

CABINET MEMBERS' ROOM DOCUMENTS

Monday, 1st August, 2011
at 4.30 pm

APPENDICES ATTACHED TO THE LISTED REPORTS

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9 SOUTHAMPTON BUS PARTNERSHIP

- Draft Southampton Bus Partnership

FRIDAY, 22 JULY 2011

HEAD OF LEGAL AND DEMOCRATIC SERVICES

DATED

2011

Southampton City Council,

First Hampshire and Dorset Limited,

Go-South Coast (Bluestar, Unilink and Wilts & Dorset),

AND

**The Small Operator Representative of South Hampshire Bus Operators
Association (SHBOA) (Representing the interests of other operators in the City);**

.....

AGREEMENT

Relating to

Southampton Bus Partnership

Mark R Heath
Director of Corporate Services
Southampton City Council
Civic Centre
Southampton

RECITALS

The Parties have entered into this Agreement with the intention of further improving the bus services provided in Southampton where agreed, as set out in this Agreement, or as agreed between them over time. This Agreement records the present intentions of The Parties. It is entered into in good faith, but it is expressly recognised that this Agreement cannot fetter the discretion of the Parties. This Agreement is therefore not intended to create legal relations unless any part of it is expressly stated to do so. Subject to that, the following points are agreed.

NOW IT IS AGREED:

1. Commencement

This Agreement shall come into force on the date above and shall continue in force until determined in accordance with this Agreement.

2. Description

The Parties have entered into this Agreement with the intention of further improving the quality of bus services in Southampton.

3. Parties

- a. Southampton City Council of Civic Centre, Southampton, Hampshire S014 7LY
- b. First Hampshire and Dorset Limited,
- c. Go-South Coast Limited (for and on behalf of Solent Blue Line Ltd (trading as Bluestar, Unilink) and Wilts & Dorset Bus Company Limited and Solent Blue Line Ltd and Wilts & Dorset Bus Company Limited)
- d. The Small Operator Representative of South Hampshire Bus Operators Association (SHBOA) (Representing the interests of other operators in the City).

4. Definitions

- 4.1 "The Parties" means the Parties to this Agreement set out in Clause 3
- 4.2 "SBP" means the Southampton Bus Partnership
- 4.3 "Key Objectives" means the Key Objectives for SBP laid out in Appendix 1
- 4.4 "the Plans" means the Quality Bus Partnership (QBP) including the Bus Punctuality Improvement Partnership (PIP) and any other plans or strategies relating to bus operation agreed between the parties to this Agreement that should be considered by the Strategic Board and/or the working group.

5. Interpretation

- 5.1 The headings for each section throughout this Agreement are provided for ease of reference only and shall not affect its construction or interpretation.
- 5.2 Where the masculine gender is used it shall also incorporate the feminine gender. Where the singular is used, it shall also incorporate the plural and words

importing party and persons includes bodies, corporate and unincorporated and (in each case) vice versa.

- 5.3 Any reference to legislation shall include a reference to that legislation as amended, applied, consolidated, re-enacted by or as having affect by virtue of any subsequent legislation

6. Principles and Key Objective

6.1 The Parties agree to establish and participate in a Partnership to be known as "Southampton Bus Partnership" ("SBP").

6.2 The Key Objectives for SBP are as set out in Appendix 1.

7. Governance Structures, Strategic Board, Senior Management Board and Working Groups and Membership

7.1 The Governance Structures shall be established in accordance with Appendix 2.

7.2 The terms of reference and membership of the Governance Structures shall be established in accordance with Appendix 3.

7.3 Any proposed change shall be treated as a variation in accordance with Clause 18.

8. Strategic Board

8.1 A Strategic Board will be established with the terms of reference and membership as set out in Appendices 2 and 3.

8.2 The quorum for the Strategic Board shall be two.

8.3 All decisions shall be recorded by simple majority vote.

8.4 The Board shall elect its chairman at the start of the municipal year.

9. Termination and Withdrawal

- 9.1 SBP recognises that the success of the partnership depends upon the mutual co-operation of all the Parties and the withdrawal of any Party may have repercussions for the remaining Parties and any Party withdrawing from SBP shall, unless otherwise unanimously agreed give three months notice in writing of withdrawal to all other Parties whereupon the other Parties shall consider what future arrangements should apply which may include to agreeing to continue with a revised Agreement.

10. Intellectual Property

10.1 Unless otherwise agreed:

a. The Parties shall not acquire any right, title or interest in or to the intellectual property rights of SBP.

b. SBP will not acquire any right, title or interest in or to the intellectual property rights of the Parties.

- 10.2 Any issues, challenges or claims in relation to any intellectual property rights shall be advised to each of the Parties immediately, and any intellectual property right claim shall be managed by the Parties as agreed.

