 equal payments over 3 years)
2006-07	1165 Financed	\$80,423,810 (total amount financed, to be paid in 3 equal payments over 3 years)
2007-08	660 Financed	\$50,720,189 (total amount financed, to be paid in 3 equal payments over 3 years)
2008-09	869 Financed	\$69,970,575 (total amount financed, to be paid in 3 equal payments over 3 years)
2009-10	1023 Financed	\$ 82,372,140 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2010-11	46 Financed	\$3,933,976 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2011-12	1210 Financed	\$100,818,436 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2012-13	0 Financed	\$3,933,976 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2013-14	403 Financed	\$32,728,937 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2014-15	533 Financed	\$43,849,654 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2015-16	701 Financed	\$60,775,208 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2016-17	781 Financed	\$68,560,172 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2017-18	700 Financed	\$62,113,721 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2018-19	664 Financed	\$58,503,845 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2019-20	654 Financed	\$62,668,416 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2020-21	598 Financed	\$57,492,412 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2021-22	Financed	\$27,395,841 (total amount financed, to be paid in 4 equal payments over 4 yrs.)
2022-23	Financed	\$46,955,589 (total amount financed, to be paid in 4 equal payments over 4 yrs.)

5.0 SPECIFICATIONS AND SCOPE OF WORK

5.1 SPECIFICATIONS

The specific items and any specifications that the Purchasing Agency is seeking are listed below. Items offered by the Vendor must meet or exceed the listed Specifications to be considered for award.

A. THE PROCESS

- a) For each LEA, funding (first year payments including finance charges) will be allotted to that LEA.
- b) The State Term Contract for school buses requires delivery to a location within 75 miles of Asheboro, NC. Acceptance of the buses by NC DPI and LEA, will take place at such location. It is anticipated that buses will be accepted in lots of 50-100 buses.
- c) NC DPI will sign a Master Facilitator Agreement with Vendor. An example of the Master Facilitator Agreement is shown in [EXHIBIT I](#).
- d) LEAs will each sign a Master Replacement Bus Financing Agreement (MRBFA) with Vendor. An example of the MRBFA

is shown in [EXHIBIT II](#).

- e) Within ten (10) days of acceptance of the equipment by NC DPI, the LEA, and the Vendor's concurrence with paperwork, the LEA will make the first payment to the Vendor. Within thirty (30) days of the acceptance of the equipment by NC DPI and the LEA, the Vendor must make full payment to the school bus manufacturer or dealer. The second, third and fourth payments to the Vendor will take place as described in the body of this IFB. No payments shall be due to the Vendor prior to NC DPI and LEA acceptance of the equipment.
- f) LEAs that wish to finance the purchase of additional school buses from non-state funds may use this contract and will provide appropriate approval documentation to the Vendor and will initiate separate contracts with the Vendor incorporating the terms and payment amounts established pursuant to this IFB. SBE shall not be a party to these separate agreements and shall not be responsible for payments under these separate agreements.

B. FINANCING ARRANGEMENTS

- a) NC DPI is not requesting an annual percentage rate nor are the payments to be indexed or prorated based on fluctuating market interest rates. The prices bid for each of FOUR (4) equal payments for each configuration of bus to be financed shall be fixed for the duration of this contract. There are multiple vendors of school buses on the State Term Contract. As such, financed prices per \$1,000 will be requested in lieu of specific prices per bus.
- b) A small number of LEAs may use this contract to finance the purchase of up to, collectively, fifteen (15) activity and school buses from their own, non-state funding sources. Vendor shall allow these LEAs to participate in this financing contract upon the LEAs request and in accordance with the terms and payment amounts established pursuant to this IFB. These school districts will provide payment on the same payment schedule as the state replacement buses and will provide evidence of their creditworthiness upon request of Vendor. The LEAs will also complete a separate contract with Vendor containing the same payment amounts proposed in response to this IFB. NC DPI shall not be a party to these separate agreements and shall not be responsible for payments under these separate agreements. Vendor also understands that school buses purchased by these school districts will be covered for liability and vehicle replacement just like the replacement buses described in this document.
- c) The proposed amount of this contract will be determined as a result of the proposed payment amount. Total school bus purchase price is **estimated** to be \$96,000,000. Payments to Vendor will include bus purchase price and finance costs and will be paid in FOUR (4) equal payments. As directed by the General Assembly, NC DPI will make allotments to each LEA receiving replacement school buses under this acquisition. At the time that such buses are delivered, NC DPI and the LEA will inspect the buses and verify their condition, approving that they meet state specifications and are acceptable to be included in the state school bus fleet. Documentation of this approval will be provided to the Vendor, indicating that payment is forthcoming from the LEA within ten (10) days of acceptance and that payment will be due from the Vendor to the school bus manufacturer within 30 days of acceptance.
- d) LEA PAYMENTS. Repayment of monies by North Carolina LEAs will be on an annual basis.
 - The first of FOUR (4) equal payments for each school bus will be made by the appropriate LEA to the Vendor within ten (10) days of the acceptance of the school bus.
 - The second of the FOUR (4) equal payments will be made by the LEA by November 15, 2024, or within ten (10) days of the acceptance of the school bus, whichever is later.
 - The third of the FOUR (4) equal payments will be made by the LEA prior to November 15, 2025.
 - The fourth of the FOUR (4) equal payments will be made by the LEA prior to November 15, 2026.
- e) Vendor payments to school bus manufacturer or dealer – Payment of the full purchase price of each bus must be made by Vendor to school bus manufacturers or dealers not later than thirty (30) days of the acceptance of each bus by NC DPI and the LEA.

- f) No discounts, rebates or other incentives offered by school bus manufacturers or dealers or entities other than Vendor will be considered in the evaluation of any response to this IFB.
- g) A contract awarded pursuant to this IFB, if any, shall not be assigned in any manner that would allow securitization of the loan and permit it to be sold on behalf of the State of North Carolina by a third party to public investors.
- h) BOND RATING – This financing will NOT be rated and will NOT be bank qualified.
- i) All costs associated with the financing as described herein shall be the responsibility of the Vendor. NC DPI shall not pay for any legal or other services associated with this transaction.

6.0 CONTRACT ADMINISTRATION

All Contract Administration requirements are conditioned on an award resulting from this solicitation. This information is provided for the Vendor's planning purposes.

6.1 CONTRACT MANAGER AND CUSTOMER SERVICE

The Vendor shall be required to designate and make available to the State a contract manager. The contract manager shall be the State's point of contact for Contract related issues and issues concerning performance, progress review, scheduling, and service.

