

STATE OF NORTH CAROLINA

COUNTY OF WAKE

TRANSIT GOVERNANCE

INTERLOCAL AGREEMENT

BETWEEN

RESEARCH TRIANGLE REGIONAL PUBLIC TRANSPORTATION

AUTHORITY,

CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION,

AND

WAKE COUNTY

This Interlocal Agreement (the “Agreement”), entered into this the _____ day of _____, 2016, by and between **RESEARCH TRIANGLE REGIONAL PUBLIC TRANSPORTATION AUTHORITY** d/b/a GoTriangle, a public body politic and corporate of the State of North Carolina (hereinafter “GoTriangle”), **CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION**, a metropolitan planning organization (hereinafter “CAMPO” or “MPO”) and **WAKE COUNTY, NORTH CAROLINA**, a public body politic and corporate of the State of North Carolina (hereinafter “Wake County”); individually referred to as “Party” and collectively referred to herein as “the Parties”;

WITNESSETH:

WHEREAS, GoTriangle, CAMPO and Wake County, all of which have specific roles in the implementation of public transit in the Wake County area, have determined that it is in their best interest to coordinate public transit planning, funding, expansion and construction; and

WHEREAS, GoTriangle is a regional public transportation authority created in accordance with the provisions of N.C.G.S. 160A-603 *et seq.* by concurrent resolution of Orange, Durham, and Wake counties and duly incorporated as a body corporate and politic and vested with the general powers set forth in N.C.G.S. Chapter 160A Article 26; and

WHEREAS, CAMPO is the metropolitan planning organization for the N.C. Capital Area Metropolitan Planning Area established pursuant to 23 U.S.C. 134 *et seq.* and recognized under the laws of North Carolina pursuant to N.C.G.S. 136-200.1; and

WHEREAS, Wake County is a body politic and corporate vested with the corporate powers set forth in N.C.G.S. 153A-11; and

WHEREAS, the Parties to this Agreement, in collaboration with local partners and stakeholders, developed a strategic transit vision document commonly named and referred to as the “Wake County Transit Plan” which was unveiled on or about December 8, 2015; and

WHEREAS, Wake County, pursuant to resolution of the Board of Commissioners requested GoTriangle to take action on behalf of Wake County pursuant to N.C.G.S. 105-508 with regard to a Special District and file the required documents with the North Carolina Secretary of State; and

WHEREAS, GoTriangle entered into a resolution on or about _____, 2016 approving the Wake County Transit Plan, and approving this Agreement, both contingent upon financing the Wake County Transit Plan; and

WHEREAS, CAMPO entered into a resolution on or about May 18, 2016 approving the Wake County Transit Plan and approving this Agreement, both contingent upon financing the Wake County Transit Plan; and

WHEREAS, Wake County entered a resolution on or about _____, 2016 approving the Wake County Transit Plan, and approving this Agreement, all contingent upon financing the Wake County Transit Plan; and

WHEREAS, prior to calling for an advisory referendum before the voters of Wake County for the purpose of authorizing the levy of a one-half percent (½ %) sales and use tax for transit, the Parties desire to provide a structure for the governance that will direct the allocation of funds and the implementation of the Wake County Transit Plan; and

WHEREAS, in accordance with N.C.G.S. 105-508, the Wake County Board of Commissioners has the authority and by virtue of the resolution entered on or about _____, 2016, and by execution of this Agreement indicates its desire to contract with Go Triangle, in its capacity as the regional transportation authority for the budget adoption and administration of the Transit Plan; and

WHEREAS, the Parties pursuant to the authority of N.C.G.S. 160A-461 *et seq.* are authorized to enter into this Agreement and joint planning and implementation efforts in order to pursue the above stated goals.

NOW THEREFORE, for and in consideration of the promises and covenants contained in this Agreement and the mutual benefits derived therefrom, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I PURPOSE and SCOPE

1.01 **Purpose.** The purpose of this Agreement is to provide a plan of governance that will allow efficient implementation of public transit services and projects as directed by the strategic transit vision document referred to as the Wake County Transit Plan. This Agreement will also guide updates and amendments to the strategic transit vision; the planning, design, funding, implementation, operation, and closeout of capital projects and infrastructure; funding, implementation, and operation of transit services; the flow of revenue; annual reporting requirements; service performance evaluations; and resolution of issues.