11. Data Protection, Freedom of Information, Information Sharing and Confidentiality

- 11.1 Without prejudice to the specific requirements of this clause, each Party shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.
- 11.2 Subject to any legal obligations either arising upon the Parties and/or SBP, information supplied by the Parties or third parties shall, unless agreed by SBP, subject to any over-riding legal obligations, be treated as confidential.
- 11.3 The provisions of this clause are intended to be legally binding on the Parties.

12. Liability of the Parties

- 12.1 Subject to 12.4 and 12.5, whilst the Parties shall make all reasonable attempts to mitigate loss, each Party ("the indemnifying Party") shall be liable for and indemnify the others against any expense, liability, loss, claim or proceeding whatsoever arising under any statute or at common law in respect of personal injury to or death of any person whomsoever arising out of or in the course of or caused by any act or omission of that indemnifying Party in respect of its role in the activities of the Strategic Board and/or under this Agreement.
- 12.2 Subject to 12.4 and 12.5, whilst the Parties shall make all reasonable attempts to mitigate loss, each Party ("the indemnifying Party") shall be liable for and shall indemnify the others against any reasonable expense, liability, loss, claim or proceeding in respect of any injury or damage whatsoever to any property real or personal in so far as such injury or damage arises out of or in the course of or is caused by any act or omission of that indemnifying Party in respect of its role in the activities of the Strategic Board and/or under this Agreement .
- 12.3 Subject to 12.4 and 12.5, whilst the Parties shall make all reasonable attempts to mitigate loss, each Party ("the indemnifying Party") shall indemnify the others in respect of any reasonable loss caused to each of the other Parties as a direct result of that indemnifying Party's negligence, wilful default or fraud or that of any of the indemnifying Party's employees in respect of its role in the activities of the Strategic Board and/or under this Agreement.
- 12.4 Save as provided for by the law, unless expressly stated above no party shall have any liability to the other for any losses arising from any breach of this Agreement or arising from its role in under this Agreement including the activities of the Strategic Board.
- 12.5 Save as otherwise provided by this Agreement or by the law including any statutory obligations on the Parties, no party shall have any liability to any other party arising from any breach of this Agreement for any direct and /or indirect and/or consequential losses including (but not limited to) any loss of profits, loss of contract, loss of goodwill, loss of anticipated savings or the use of money and any special, exemplary and/or punitive damages.
- 12.6 The provisions of this clause are intended to be legally binding on the Parties.

13. Review

This Agreement may be reviewed at any time by Agreement between the Parties.

14. Variations

This Agreement may at any time be varied by Agreement between all the Parties.

15. Severability

If any term, condition or provision contained in this Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality or enforceability of the remaining parts of this Agreement.

16. Publicity

The Parties recognise their respective public reputations and legal responsibilities. Each Party shall use all reasonable endeavours not to harm or compromise these.

17. Waiver

No term or provision of this Agreement shall be considered as waived by any of the Parties to this Agreement unless a waiver is given in writing by that Party to all other Parties to this Agreement.

18. Notice

Any notice required to be served under this Agreement shall be sufficiently served if delivered personally to or sent by pre-paid first class recorded delivery post or facsimile transmission to the addresses set out in Clause 3 and if so sent shall, subject to proof to the contrary, be deemed to have been received by the addressee at the time of personal delivery or on the second working day after the date of posting or unsuccessful transmission as the case may be. Anything served personally or transmitted which is received at the recipient's premises on a day when it would not in the ordinary course of its business have been open for business shall be deemed to have been received on the next following day when it is open in the ordinary course of business or would have been if it had not ceased to conduct business.

19. Governing Law

This Agreement shall be governed by and construed in accordance with English Law and the Parties hereby submit to the exclusive jurisdiction of the English Courts. This clause is intended to have binding effect.

20. Counterparts

This Agreement may be executed in any number of counterparts, all of which when taken together shall constitute one and the same.

21. Exercise of statutory authority

Without prejudice to this Agreement, nothing in this Agreement shall be construed as a fetter or restriction on the exercise by any of the Parties of their statutory functions.

22. Exclusion of Third Party Rights

Save to the extent as expressly provided for in this Agreement no person not a Party to this Agreement shall have any right to enforce any term of this Agreement and the provisions of the Contracts (Rights of Third Parties) 1999 shall not apply to this Agreement

23. Survival of Clauses

The following clauses shall survive the expiry or termination of this Agreement

- Clause 4 (Definitions)
- Clause 5 (Interpretation)
- Clause 6 and Appendix 1 (Principles and Key Objectives)
- Clause 10 (Intellectual Property)
- Clause 11 (Data Protection, Freedom of Information, Information Sharing and Confidentiality)
- Clause 12 (Liability)
- Clause 18 (Notice)
- Governing Law (19)
- Clause 23 (Survival of Clauses)

24. No Partnership at Law

As public bodies, the Parties do not enter into this Agreement with any view of profit. The use of the terms “partners” and “partnership” in this Agreement merely denotes the intention of the Parties to work within local government legislation in a common way to achieve shared objectives, and should not be taken as an indication of any legal partnership for the purposes of the Partnership Act 1890.