Contract Manager Point of Contact	
Name:	
Office Phone #:	
Email:	
Location Address:	

6.1.1 NC DPI CONTRACT MANAGER

NC DPI Contract Manager	
Name:	Kevin Harrison, Transportation Section Chief
Office Phone #:	984-236-2932
Email:	kevin.harrison@dpi.nc.gov
Mailing Address:	6319 Mail Service Center Raleigh NC 27699-6319

6.2 ACCEPTANCE OF WORK

Performance of the work and/or delivery of Goods shall be conducted and completed at least in accordance with the Contract requirements and recognized and customarily accepted industry practices. Performance shall be considered complete when the Services or Goods are approved as acceptable by the Contract Administrator.

The State shall have the obligation to notify Vendor, in writing ten (10) calendar days following completion of such work or delivery of a deliverable described in the Contract that it is not acceptable. The notice shall specify in reasonable detail the reason(s) it is unacceptable. Acceptance by the State shall not be unreasonably withheld; but may be conditioned or delayed as required for reasonable review, evaluation, installation, or testing, as applicable to the work or deliverable. Final acceptance is expressly conditioned upon completion of all applicable assessment procedures. Should the work or deliverables fail to meet any specifications, acceptance criteria or otherwise fail to conform to the Contract, the State may exercise any and all rights hereunder, including, for Goods deliverables, such rights provided by the Uniform Commercial Code, as adopted in North Carolina.

6.3 TRANSITION ASSISTANCE

If a Contract results from this solicitation, and the Contract is not renewed at the end of the last active term, or is canceled prior to its expiration, for any reason, Vendor shall provide transition assistance to the State, at the option of the State, for up to six (6) months to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to the State or its designees. If the State exercises this option, the Parties agree that such transition assistance shall be governed by the terms and conditions of the Contract (notwithstanding this expiration or cancellation), except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall agree to pay Vendor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for performance of the Services or other resources utilized.

6.4 DISPUTE RESOLUTION

During the performance of the Contract, the parties agree that it is in their mutual interest to resolve disputes informally. Any claims by the Vendor shall be submitted in writing to the State's Contract Manager for resolution. Any claims by the State shall be submitted in writing to the Vendor's Project Manager for resolution. The Parties shall agree to negotiate in good faith and use all reasonable efforts to resolve such dispute(s).

During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. The Parties will agree on a reasonable amount of time to resolve a dispute. If a dispute cannot be resolved between the Parties within the agreed upon period, either Party may elect to exercise any other remedies available under the Contract, or at law. This provision, when agreed in the Contract, shall not constitute an agreement by either party to mediate or arbitrate any dispute.

6.5 CONTRACT CHANGES

Contract changes, if any, over the life of the Contract shall be implemented by contract amendments agreed to in writing by the State and Vendor. Amendments to the contract can only be done through the contract administrator.

6.6 ATTACHMENTS

All attachments to this IFB are the copies found in the Ariba Sourcing Tool, and are incorporated herein, and shall be submitted by responding in the Sourcing Tool.

The remainder of this page is intentionally left blank

ATTACHMENT A: PRICING FORM

Vendor shall complete and return the pricing sheet with the bid submission, found in the table below.

The **FOUR (4)** payment total amount (Column C Below) will be used to calculate the payments for varying prices of school buses. For Example: If the School Bus's State Term Contract Price is \$79,233.45, the **FOUR (4)** payment total amount will be multiplied by 79.23345 and the total will be divided into **FOUR (4)** equal payments. Payments will be rounded to the nearest penny and paid to the Vendor in accordance with the payment schedule.

FURNISH AND DELIVER:

LIST ACTUAL PAYMENTS

YEAR 1

Vendors shall complete the table below.

A	B	C
	Amount of Each of FOUR (4) Equal Payments	FOUR (4) Payment Total
Purchase Price	Payment #1: Within 10 Days of Vehicle Acceptance	Column (B) x 4
	Payment #2: November 15, 2024 or with Payment #1 OR (Whichever is Later)	
	Payment #3: November 15, 2025	
	Payment #4: November 15, 2026	
Per \$1000.00 Financed	\$ _____	\$ _____

NOTE 1: The timing of Payment Number 2 depends on the delivery date of the bus. While it is anticipated that all buses will be received before November 2024, the timing of payment #2 allows for this contingency.

EXAMPLE #1:

Bus Cost: \$80,000.00

Total Finance Cost: \$80,800.00

Delivered by: July 1, 2024

Payment Number	Date Paid to Vendor	Amount Paid
*Payment #1	July 11, 2024	\$20,200.00
*(For Payment #1, Vendor Pays School Bus Manufacturer/Dealer \$80,000.00 by July 31, 2024)		
Payment #2	November 15, 2024	\$20,200.00
Payment #3	November 15, 2025	\$20,200.00
Payment #4	November 15, 2026	\$20,200.00

EXAMPLE #2:

Bus Cost: \$80,000.00

Total Finance Cost: \$80,800.00

Delivered by: November 25, 2024

Payment Number	Date Paid to Vendor	Amount Paid
*Payment #1	December 5, 2024	\$20,200.00
*(For Payment #1, Vendor Pays School Bus Manufacturer/Dealer \$80,000.00 by December 25, 2024)		
Payment #2	December 5, 2024	\$20,200.00
Payment #3	December 15, 2025	\$20,200.00
Payment #4	December 15, 2026	\$20,200.00

EXHIBIT I: MASTER FACILITATOR AGREEMENT

THIS **MASTER FACILITATOR AGREEMENT** (this "Agreement"), dated as of February __, 2024, is by and between the **NORTH CAROLINA STATE BOARD OF EDUCATION** (the "Board"), and <_____, hereinafter known as **CONTRACTOR**.

WITNESSETH:

- WHEREAS,** pursuant to G.S. 115C-240(e), the Board is authorized to fund public school transportation operations and, pursuant to G.S. 115C-249, the replacement of school buses and other vehicles; and
- WHEREAS,** the Board has promulgated criteria by which buses in the statewide fleet are to be replaced in a given year; and
- WHEREAS,** the Board, through the Department of Public Instruction ("NC DPI") has identified buses (the "Buses") for replacement for use by the local boards of education (each, a "LEA") at an estimated aggregate cost of \$96 million; and
- WHEREAS,** pursuant to G.S. 115C-528, an LEA may purchase or finance the purchase of school buses; and
- WHEREAS,** of the funds appropriated to the Board for the 2023-2024 fiscal year, the North Carolina General Assembly has authorized the Board to use funds for allotments to the LEAs to pay the cost of Bus financing for the first year; and
- WHEREAS,** pursuant to a solicitation for third party financing (NC DPI IFB #24-RQ59413-WS, Requisition No. RQ59413 School Bus Financing), NC DPI has selected **CONTRACTOR** to provide financing for the replacement Buses; and
- WHEREAS,** each LEA will enter into a Master Replacement Bus Financing Agreement (each, a "Financing Agreement") with **CONTRACTOR** pursuant to which the LEAs will finance the purchase of the Buses through **CONTRACTOR**, on the terms and conditions as provided therein; and
- WHEREAS,** as buses are accepted, each LEA will submit an Appendix (each, an "Appendix") to **CONTRACTOR** to facilitate the acquisition of one or more Buses; and
- WHEREAS,** for purposes of financing, the Buses will be considered to be accepted at the time that the Buses are accepted by NC DPI and the respective LEA; and