1.02 **Scope.** The scope of this Agreement shall be the governance of the planning, financing, and implementation of the Wake County Transit Plan, as it may be amended from time to time as provided for herein.

1.03 **Objectives.** The objective of this Agreement is to create a governance structure that meets the following expectations:

(1) Representative – That decision-making structures require the input and/or participation of varied and diverse agencies.

(2) Inclusive – That decision-making structures encourage participation of all of those impacted by decision-making.

(3) Responsive – That decisions are influenced by the legitimate needs of clients and the public.

(4) Open and Transparent – That reporting is accessible and clearly communicates important aspects of the effort.

(5) Accountable – The decision-making structures clearly define which agencies are responsible for tasks and efforts.

ARTICLE II DEFINITIONS

2.01 “ANNUAL CAPITAL BUDGET” shall mean the first year of the multi-year Capital Improvement Plan (CIP) which is enacted by adoption of the capital projects ordinance pursuant to N.C.G.S. Chapter 159. This budget shall include the allocation of financial resources to specific project sponsors for specific projects. Appropriations that are made pursuant to the Annual Capital Budget shall be budgeted to projects, programs, or implementation elements in a multi-year major fund such that funding does not revert to available capital fund balance at the end of the fiscal year.

2.02 “ANNUAL OPERATING BUDGET” shall mean the proposed plan for raising and spending money for specified Wake Transit Work Plan programs, functions, activities or objectives during a fiscal year as that term is further defined in N.C.G.S. 159-7(b)(1). The annual operating budget shall be budgeted by major fund and shall include the allocation of financial resources for operating for specified projects and services to be undertaken by specified project sponsors. The annual operating budget shall also contain the annual administrative budget for the major fund for financing its overhead costs related to Tax District administrative functions, the details of which shall be provided independently of operating costs associated with transit operating projects.

2.03 “ANNUAL WAKE TRANSIT REPORT” shall mean a report that provides information regarding meeting strategic public transit objectives and includes the performance achieved, the strategies being followed, and performance targets and key milestones for capital projects and operating services.

2.04 “AUDITED FINANCIAL STATEMENTS” shall refer to financial statements which have been audited by a Certified Public Accountant and for which an opinion has been expressed to meet US generally accepted accounting principles or principles adopted by Governmental Accounting Standards Board (GASB) and prepared in accordance with N.C.G.S. 159-34.

2.05 “CAPITAL FUNDING AGREEMENT” shall mean an agreement between an agency and other agencies to provide an Implementation Element or a project plan if the Implementation Element is to be provided by the Agency. The agreement or project plan shall state the details of the capital improvements to be provided and detail expectations on funding, responsibilities, schedule and performance and shall adhere to minimum standards outlined in Section 8.01 of this agreement.

2.06 “CAPITAL FUND BALANCE” shall mean the reported amounts restricted by enabling legislation in the Wake Transit major capital fund, presented in the basic Financial Statements, and disclosed in the notes to the Financial Statements as required under generally accepted accounting standards.

2.07 “CAPITAL PROJECTS” shall mean purchase of land or interests in land; purchase, construction or demolition of buildings or other physical facilities; purchase of services of architects, engineers, as well as other studies; site improvements or development necessary for the implementation of transit projects; purchase or installation of fixed or moveable equipment necessary for the installation and operation of transit services; rolling stock or vehicles as defined by the Federal Transit Administration; corridor and project planning studies; infrastructure projects; and information technology costs if the costs exceed \$500,000 in aggregate.

2.08 “CAPITAL PROJECTS ORDINANCE” shall mean the annual financial ordinance budgeted for the Wake Transit major capital fund pursuant to N.C.G.S. Chapter 159., tied to the multi-year Capital Improvement Plan, the Annual Capital Budget and planned capital project funding agreements that implement needed capital projects.

2.09 “COMMUNITY FUNDING AREAS” shall mean areas in Wake County where additional transit services can be provided with joint participation and funding from the local government(s) and/or Research Triangle Park.

