

BP Comments – 6.9.20

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

THIS MUTUAL TERMINATION AGREEMENT (this “Agreement”), made and entered into this _____ day of _____, 2020 (the “Effective Date”) by and between WAKE COUNTY, a public body politic and corporate of the State of North Carolina, hereinafter referred to as “Wake County” and WAKE TECHNICAL COMMUNITY COLLEGE, a community college established pursuant to N.C.G.S. Chapter 115D (hereinafter referred to as “Wake Tech”). Wake County and Wake Tech are also referred to herein as “a Party” or the Parties”.

WITNESSETH:

WHEREAS, the Parties entered a Memorandum of Agreement dated on or about the 1st of June 1994 (hereinafter referred to as the “MOA”) setting forth their agreement and understanding related to the location and shared use of a satellite fueling facility on a portion of the Wake Tech Main Campus (as defined in the MOA) more particularly described in Exhibit “A” attached to the MOA; and

WHEREAS, Wake Tech provided the land for the satellite fueling facility (hereinafter “Facility”) and Wake County provided the installation and continued operation of the Facility, such division of responsibilities more particularly set out in the MOA; and

WHEREAS, Wake Tech has a project planned that requires the displacement of the existing Facility and the joint recommendation of Wake County and Wake Tech is to decommission the Facility; and

WHEREAS, the Parties have agreed to terminate the MOA subject to the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. The Recitals are incorporated herein by reference and made a part of this Agreement.
2. The MOA is hereby terminated effective as of the Effective Date of this Agreement.
3. Notwithstanding anything to the contrary in this Agreement or the MOA, Sections 6 (with the exception of the first sentence), 12, and 14 of the MOA shall survive the termination of the MOA (collectively, the “Surviving Obligations”). For the avoidance of doubt, Wake County shall, at its sole cost and expense, complete the removal and decommissioning of the Facility on or before October 31, 2020 (the “Outside Completion Date”) in accordance with all applicable laws and the plans attached hereto as Exhibit “A” (the “Decommissioning Plans”). Prior to the

Outside Completion Date, Wake County shall provide Wake Tech with written certification from Mid-Atlantic Associates, Inc. that the Facility has been fully removed and decommissioned in accordance with all applicable laws and the Decommissioning Plans, and there has been a “no further action” regulatory determination by North Carolina Department of Environmental Quality. Except for Wake Tech’s obligations expressly set forth in Section 6 of the MOA, Wake County shall be fully responsible for any and all remediation required in connection with the removal and decommissioning of the Facility.

4. Wake Tech shall execute the Right of Entry permit attached hereto as Exhibit “B” for the purpose of permitting Wake County to perform the decommissioning of the Facility.

5. To the fullest extent permitted by applicable law, Wake County agrees to be responsible for any and all costs, claims or liability, including but not limited to personal injury, accidents, negligence or damage, relating to the Surviving Obligations and its obligations under this Agreement, or any claim arising therefrom, caused by Wake County or its agents, contractors or employees.

6. To the fullest extent permitted by applicable law, Wake Tech agrees to be responsible for any and all costs, claims or liability, including: personal injury, accidents, negligence or damage relating to the Surviving Obligations, or any claim arising therefrom, caused by Wake Tech or its agents, contractors or employees.

[Signature Page Follows]

IN TESTIMONY WHEREOF, WAKE COUNTY AND WAKE TECH through their authorized officers and by their own hands has hereunto set forth their hands and seals of the day and year first above written.

WAKE TECHNICAL COMMUNITY COLLEGE

By: _____
Name: _____
Title: _____
Date: _____

WAKE COUNTY

By: _____
Name: _____
Title: **Manager**
Date: _____

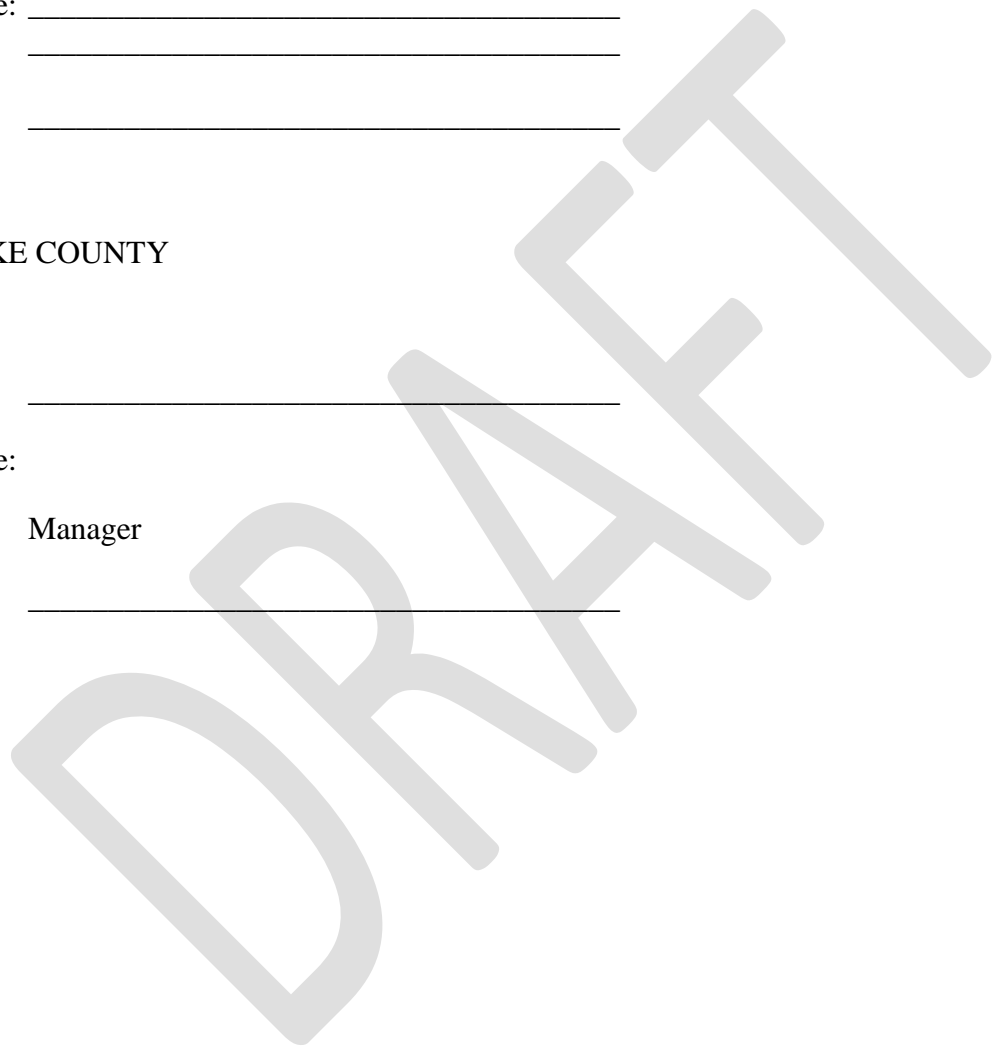


EXHIBIT "A"

Decommissioning Plans

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EXHIBIT "B"

Right of Entry Permit

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