NOW, THEREFORE, the Board and **CONTRACTOR** agree:

1. The Board agrees to allocate to the LEAs all necessary funds appropriated by the General Assembly to the LEAs for the acquisition of the Buses acquired pursuant to the Financing Agreements. The Board agrees to direct those funds to **CONTRACTOR** for Installment Payments on behalf of the LEAs pursuant to the Financing Agreements.
2. The Board will collect the Installments Payments from the LEA and will cause the Installment Payments to be paid to **CONTRACTOR**, on the dates and in the amounts set forth "Part 2--Payment Schedule" in the applicable Appendix to each Financing Agreement.
3. In the event that during fiscal years **2024-2025, 2025-2026, or 2026-2027** sufficient funds are not appropriated for the payment of the total of all Installment Payments required to be paid pursuant to the Financing Agreements, then any LEA under the terms of its respective Financing Agreement, may terminate its Financing Agreement together with each and every one of the Appendices.
4. The Board further intends and hereby covenants that it will (i) include in its proposed budgets for fiscal years **2024-2025, 2025-2026 or 2026-2027** an appropriation in an amount sufficient to provide for all Installment Payments due and owing for such fiscal years on behalf of the LEAs; (ii) include in such proposed budget and accompanying material submitted for each such fiscal year adequate information and recommendations regarding the purchase of the Buses, the public purposes served, and the Installment Payments required therefor; (iii) do all things lawfully within its power to request the appropriation of all funds anticipated by this Agreement; and (iv) use its best efforts to secure the timely approval and appropriation in the budget for each of the fiscal years of any and all such amounts as may become due under this Agreement.

5. If the Board shall take any official action, or if any other fact or circumstance shall occur, regarding the Board's proposed budget with respect to the total amount of the Installment Payments collected by the Board on behalf of each of the LEAs, or any amended or supplemental appropriation that may be proposed with respect to the Installment Payment that adversely affects the securing of timely approval and appropriation of funds therefor, the Board shall promptly notify **CONTRACTOR** thereof.
6. Pursuant to G.S. 115C-249(f), if any Bus is damaged or destroyed by fire, collision or otherwise, the LEA may apply to the Board for funds with which to replace it. If the Board finds that the Accepted Bus has been destroyed or damaged to the extent that it cannot be made suitable for further use, and if the Board finds that the replacement of the Bus is necessary in order to enable the LEA to operate properly its transportation system, the Board shall allot the LEA from the funds held by it for the replacement of school buses, or from funds hereafter appropriated by the General Assembly of the State of North Carolina for that purpose, a sum sufficient to purchase free and clear a new bus to be used as a replacement for the damaged or destroyed Bus and upon such allocation, such sum shall be paid over to or for the account of the LEA for such purpose. The replacement Bus will be substituted as a security interest for the financing of the damaged or destroyed Bus. Alternatively, the Board may allot to the LEA sufficient funds to fulfill remaining payments due.
7. The State recognizes that **CONTRACTOR** may assign its right to receive payment under this contract only with written permission of the State. In no event does the recognition of assignment of **CONTRACTOR's** right to receive payments obligate the State to anyone except **CONTRACTOR**. The State merely recognizes financial assignment as a convenience to **CONTRACTOR** and will hold **CONTRACTOR** responsible for fulfillment of all contract obligations.
8. The NC DPI agrees to coordinate the inspection and acceptance of the Buses by the respective LEAs at the school bus manufacturer vendor's facilities in the state of North Carolina. To the extent possible, Buses will be inspected by the NC DPI and accepted by one or more LEAs in lots of at least fifty (50). Each LEA will inspect the Buses ordered by it. Upon satisfactory inspection of one or more Buses by the LEA, and approval by the NC DPI, the respective LEA and the NC DPI may complete and execute the Form of Acceptance Certificate attached to this Agreement as Exhibit "A". An identical form of the Acceptance Certificate is attached to the Disbursement Request, which is Part 3 of each Financing Agreement. Execution of the Acceptance Certificate constitutes acceptance of the buses for any Master Replacement Bus Financing Agreement. The NC DPI agrees to transmit any Acceptance Certificate by facsimile or email transfer to **CONTRACTOR** within 72 hours of execution of such Acceptance Certificate. **CONTRACTOR** agrees to transmit by facsimile or email transfer any Payment Schedule within 72 hours of receipt of such Acceptance Certificate.
9. This Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute one and the same instrument. The Board agrees that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Agreement.
10. No waiver by the Board of any term or condition of this Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Agreement.
11. **CONTRACTOR**, not being a "seller" of the Accepted Buses, as such term is used in the Uniform Commercial Code nor a seller's agent, hereby expressly disclaim, and make no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of the Accepted Buses, or any other warranty with respect thereto and, as to **CONTRACTOR**, the Accepted Buses will be purchased AS IS. In no event shall **CONTRACTOR** be liable for any loss or damage, including incidental, indirect, special or consequential damage, in connection with or arising out of the existence, furnishing, functioning, or the use of the Accepted Buses by the LEAs.
12. This Agreement may only be revised with the prior written consent of the Board and **CONTRACTOR**, as the third-party financier under each of Financing Agreements.

Bid Number: 24-RQ59413-WS

Vendor: _____

IN WITNESSETH WHEREOF, we have set our hands unto this Agreement as of the date above written

NORTH CAROLINA STATE BOARD OF EDUCATION

By: _____
Catherine Truitt, State Superintendent

By: _____
Alexis Schauss, Chief Financial Officer

CONTRACTOR

By: _____
(Name, Title)

Print: _____
(Name, Title)

Date: _____

EXHIBIT II: MASTER REPLACEMENT BUS FINANCING AGREEMENT

THIS MASTER REPLACEMENT BUS FINANCING AGREEMENT, dated as of _____, 2024 (this "Agreement"), is made and entered into by and between **<Name of Contractor>**, hereinafter referred to as "CONTRACTOR" and the _____ (hereinafter referred to as "local education agency" or the "LEA"), a political subdivision of the State of North Carolina (the "State") and its successors and permitted assignees, whose offices are located at _____.