2.10 “COMPONENT UNIT” or “SEPARATE COMPONENT UNIT” shall refer to a unit of local government within the Tax District if the primary entity has administrative responsibility for the budget adoption and operation and management of transit services provided by the unit. The primary entity shall report in its financial statements information about the relationship between any component unit(s) and the primary entity. The primary entity also is required to report Wake Transit Plan Revenues, expenditures and fund balance in columns separate from the primary entity’s financial data in its annually audited statements.

2.11 “COMPREHENSIVE ANNUAL FINANCIAL REPORT” (“CAFR”) shall mean the report prepared by governmental entities that complies with the accounting regulations promulgated by the Governmental Accounting Standards Board (GASB).

2.12 “CONFERENCE COMMITTEE” shall mean a committee called at the direction of the Wake County Board of Commissioners to perform the review functions outlined in Articles VII and X. The Conference Committee shall also facilitate Agreement related dispute resolution. The composition and actions of this committee shall be determined by the Wake County Board of Commissioners and as directed in this Agreement.

2.13 “EQUITABLE USE OF NET PROCEEDS WITHIN OR TO BENEFIT THE SPECIAL DISTRICT” as that term is used in N.C.G.S. 105-508.1 shall mean:

(1) If now or in the future the Special District consists only of Wake County:

A complete segregation and dedication of 100% of all Wake County Tax Revenue and Wake Transit Plan Revenues derived from transit funding sources within the jurisdiction of Wake County or on behalf of Wake County exclusively for the benefit of the Wake County Transit Plan. The Equitable Use of Net Proceeds shall not contemplate or include pledging, committing, agreeing to apply, or otherwise using any portion of Wake County Tax Revenue or Wake Transit Plan Revenues for any purpose now, or in the future, other than in accordance with the Wake County Transit Work Plan. “Net proceeds” as used herein shall mean gross proceeds less the cost of collection being allocated to GoTriangle on behalf of Wake County as administrator of the Special District.

(2) if now or in the future the Special District consists of Wake County and one or more other counties:

A 100% dedication of all Wake County Tax Revenue and Wake Transit Plan Revenues derived from transit funding sources within the jurisdiction of Wake County or on behalf of Wake County for the exclusive use and benefit of the Wake County Transit Plan. A 100% dedication of all Non-Wake County Tax Revenue derived from transit funding sources in counties other than Wake for the exclusive use and benefit of any other county transit plan within the Special District, to the exclusion of Wake County.

This definition contemplates that a complete segregation of all Wake County Tax Revenue and Wake Transit Plan Revenues for the purpose stated herein is required to carry out the Financial Plan of the Tax District pursuant to N.C.G.S. 105-508.1 and that this definition considers the (i) identified needs of local public transportation systems in the district, (ii) human service transportation systems within the district, (iii) expansion of public transportation systems to underserved areas of the district. The Equitable Use of Net Proceeds shall not contemplate or include pledging, committing, agreeing to apply, or otherwise using any portion of Wake County Tax Revenue or Wake Transit Plan Revenues for any purpose now, or in the future, other than in accordance with the Wake County Transit Work Plan. Likewise, this definition contemplates that Non-Wake County Tax Revenue shall not be pledged, committed, applied, or otherwise used by Wake County unless approved by the other counties within the district. “Net proceeds” as used herein shall mean gross proceeds less the cost of collection being allocated to GoTriangle as administrator of the Special District on behalf of any member county.

2.14 “FINANCIAL MODEL” shall mean a long-term financial planning model, that projects revenues and expenditures and includes all projected sources for projects and planned uses of funds for both capital projects and operating expenses, and is used to evaluate the impact of operating and funding decisions on the Wake Transit major operating and capital funds’ financial condition to ensure the Wake Transit Plan’s policies and objectives are maintained in the long-term, including liquidity targets and

debt ratios relevant to rating agency metrics. Only Wake Transit Plan Revenue, including Wake County Tax Revenue, and expenditures projected in support of the Wake Transit Plan shall be included in the Financial Model.