Signed:

Authorised Signatory _____
Southampton City Council

Authorised Signatory _____

First Hampshire and Dorset Limited

Authorised Signatory _____

Go-South Coast Limited (For and on behalf of Solent Blue Line Limited (trading as Bluestar, and Unilink) and Wilts & Dorset Bus Company Limited)

Authorised Signatory _____

The Small Operator Representative of South Hampshire Bus Operators Association (SHBOA) (Representing the interests of other operators in the City)

KEY OBJECTIVES OF SBP

The Key Objective of SBP is to create a governance framework within which Southampton City Council, First South Coast, Go-South Coast group of companies and independent operators can work together to improve and promote local bus services and associated infrastructure(eg traffic signalling, street furniture etc) within Southampton through various mechanisms including (but not exclusively) an voluntary quality bus partnership.

It is recognised that efficient and attractive public transport is essential for the city to function effectively. It is also a key driver for economic growth.

Accordingly, the SBP will provide a governance framework for discussion and in principle Agreement with a view to improving and promoting local bus services within Southampton and also a venue where the Southampton Quality Bus Partnership (QBP), the Bus Punctuality Improvement Partnership (PIP) and any other similar or related plans may be discussed and agreed to the extent that they may then be recommended by the SBP to the various constituent bodies for approval, in so far as approval is required.

These key objectives should be construed and interpreted broadly.

GOVERNANCE, STRATEGIC BOARD AND WORKING GROUPS

TERMS OF REFERENCE FOR STRATEGIC BOARD

TERMS OF REFERENCE

1. To develop and keep under review the strategic policy framework for the provision and operation of bus services
2. To recommend the Plans to the parties who will approve the Plans through their own decision-making system
3. To oversee the delivery of work programmes by the Working Group and the implementation of the Plans by the parties / Working Group.
4. To undertake activities relating to the strategic policy framework for Bus Operations as agreed by the Strategic Board.
5. To influence, advise and lobby government and other agencies, both nationally and internationally, where to do so is consistent with the Key Objectives.
6. To commission research into matters relevant to the Key Objectives.
7. To pursue and seek funding.
8. To develop proposals for the future development of SBP.
9. To develop proposals on how the Parties can discharge their functions to promote or improve the economic, social and environmental wellbeing in the SBP area to achieve the Key Objectives
10. To carry out such other activities calculated to facilitate, or which are conducive or incidental to the discharge of the SBP's functions.
11. To liaise and report to TfSH / PUSH / the LEP in delivering the key objectives.
12. To appoint members to the Working Groups and to modify or vary the terms of reference of the existing working groups set out in Appendix 3 and to establish such further Working Groups from time to time as the Board considers necessary.

TERMS OF REFERENCE FOR THE WORKING GROUP

GENERAL

The Working Group is an informal body

TERMS OF REFERENCE

1. To provide policy advice and guidance to the Strategic Board and to implement the decisions of the Strategic Board.
2. To deliver or monitor the delivery by others (as appropriate) of work programmes (including but not limited to bus based schemes agreed for delivery from LTP funding) and implement or monitor the implementation (as appropriate) of the Plans by the parties.
3. To implement the decisions of the Strategic Board.
4. To review the effectiveness the Plans and to recommend revisions and/or future iterations of the Plans to the Strategic Board.
5. To take all other actions as directed by the Strategic Board from time to time.

MEMBERSHIP

Strategic Board

- The Cabinet member from SCC with responsibility for Environment and Transport
- First South Coast;
- Go-South Coast (representing Bluestar, Unilink and Wilts & Dorset);
- The Small Operator Representative of South Hampshire Bus Operators Association (SHBOA) (Representing the interests of other operators in the City);

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Note:

A standing invite is to be given to:

- *Transport for South Hampshire (TfSH)*
- *Representatives from adjacent Local Authorities (Test Valley, Eastleigh, Fareham, Hampshire)*
- *Representative from South Hampshire Local Enterprise Partnership (LEP) and/or Hampshire Chamber of Commerce;*
- *Passenger Focus;*
- *Highways Agency*

Working Group

- Senior Officer from SCC with responsibility for Environment and Transport
- First South Coast;
- Go-South Coast (representing Bluestar, Unilink and Wilts & Dorset);
- The Small Operator Representative of South Hampshire Bus Operators Association (SHBOA) (Representing the interests of other operators in the City);

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