RECITALS

WHEREAS, pursuant to the authority granted by G.S. 115C-249(c) and 115C-528, the LEA is authorized to acquire, own, lease, contract and operate school buses for the transportation of pupils enrolled in the public schools of such LEA, in accordance with the rules and regulations adopted by the North Carolina State Board of Education (the "Board") under the authority of G.S. 115C-12(17); and

WHEREAS, the General Assembly of the State of North Carolina has authorized the Board to use funds for allotments to the various local education agencies of the State for the replacement of school buses for the 2023-2024 fiscal year; and

WHEREAS, pursuant to a solicitation for third party financing, the Board, acting through its Department of Public Instruction ("NC DPI") has selected **CONTRACTOR** to provide financing for the replacement of school buses; and

WHEREAS, the LEA desires to purchase certain replacement buses (the "Buses") and CONTRACTOR desires to finance the purchase of the Buses on an installment basis, pursuant to the terms and conditions hereinafter set forth and as authorized by G.S. 115C-249(c) and 115C-528; and

WHEREAS, this Agreement shall be implemented through one or more series of Appendices (as defined herein), with each Appendix constituting a single transaction subject to and entered into pursuant to this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing recitals and the covenants and agreements contained herein, the parties do hereby agree as follows:

ARTICLE I – DEFINITIONS

The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Accepted Buses" means those Buses identified on "Part I--List of Accepted Buses" as a part of each Appendix, to be purchased by the LEA and financed, on an installment basis, by CONTRACTOR for a term not exceeding the useful life of each Accepted Bus pursuant to this Agreement.

"Agreement" means this Master Replacement Bus Financing Agreement by and between the LEA and CONTRACTOR, any duly executed Amendment(s), and the Appendices executed in connection herewith.

"Appendix" means each consecutively numbered Appendix utilized to acquire the Accepted Buses, and includes-
Part 1--List of Accepted Buses indicating the total cost of the Accepted Buses

Part 2--Payment Schedule

Part 3--Disbursement Request, with Acceptance Certificate
Form 8038-G and UCC-1 Financing Statements, if applicable

"Board" or "NCSBE" means the North Carolina State Board of Education.

"Buses" means the aggregate listing of anticipated replacement buses identified by NC DPI to be acquired by the LEA and identified on Exhibit B attached to this Agreement.

"Code" means the Internal Revenue Code of 1986, as amended, together with all published rulings, regulations and court decisions with respect thereto.

"Contract Documents" consist of—this Agreement

- Exhibit A--North Carolina General Contract Terms and Conditions – Third-Party Financing, Attachment C to NC DPI IFB #24-RQ59413-WS, Requisition No. RQ59413 School Bus Financing
- Exhibit B--Aggregate List of Replacement Buses Anticipated to be Acquired by the LEA
- Exhibit C--General Certificate of the LEA
- each Appendix
- any other documents deemed necessary by **CONTRACTOR** and/or the LEA. Where the terms and provisions of the Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of the Agreement shall prevail over the other Contract Documents.

“NC DPI” means the North Carolina Department of Public Instruction.

“Financing Term” means, with respect to the Accepted Buses acquired pursuant to an Appendix, the term of its related Payment Schedule.

“Installment Payment Date” means, with respect to an Appendix, each date set forth in its related Payment Schedule on which the payment of an installment of principal or interest must be made by the LEA.

“Installment Payments” means one or more of the periodic payments made by the LEA pursuant to Section 4.01 hereof and at the times and in the amounts set forth in the Payment Schedule with respect to each Appendix, and that are payable in consideration of **CONTRACTOR**’s financing of the Accepted Buses for the benefit of the LEA and other obligations under this Agreement. Exact installment payment amounts are listed in **CONTRACTOR**’s cost proposal in response to NC DPI IFB #24-RQ59413-WS, Requisition No. RQ59413 School Bus Financing.

“Master Facilitator Agreement” means the Master Facilitator Agreement executed between **CONTRACTOR** and the Board, dated as of _____.

“Payment Schedule” means the schedule of payments set forth in Part 2 to each Appendix to be made by the LEA in consideration of **CONTRACTOR**’s financing of the Accepted Buses pursuant to this Agreement.

“Prepayment Price” means the amount which the LEA may, in its discretion, pay to **CONTRACTOR** to prepay all Installment Payments with respect to an Appendix. With respect to the LEA’s option to prepay all Installment Payments with respect to an Appendix, the “Prepayment Price” shall be set forth on “Part 2--Payment Schedule” to the applicable Appendix after paying the Installment Payment and all other amounts due on or before such date for prepayment.

“State” means the State of North Carolina.

“Vendor” means any manufacturer of the Buses as well as the agents or dealers of the manufacturer from whom the Buses were originally purchased or are being purchased.

ARTICLE II – GENERAL

Section 2.01 Purpose of this Agreement. The purpose of this Agreement is to provide for the terms of the financing of the Accepted Buses by **CONTRACTOR** on behalf of the LEA. Each transaction implemented and entered into hereunder shall be deemed to be a separate and distinct legal and binding obligation of the LEA and **CONTRACTOR** with this Agreement being applicable thereto independent of additional transactions that may be entered into by **CONTRACTOR** and the LEA hereunder.

Section 2.02 Agreement to Finance. **CONTRACTOR** agrees to provide financing for the Accepted Buses described in “Part 1--List of Accepted Buses” to each properly executed Appendix for the consideration indicated in “Part 2--Payment Schedule” of the related Appendix to the LEA, and the LEA agrees to accept the terms of the financing provided by **CONTRACTOR** for each of the Accepted Buses. The LEA shall be entitled to retain possession of the Accepted Buses as long as it is not in default under this Agreement.

ARTICLE III – IMPLEMENTATION OF THE AGREEMENT

Section 3.01 General Contract Terms and Conditions. The North Carolina General Contract Terms and Conditions Third-Party Financing contained in Attachment C to NC DPI IFB #24-RQ59413-WS, Requisition No. RQ59413 School Bus Financing, will be incorporated upon execution of the **MASTER REPLACEMENT BUS FINANCING AGREEMENT**.

Section 3.02 Ordering of the Buses. The NC DPI has identified certain Buses for replacement for use by the LEA, which are listed on the attached Exhibit B and incorporated herein by reference. The LEA will issue a Purchase Order for the Buses to the Vendor.

Section 3.03 Delivery of the Buses. In response to the LEA Purchase Order, subject to the terms of the current state term contract for school buses, Vendor will deliver one or more replacement Buses to the NC DPI on behalf of the LEA. Upon delivery, the NC DPI and the LEA will inspect the replacement Buses to ascertain that the replacement Buses meet the State's replacement criteria.

Section 3.04 Acceptance of the Buses. Upon acceptance of the replacement Buses, the NC DPI and the LEA will notify **CONTRACTOR** of the aggregate cost of the Accepted Buses. The LEA will provide to **CONTRACTOR** a properly completed Appendix, including a listing of the "Part 1--List of Accepted Buses" as well as notifying **CONTRACTOR** as to the aggregate cost of the Accepted Buses. **CONTRACTOR** will be responsible for preparing "Part 2--Payment Schedule" for each Appendix. In accordance with the Master Facilitator Agreement, **CONTRACTOR** will provide copies of "Part 2--Payment Schedule" for each Appendix to the Board.