2.15 “FINANCIAL PLAN” as that term is used in N.C.G.S. 105-508.1(2) shall mean:

(1) **If now or in the future the Special District consists only of Wake County**, the Financial Plan requiring approval shall mean the Plan Implementation and Finance section set forth in pages 32-36 of the Wake County Transit Plan as supported by the details of the Transit Plan, and modeled in the Financial Model.

(2) **If now or in the future the Special District consists of Wake County and one or more other counties**, the Financial Plan requiring approval shall mean the Implementation and Finance section set forth in pages 32-36 of the Wake County Transit Plan as supported by the details of the Transit Plan and modeled in the Financial Model. The Financial Plan shall only include funds that would be budgeted and reported in the Wake Transit major operating and capital funds, provided that financial plans for other counties in the District, if any, have previously been approved by those counties. The Parties agree that prior to GoTriangle levying a tax pursuant to N.C.G.S. 105-508.1 in Wake County, a separate agreement shall be entered by and between all parties required to approve the Financial Plan pursuant to N.C.G.S. 105-508.1, including all counties in the Special District, and all MPOs within the district, setting forth the mutual understanding of the parties as to the scope and content of the Financial Plan (“Agreement Setting Forth the Mutual Understanding of the Parties as to the Scope and Content of the Financial Plan”). This agreement shall contemplate that the financial plan for the component district will segregate the Wake County Transit Plan, Wake Tax Revenues, and Wake Transit Plan Revenues from any and all plans in support of projects not included in the Wake County Transit Plan. Moreover, this agreement shall require that any other financial plans are modeled and presented separately from the Wake County Transit Plan.

2.16 “FINANCIAL STATEMENTS” shall mean the statement of financial condition prepared in accordance with N.C.G.S. 159-25.

2.17 “GASB” shall mean The Governmental Accounting Standards Board (GASB) which establishes standards and principles for state and local governmental accounting and financial reporting.

2.18 “IMPLEMENTATION ELEMENT” shall mean a discrete project, operation or study or a discrete logical grouping of projects, operations or studies tracked separately by the Wake County Transit Work Plan.

2.19 “INFRASTRUCTURE PROJECTS” shall mean smaller capital projects supporting the major capital projects, such as park and ride lots, transit centers, transfer points, pedestrian or bicycle enhancements, bus on shoulder, and other infrastructure to support the transit system. Infrastructure Projects can be covered by Master

Agreements, which shall define a collection of smaller projects to be completed by the same agency in a similar period of time.

2.20 “MAJOR FUND” shall be, as defined by the Governmental Accounting Standards Board (“GASB”), a fund that is reported in a separate column in the basic fund financial statements and is subject to a separate audit opinion in the independent auditor’s report. As defined, the Tax District shall report a major fund for the Wake Transit Work Plan Operating Funds and a major fund for the Wake Transit Work Plan Capital Funds.

2.21 “MASTER AGREEMENT” shall mean an Operating or Capital Funding agreement that directs a discrete logical grouping of projects, operations or studies.

2.22 “MULTI-YEAR CAPITAL IMPROVEMENT PLAN” (“CIP”) shall mean a multi-year document that identifies by year projected capital projects, project sponsors responsible for undertaking these projects, the financial costs and anticipated sources of funding for those projects, and identifies any projected operating costs associated with those projects. The CIP shall be coordinated with the Metropolitan Transportation Plan, Transportation Improvement Program, and annual program of projects developed and maintained by the Raleigh Urbanized Area designated recipient of federal formula transit grants so as to be consistent with submittal deadlines for the Transportation Improvement Program and the horizon years of the Metropolitan Transportation Plan.

2.23 “MULTI-YEAR OPERATING PROGRAM” shall mean the annual document describing transit operating programs, which could include the development of local bus, express bus, Bus Rapid Transit, and commuter rail services to be funded by the Tax District. It will describe service changes planned for the year and preliminary service proposals and financial projection for the subsequent years. A detailed report on the status of each bus and rail route shall also be included, along with performance objectives for the coming year. The document shall also describe administrative, planning, marketing, or other functions that are not directly accounted for in specific infrastructure project delivery or allocated to service delivery, but which are essential to the implementation of the Transit Plan.