Section 3.05 Vendor Payment. Pursuant to the Master Facilitator Agreement, the Board will allocate funds to the LEAs for the acquisition of the Buses acquired pursuant to the Financing Agreements. The Board will direct those funds to **CONTRACTOR** to pay the Installment Payments required by this Agreement. Within ten (10) days from the date of acceptance of the Accepted Buses in connection with an Appendix, the Board will direct funds representing the LEA's first annual Installment Payment to be paid pursuant to "Part 2--Payment Schedule" of an Appendix and will arrange to transfer the Installment Payment to **CONTRACTOR**. No later than thirty (30) days after the LEA accepts the Accepted Buses, **CONTRACTOR** will pay the total cost of the Accepted Buses to the Vendor.

Section 3.06 The Board's Allocation of Funds to the LEA. Pursuant to the Master Facilitator Agreement, the Board will allocate to the LEA funds appropriated by the General Assembly for the purchase of the Buses and will direct such funds to **CONTRACTOR** for annual Installment Payments. By its execution of this Agreement and of each Appendix, the LEA authorizes the Board to and acknowledges that the Board will direct such funds to **CONTRACTOR**.

ARTICLE IV – INSTALLMENT PAYMENTS

Section 4.01 Payment of Installment Payments. Required payments for each bus configuration are quoted by **CONTRACTOR** in its response to NC DPI IFB #24-RQ59413-WS, Requisition No. RQ59413 School Bus Financing which is incorporated into this Agreement by reference thereto. Pursuant to the terms of the Contract Documents, the LEA will pay FOUR equal Installment Payments for each Bus, as set forth on each "Part 2--Payment Schedule" of each Appendix. The total estimated financed cost for the Buses is shown on Exhibit B attached hereto. Each Installment Payment comprises an interest component and a principal component, as set forth on "Part 2--Payment Schedule" to each Appendix. The Installment Payments will be payable without notice or demand at such address as **CONTRACTOR** has designated and provided in writing to the LEA and to the Board. Pursuant to the Master Facilitator Agreement and subject to Section 4.03 hereof, the Board will direct funds allocated to the LEA by the General Assembly of the State for the replacement of buses to pay, on behalf of the LEA, the Installment Payments to **CONTRACTOR**.

In the event that the Board is unable to direct Installment Payments because the General Assembly fails to allocate funds for the replacement of school buses, the LEA may continue this Agreement, at its option, from alternative sources of funding.

The LEA hereby acknowledges and agrees that the Board will combine the Installment Payments with similar payments from other local education agencies acquiring replacement Buses and will cause the total of the Installment Payments be paid to the **CONTRACTOR**.

Section 4.02 Unconditional Obligation to Pay Installment Payments. There will be no abatement or reduction of payments by the LEA for any reason, including but not limited to, any defense, recoupment, setoff, counterclaim, or any claims (real or imaginary) arising out of or related to any defects, damages, malfunctions, breakdowns or infirmities of the Accepted Buses. The LEA assumes and shall bear the entire risk of loss and damage to the Accepted Buses from any cause whatsoever, it being the intention of the parties that the Installment Payments shall be made in all events unless the obligation to pay such amount is terminated as otherwise provided herein.

Section 4.03 Non-Appropriation. The LEA's obligation to pay any amounts due under this Agreement is conditioned upon availability and continuation of funds for that purpose as stated in Section 8 of the North Carolina General Contract Terms

and Conditions Third-Party Financing – attached to NC DPI IFB #24-RQ59413-WS, Requisition No. RQ59413 School Bus Financing as Attachment C and similarly stated in Section 8.01 of this Agreement. Notwithstanding the foregoing, the LEA agrees that it will use its best efforts to obtain approval of the necessary funds to continue this Agreement by taking appropriate action to request adequate funds to continue the Agreement in force. In the event the LEA returns the Accepted Buses pursuant to the terms of this Agreement, **CONTRACTOR** shall retain all sums paid hereunder.

Section 4.04 Late Payments. Any Installment Payment or other payment required to be paid under this Agreement which is not received by the **CONTRACTOR** at its designated address within thirty (30) days after the date specified on the Payment Schedule shall be considered past due.

ARTICLE V – TITLE TO ACCEPTED BUSES, SECURITY INTEREST

Section 5.01. Title; Security Interest. Title to each Accepted Bus shall and does vest immediately in the LEA upon acceptance of the Bus by the NC DPI and the LEA and the delivery of an Acceptance Certificate to **CONTRACTOR** by the NC DPI; provided, however, in the event of termination of this Agreement pursuant to Section 8.02 (a) hereof, title to the Accepted Buses will immediately vest in **CONTRACTOR**.

Upon any vesting of title to the Accepted Buses in **CONTRACTOR** pursuant to the preceding sentence, the LEA shall deliver the Accepted Buses to **CONTRACTOR** promptly without fraud or delay and in good order, condition and repair, except for reasonable wear and tear, free and clear of all lettings, liens and encumbrances created or suffered by the LEA, and without any payment or allowance whatever by **CONTRACTOR** on account of any improvements made by the LEA, to a mutually-agreed upon location in the State of North Carolina. **CONTRACTOR** will have all legal and equitable rights and remedies to take possession of the Accepted Buses.

In order to further secure its obligations hereunder, the LEA hereby (i) grants to **CONTRACTOR** a first and prior security interest in any and all right, title, and interest of the LEA in the Accepted Buses and on any proceeds therefrom; (ii) agrees that this Agreement may be filed as a financing statement evidencing such security interest; and (iii) agrees to execute and deliver all financing statements, certificates of title and other instruments necessary or appropriate to evidence such security interest.

Section 5.02. Liens. The LEA shall not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, security interest, encumbrance, or claim on or with respect to the Accepted Buses or any interest therein, except for the lien and security interest of **CONTRACTOR** therein. The LEA shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, security interest, charge, encumbrance, or claim if the same shall arise at any time.

Section 5.03. Payment to Bus Vendor(s). Following acceptance, NC DPI, on behalf of the LEA will execute and deliver to **CONTRACTOR** “Part 3--Disbursement Request” together with each of the documents referenced thereon. The actual Disbursement Request used by NC DPI will include the aggregate cost of the Accepted Buses for any affected LEA and will request that payment be made by **CONTRACTOR** to the Vendor within thirty (30) days, pursuant to the Disbursement Request.

Within ten (10) days of the acceptance of the Accepted Buses by the LEA and the NC DPI, the Board, on behalf of the LEA, will transmit the first annual Installment Payment to the contractor as indicated on the Payment Schedule for the Accepted Buses.

Within thirty (30) days of the NC DPI and LEA’s acceptance of the Accepted Buses, **CONTRACTOR** will render payment to the Vendor.

ARTICLE VI – RESPONSIBILITIES OF THE LOCAL EDUCATION AGENCY

Section 6.01 Maintenance of the Accepted Buses. The LEA agrees that for each Accepted Bus described in Part I to an Appendix, the LEA, at its own cost and expense, shall maintain, preserve, and keep such Accepted Bus in good repair, working order and condition subject to reasonable wear and tear, as outlined in the Preventative Maintenance and Vehicle Replacement Manual promulgated by the NC DPI.

Section 6.02 Inspection. **CONTRACTOR** shall have the right upon reasonable prior notice to the LEA and with the LEA’s consent to enter into and upon the premises where the Accepted Buses are located to inspect them and observe their use during normal business hours.

Section 6.03 Taxes. The LEA agrees to pay or cause to be paid when due all taxes related to the Accepted Buses and the LEA’s

obligations hereunder, including but not limited to, all license or registration fees, gross receipts tax, sales and use tax, documentary stamp taxes, rental taxes, assessments, charges, ad valorem taxes, excise taxes, and all other taxes, licenses and charges imposed on the ownership, possession or use of the Accepted Buses by any governmental body or agency, together with any interest and penalties, other than taxes on or measured by the net income of **CONTRACTOR**, if any.

Section 6.04 Damage, Destruction, and Insurance. The State of North Carolina is covered under a program of self-insurance. Pursuant to the G.S. 115C-249(f), if any Accepted Bus is damaged or destroyed by fire, collision or otherwise, the LEA may apply to the Board for funds with which to replace it. If the Board finds that the Accepted Bus has been destroyed or damaged to the extent that it cannot be made suitable for further use, and if the Board finds that the replacement of the Accepted Bus is necessary in order to enable the LEA to operate properly its transportation system, the Board shall allot the LEA from the funds held by it for the replacement of school buses, or from funds hereafter appropriated by the General Assembly of the State for that purpose, a sum sufficient to purchase a new bus to be used as a replacement for the damaged or destroyed Accepted Bus and upon such allocation, such sum shall be paid over to or for the account of the LEA for such purpose. The replacement Bus will be substituted as a security interest for the financing of the damaged or destroyed Bus. Alternatively, the LEA, with funds provided by the Board, may pay the remaining balance of the damaged or destroyed bus.

Section 6.05 Federal Taxation. The LEA will not take or permit any of its officers to take any action with respect to the Agreement or the Buses which would cause the interest component of any Installment Payment payable under any Appendix to become subject to federal income taxation under the Code and will take all actions legally and reasonably within its powers necessary to ensure that the interest will not become subject to federal income taxation under the Code.

ARTICLE VII DISCLAIMER OF WARRANTIES; VENDOR'S WARRANTIES; USE OF THE ACCEPTED BUSES

Section 7.01 Disclaimer of Warranties. (a) **CONTRACTOR, NOT BEING A SELLER OF THE ACCEPTED BUSES AS SUCH TERM IS USED IN THE UNIFORM COMMERCIAL CODE NOR A SELLER'S AGENT, HEREBY EXPRESSLY DISCLAIM, AND MAKE NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE ACCEPTED BUSES, OR ANY OTHER WARRANTY WITH RESPECT THERETO AND, AS TO CONTRACTOR, THE LEA PURCHASES THE ACCEPTED BUSES AS IS.** In no event shall **CONTRACTOR** be liable for any loss or damage, including incidental, indirect, special, or consequential damage, in connection with or arising out of the existence, furnishing, functioning, or LEA's use of the Accepted Buses.

(b) Each execution of an Appendix shall constitute acknowledgment by (and as to (i) and (ii), a representation of) the LEA that: (i) the Accepted Buses are of a size, design, capacity and manufacture selected by the LEA and NC DPI; (ii) the LEA is satisfied that the Accepted Buses are suitable for its purpose; (iii) **CONTRACTOR** is not a vendor or a manufacturer or dealer in property of such kind; and (iv) **CONTRACTOR** has disclaimed any representation or warranty or covenant as set forth in Section 7.01(a) above.

Section 7.02 Vendor's Warranties. **CONTRACTOR** irrevocably appoints the LEA its agent and attorney-in- fact during the term of this Agreement, so long as the LEA shall not be in default hereunder for the purpose of asserting from time-to-time whatever claims and rights which **CONTRACTOR** may have against the Vendor, including warranty claims with respect to the Accepted Buses, but for no other purpose whatsoever. The LEA's sole remedy for the breach of a warranty shall be against the Vendor and not against **CONTRACTOR**, nor shall such matters have any effect whatsoever of this Agreement, including the LEA's obligation to make timely Installment Payments hereunder. The LEA expressly acknowledges that **CONTRACTOR** makes, and has made, no representation or warranties whatsoever as to the existence or availability of such warranties from the Vendor.

Section 7.03 Use of the Accepted Buses. The LEA will not install, use, operate or maintain the Accepted Buses improperly, carelessly, in violation of any applicable law or regulations or in a manner contrary to that contemplated by this Agreement. The LEA shall obtain and maintain all permits and licenses necessary for the operation of the Accepted Buses.

Section 7.04 Quiet Enjoyment. The LEA shall be entitled to possess and use the Accepted Buses during the Financing Term of the related Appendix without interruption by **CONTRACTOR**, provided that the LEA has duly performed its obligations under this Agreement. Any Accepted Bus acquired under terms of this Agreement may be operated at any time at the convenience of the LEA (exclusive of time required for preventive maintenance, remedial maintenance and/or approved engineering changes). The LEA

may make Accepted Buses available to other users, provided that the Accepted Buses are used for governmental purpose, as allowed by North Carolina General Statutes.

ARTICLE VIII TERMINATION ON ACCOUNT OF NON-APPROPRIATION OF FUNDS; EVENTS OF DEFAULT AND REMEDIES

Section 8.01 Termination on Account of Non-appropriation of Funds. Notwithstanding any contrary provision in this Agreement, the LEA may, at its option, terminate this Agreement as to all (but not less than all) the Accepted Buses that are the subject of each and every Appendix entered into herewith, as of the end of any fiscal year, if funds are not appropriated for the next fiscal year in an amount equal to the aggregate of all Installment Payments due during such next fiscal year for the purpose of making the Installment Payments. The LEA agrees to provide **CONTRACTOR** with written notice immediately upon the occurrence of non-appropriation.

If the LEA terminates this Agreement because of non-appropriation of funds in accordance with the provisions of this Section 8.01, the LEA shall return the Accepted Buses to **CONTRACTOR** in the manner described in Section 5.01 hereof and all obligations of the LEA to pay Installment Payments coming due following such termination shall cease without penalty or expense to the LEA of any kind.