2.24 "MULTI-YEAR SERVICE IMPLEMENTATION PLAN" shall mean a document or documents that detail how transit services will be modified, to include expansion and reduction, operated and maintained over a specific number of years. The plan(s) shall detail timing and schedule, justifications for implementation decisions, and public involvement steps. Different transit operators may have different plans for implementation, but the different plans must be coordinated with each other particularly with respect to anticipated funding and public outreach.

2.25 “NON-WAKE COUNTY REVENUES” shall mean all revenues collected on behalf of member counties other than Wake County within the Tax District or Special District that are derived from transit funding sources associated with counties other than Wake County.

2.26 “OPERATING AGREEMENT” shall mean an agreement between an agency tasked to provide an Implementation Element, the Tax District and other agencies as needed, or an operating plan if the Implementation Element is to be provided by the Agency. The agreement shall state the details of the service to be provided and detail expectations on funding, responsibilities, schedule and performance. The agreement shall adhere to minimum standards outlined in Section 8.02 of this agreement.

2.27 “OPERATING BUDGET ORDINANCE” shall mean the annual financial ordinance budgeted for the Wake Transit major operating fund pursuant to N.C.G.S. Chapter 159, tied to Operating Agreements, that includes funds for the operations of projects identified in the Wake Transit Work Plan, allocations for reserves, and transfers to other funds such as other Wake Transit major funds identified by the Component Unit. The Operating Budget Ordinance shall include the general administrative expenses of the unit separate from Project Operating Funds.

2.28 “OPERATING FUNDS” shall mean funds appropriated in the annual operating budget.

2.29 “OPERATING FUND BALANCE” shall mean the reported amounts restricted by enabling legislation for the Wake Transit major operating fund, presented in the basic financial statements, and disclosed in the notes to the Financial Statements as required under generally accepted accounting standards.

2.30 “PROJECT OPERATING FUNDS” shall mean funds appropriated in the annual Operating Budget Ordinance to support the operation of projects identified in the Wake Transit Plan.

2.31 “QUARTERLY FINANCIAL REPORTS” shall mean the quarterly statement of financial condition prepared in accordance with N.C.G.S. 159-25.

2.32 “QUARTERLY STATUS REPORTS” shall mean a quarterly report that provides information regarding progress toward strategic objectives outlined in the Wake Transit Work Plan and includes the performance achieved, the strategies being followed, and performance targets and key milestones for Capital Projects and operating services identified in the Wake Transit Work Plan.

2.33 “SIGNIFICANT CONCERNS” shall mean any issue flagged by any party to this Agreement related to major decisions, including but not limited to funding, defunding, timing, allocation, assignments, responsibilities and risk, in developing and adopting the Wake County Transit Work Plan that cannot be resolved by and through the decision-making processes enumerated in this Agreement that requires the attention of the Conference Committee as set forth herein.

2.34 “SPECIAL DISTRICT” shall mean any tax district administered by GoTriangle pursuant to authorizing resolutions and N.C.G.S. 105-508 *et seq.* or N.C.G.S. 105-561 *et seq.* to which Wake County is a member, now or in the future.

2.35 “TAX DISTRICT” shall mean any tax district administered by GoTriangle pursuant to authorizing resolutions and N.C.G.S. 105-508 *et seq.* or N.C.G.S. 105-561 *et seq.* to which Wake County is a member, now or in the future.

2.36 “TRANSIT PLANNING ADVISORY COMMITTEE” or “TPAC” shall mean a committee created by this Agreement for the purposes enumerated and as defined in Article III herein. The TPAC is jointly charged by all Parties to this Agreement with coordinating planning and implementation aspects of the Wake County Transit Work Plan and serving in a structured advisory role to the CAMPO Executive Board and GoTriangle Board of Trustees.

2.37 “WAKE COUNTY TAX REVENUE” shall be defined as all revenues derived from transit funding sources in support of the Wake Transit Plan, which shall include the ½ percent local option sales and use tax as defined by N.C.G.S. 105-508; the County vehicle registration fee assessed by the Wake County Board of Commissioners in accordance with N.C.G.S. 105-570 *et seq.*; the increased portion of the regional vehicle registration fee assessed by GoTriangle in accordance with N.C.G.S. 105-561 *et seq.* allocated to Wake County.; and the portion of vehicle rental tax collected by GoTriangle pursuant to N.C.G.S. 105-550 *et seq.* and allocated to Wake County by the GoTriangle Board of Trustees.