Section 8.02 Events of Default. Any of the following events shall constitute an Event of Default under this Agreement:

- a) The LEA fails to make any Installment Payment within thirty (30) days of when such payment is due for which payment funds have been lawfully appropriated and are lawfully available, or shall fail to perform or observe any term or condition or covenant of this Agreement or any schedule or supplemental hereto, and fails to perform or observe as required for a period of (30) days after written notice to the LEA by **CONTRACTOR**, specifying such failure and requesting that it be remedied; or
- b) The LEA fails to perform as required for a period of thirty (30) days after written notice to the LEA by **CONTRACTOR**, specifying such failure and requesting that it be remedied; or
- c) **CONTRACTOR** fails to pay the vendor as required under this Agreement; or
- d) **CONTRACTOR** fails to perform as required under this Agreement.

Section 8.03 Remedies on Default. (i) Immediately upon the occurrence of an Event of Default described in Section 8.02(a) hereof or (ii) upon the occurrence of any other Event of Default described in Section 8.02 hereof, and the failure of the LEA or **CONTRACTOR**, as applicable, to remedy such Event of Default within any specified cure period, then the respective parties shall have the right, at its option and without any further demand or notice, to take one or any combination of the following remedial steps:

- a) With or without terminating this Agreement, and upon written notice to the LEA, **CONTRACTOR** may re- enter and take possession of the Accepted Buses; or
- b) With or without terminating this Agreement, and upon written notice to the LEA, re-enter and take possession of the Accepted Buses, and sell, lease or sublease all or any part of them in such a manner as will not cause a violation of Section 6.05 hereof, with any excess sales proceeds being paid to the Board.
- c) The LEA may terminate this Agreement as to the financing of any additional Appendix without penalty or expense to the LEA of any kind.

ARTICLE IX PREPAYMENT OPTION

Section 9.01 Prepayment Option. Notwithstanding the provisions of Section 11.d of the General Terms and Conditions attached hereto as Exhibit A, and if no event of default exists, the LEA may at its option elect to prepay the Installment Payments due pursuant to an Appendix in full on the dates indicated on "Part 2--Payment Schedule" attached to each Appendix. The LEA agrees to provide written notice to **CONTRACTOR** of its intention to prepay not less than thirty (30) days prior to the applicable Installment Payment Date.

If the LEA exercises its option to prepay its obligations to pay the Installment Payments pursuant to an Appendix in full, the

Prepayment Price shall be the amount shown as such on the Payment Schedule attached to the Appendix.

Section 9.02 LEA's Rights on Prepayment in Full. Upon (1) the LEA's exercise of its right to prepay in full in accordance with the preceding subsection or (2) the LEA's having satisfied all of its monetary and other obligations hereunder, within thirty (30) days thereafter, **CONTRACTOR** shall deliver to the LEA any and all documentation necessary to evidence the termination of **CONTRACTOR's** interest in the Accepted Buses. The Accepted Buses will be accepted by the LEA at that time on an AS IS, WHERE IS basis, and **CONTRACTOR** makes no warranties or representations of any type as to the Accepted Buses.

ARTICLE X MISCELLANEOUS

Section 10.01 Waiver. No covenant or condition of this Agreement or in any of the other Contract Documents can be waived except by the written consent of the parties. The failure of any party to require strict performance by the other party or any waiver by any party of any terms, covenants or agreements herein shall not be construed as a waiver of any other breach of the same or of any other term, covenant or agreement herein.

Section 10.02 Amendments. This Agreement cannot be amended except by written consent of both parties.

Section 10.03 Severability. In the event any portion of this Agreement shall be determined to be invalid under any applicable law, such provision shall be deemed void, and the remainder of this Agreement shall continue in full force and effect.

Section 10.04 Notice. All notices made or required to be given pursuant to this Agreement shall be in writing and shall be deemed duly served if and when mailed, certified or registered mail, postage prepaid, return receipt requested, to the other party at its address set forth below or at such other address as such party shall hereafter designate in writing:

<p>If to CONTRACTOR:</p>	<p>If to the BOARD:</p> <p>North Carolina State Board of Education NC DPI Transportation Services 6319 Mail Service Center Raleigh, North Carolina 27699-6319 Attn: Kevin Harrison, Section Chief</p>
---------------------------------	---

If to the LEA :	
LEA Name:	
Address	
City, State, Zip	
ATTN:	

Section 10.05 Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

Section 10.06 Entire Agreement. This Agreement, the Contract Documents, and the Appendices as may be hereafter executed, constitute the entire agreement between the parties with regard to the subject matter hereof.

Section 10.07 Binding Effect. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assignees.

Section 10.08 Time. Time is of the essence of this Agreement and each and all of its supplements and provisions.

Section 10.09 Governing Law. The provisions of this Agreement shall be governed by the laws of the State of North Carolina.

Bid Number: 24-RQ59413-WS

Vendor: _____

Section 10.10 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but which together shall constitute but one and the same instrument. This agreement and related documents ("Related Documents") may be executed and delivered by facsimile signature or other electronic or digital means; any such signature shall be of the same force and effect as an original signature, it being the express intent of the parties to create a valid and legally enforceable contract between them.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto by their duly authorized representatives.

LOCAL EDUCATION AGENCY:

CONTRACTOR:

By: _____

By: _____

Name: _____

Title: _____

OR

By: _____

Name: _____

Superintendent, on behalf of the LEA

Exhibit "A"

Master Replacement Bus Financing Agreement dated _____, by and between Contractor

and _____

NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS THIRD-PARTY FINANCING

Exhibit "B"

Master Replacement Bus Financing Agreement dated _____, by and between Contractor

and _____

Aggregate List of Replacement Buses Anticipated to be Acquired by the LEA

[Insert here the complete list of buses that the LEA will finance]

<OR>

[If the list is not inserted on the Exhibit B and an attachment is used instead, then add the following language to the top of the attachment: "Attachment to Exhibit B to Master Replacement Bus Financing Agreement dated _____, by and between Contractor and _____"]

Exhibit "C"

Form of General Certificate of the LEA

CLOSING CERTIFICATE

I, the undersigned, do hereby certify that I am a duly elected or appointed and authorized officer of _____ (the "Local Education Agency" or "LEA"), that I hold the office set forth below my signature, and that I am hereby executing and delivering this certificate for the benefit of all persons interested in that certain Master Replacement Bus Financing Agreement, dated as of _____, 2024 and the Appendices executed in connection therewith (collectively, the "Agreement"), by and between _____ (the "**CONTRACTOR**") and the LEA. The Agreement and all other documents, certificates, or instruments executed by the LEA and CONTRACTOR in connection therewith are referred to herein collectively as the "Contract Documents". Terms defined in the Agreement are used in this certificate with the same meanings as in the Agreement. I do hereby further certify that:

1. I am familiar with and have personal knowledge of the matters hereinafter stated.
2. The LEA is a political subdivision of the State of North Carolina.
3. Each person signing the Contract Documents on behalf of the LEA is a duly elected or appointed, qualified, and acting officer of the LEA holding the office set forth below such person's signature, and each such person's signature appearing thereon is true and genuine.
4. To the best of my knowledge (i) the representations, covenants and warranties of the LEA in the Agreement are true and correct on and as of the date hereof as though made on and as of the date hereof; (ii) the LEA has complied with all terms on its part to be performed or satisfied by it under the Agreement at or prior to the date hereof; and (iii) the Contract Documents remain in full force and effect and no default or breach, or other event that, with the giving of notice or the passage of time or both, would become a default or breach, has occurred thereunder.
5. Each of the Contract Documents has been duly executed and delivered by or on behalf of the LEA and constitutes a legal, valid, and binding obligation of LEA enforceable in accordance with its terms.
6. Except as have been obtained and are in full force and effect as of the date hereof, no governmental orders, permissions, consents, approvals or authorizations are required to be obtained and no registrations or declarations are required to be filed in connection with the execution and delivery by the LEA of the Contract Documents or the acquisition of the Accepted Buses.
7. The LEA has taken all actions necessary to provide for all amounts required to be paid under the Agreement during the current fiscal year, and the LEA has or expects to have sufficient unexhausted funds to make such payments as the same become due.
8. The LEA has, to the extent required, complied with all applicable provisions of the applicable laws of the State with respect to the Agreement including without limitation the provisions of the Agreement relating to such public bidding requirements as may be applicable to the Agreement and the acquisition of the Accepted Buses thereunder.
9. To the best of my knowledge, no litigation is pending or threatened in any court to restrain or enjoin the execution or delivery of the Agreement or the payment of the Installment Payments, or in any way contesting or affecting the validity of the Agreement, or contesting the powers of the LEA or contesting the authorization of the Agreement or which, if adversely determined, will have a material, adverse effect on the ability of LEA to perform its obligations under the Contract Documents.
10. The Accepted Buses will be used by the LEA only for the purpose of performing one or more of its essential governmental or proprietary functions consistent with the permissible scope of its authority. None of the Accepted Buses will be leased to or operated by any person in connection with a non-governmental trade or business.

Bid Number: 24-RQ59413-WS

Vendor: _____

11. The Federal Taxpayer Identification number of the LEA is _____.

EXECUTED on _____, 20__

By: _____

Name: _____

Title: _____

Appendix #__to

Master Replacement Bus Financing Agreement dated _____, by and between Contractor
and _____

Bid Number: 24-RQ59413-WS

Vendor: _____

Part 1

List of Accepted Buses indicating the total cost of the Accepted Buses

VIN Number:

Total Cost of the Accepted Buses \$ _____

[Insert here the complete list of buses with VINs that the LEA will finance]

<OR>

[If the list is not inserted on the Exhibit B and an attachment is used instead, then add the following language to the top of the attachment: "Attachment to Exhibit B to Master Replacement Bus Financing Agreement dated _____, by and between Contractor and _____"]

Part 2

Payment Schedule to Appendix # _____

Master Replacement Bus Financing Agreement dated _____, by and between Contractor and _____

[Insert here the complete list of buses with VINs that the LEA will finance]

<OR>

[If the list is not inserted on the Exhibit B and an attachment is used instead, then add the following language to the top of the attachment: "Attachment to Exhibit B to Master Replacement Bus Financing Agreement dated _____, by and between Contractor and _____"]

Part 3
Request for Disbursement

2024 REQUEST FOR DISBURSEMENT NO.: _____ (this Request No, should be the same is the Appendix No., and Contractor should only get one request for each Appendix)

RE: Appendix ____ to Master Replacement Bus Financing Agreement (the "Agreement"), dated as of (Please refer to LEA on Part-2 - Payment Schedule), 2024, made and entered into by and between (Please refer to LEA on Part-2 - Payment Schedule) (the "LEA") and <Vendor Name> ("CONTRACTOR").

Please refer to the above-described Agreement. Unless otherwise defined herein, all terms having a defined meaning in the Agreement shall have the same meaning when used herein.

1. The undersigned hereby certifies that:

a) This Request for Disbursement is in accordance with the Agreement and Appendix __ and is for payment to the Vendor of the Buses described on Part I--List of Accepted Buses, which Buses have been accepted as stated in the Acceptance Certificate attached to this Request for Disbursement and executed by the NC DPI and the LEA.

b) The amount to be disbursed on this Request for Disbursement has not formed the basis of a previous request for payment and is due and owing.

c) The following amount should be disbursed to the Vendor in payment of the Accepted Buses:

(1) The amount of the first annual payment to be paid by the LEA \$ _____

(2) Remaining amount to be financed by CONTRACTOR \$ _____

(3) Aggregate of amount owed the Vendor \$ _____

2. Please disburse the following amount to the following Payee:

Payee: _____

Amount: \$ _____

3. By its signature on this Part 3, the LEA agrees that it has reviewed and approved Part 1 and Part 2 of this Appendix.
(Please refer to Part 2 – Payment Schedule)

EXECUTED as of _____.

as the LEA

By: _____

Name: _____

Title: _____

ACCEPTANCE CERTIFICATE

DATE: _____

Re: Acceptance Certificate No. _____ to Master Facilitator Agreement (the "Agreement"), dated as of _____, made and entered into by and between the North Carolina State Board of Education (the "Board") and **<Vendor Name>** (the "CONTRACTOR") and that certain Master Replacement Bus Financing Agreement executed by the Local Education Agency indicated below (the "LEA") and CONTRACTOR (the "Financing Agreement"). Unless otherwise defined herein, all terms shall have the meaning ascribed thereto by the Agreement.

Ladies and Gentlemen:

Please refer to the above-described Agreement. In accordance with the terms of the Agreement, the LEA, together with the Department of Public Instruction (the "NC DPI"), acting on behalf of the Board, acting hereby, each certify and represent to, and agree with CONTRACTOR as follows:

- A. The Accepted Buses described on **Attachment A** hereto been inspected by the LEA and the NC DPI on behalf of the Board on or before the date hereof.
- B. The LEA and the NC DPI have conducted such inspection of the Accepted Buses as each deems necessary and appropriate and hereby respectively acknowledge that the Accepted Buses are acceptable to be included in the State of North Carolina's bus fleet, effective the date hereof.
- C. The Accepted Buses described on **Attachment A** are insured pursuant to a program of self-insurance as provided by the Board.

Department of Public Instruction	As the LEA
Signature:	Signature:
Name:	Name:
Title:	Title:
	Date:

Attachment A to the Acceptance Certificate relating to Appendix # ____ to Master Replacement Bus Financing Agreement dated _____, by and between Contractor and _____.