2.38 “WAKE COUNTY TRANSIT PLAN” shall mean the document attached hereto as Exhibit A entitled “Recommended Wake County Transit Plan” dated December 2015, being that same document approved by the Wake County Board of Commissioners pursuant to a Resolution on _____, 2016.

2.39 “WAKE TRANSIT PLAN REVENUE” shall mean Wake County Tax Revenue, any federal or state funds allocated by a designated recipient, debt proceeds, fares, local contributions, and any other sources of revenue used to fund the Wake County Transit Plan.

2.40 “WAKE COUNTY TRANSIT VISION PLAN” shall mean a plan adopted by CAMPO and GoTriangle outlining multiple decades of investment in transit and transit infrastructure. This plan shall align with and /or be a part of other MPO transportation investment plans.

2.41 “WAKE COUNTY TRANSIT WORK PLAN” or “WAKE TRANSIT WORK PLAN” shall mean the comprehensive plan for transit capital and operations presented by the TPAC which shall include all of the separate components of:

a. Annual Operating Budget Ordinance. This shall be supplied for the Wake Transit major operating fund which will appropriate funds for the operation and administration of transit projects as well as for any other agencies involved in producing products for TPAC review;

b. Annual Tax District administration budget for the Wake Transit major operating and capital fund;

- c. Multi-Year Capital Improvement Plan (CIP) supplied for the Wake Transit major capital fund that clearly identifies specific projects, project sponsors responsible for undertaking those projects, project funding sources, and project expenditures. (NOTE: The Multi-year CIP shall be updated annually to coincide with the annual capital budget always being the first year of appropriation of funding for capital projects identified in the CIP. The Multi-year CIP shall be coordinated with the Metropolitan Transportation Plan, Transportation Improvement Program, and annual program of projects developed and maintained by the Raleigh Urbanized Area designated recipient of federal formula transit grants so as to be consistent with submittal deadlines for the Transportation Improvement Program and the horizon years of the Metropolitan Transportation Plan.);
- d. Annual Capital Budget Ordinance supplied for the Wake Transit major capital fund that allocates financial resources to specific project sponsors for specific projects and represents the first year of appropriation of funding for capital projects identified in the Multi-Year CIP;
- e. Multi-year Operating Program (as defined *supra.*);
- f. Update of the Wake Transit Financial Plan and financial model assumptions and corresponding update of the planning horizon of Wake Transit Work Plan future projects not included in the current Multi-year CIP. The Parties shall use good faith efforts to align planning horizon year with the horizon year of the current CAMPO MTP. The Financial Model shall contain agreed upon financial assumptions of the TPAC for Wake Transit Work Plan revenues involving federal, state and local sources and multi-year capital and operating costs including liquidity targets and debt ratios relevant to rating agency metrics;
- g. Capital Funding Agreements or Master Agreements; and
- h. Operating Agreements or Master Agreements.

Nothing herein shall prevent Wake County from entering into a Cost Sharing Agreement with other jurisdictions for any regional transit projects or systems so long as they are detailed in the Wake County Transit Work Plan.

ARTICLE III

TRANSIT PLANNING ADVISORY COMMITTEE (“TPAC”)

3.01 **TPAC Established.** The Parties hereby establish a committee to be known as the Wake County Transit Planning Advisory Committee (“Transit Planning Advisory Committee” or “TPAC”) to carry out the responsibilities enumerated in this Article. Pursuant to the authority set forth in this Agreement, the TPAC shall be the body that

coordinates planning and implementation aspects of the Wake County Transit Work Plan and shall serve in a structured advisory role to the CAMPO Executive Board and GoTriangle Board of Trustees.

3.02 **Membership, Organization, and Objectives.**

a. **Initial Membership.** The initial membership of the TPAC shall be comprised of two (2) staff members appointed by each of the ILA Parties (“ILA Party Members”), two (2) staff members appointed by the Town of Cary, two (2) staff members appointed by the City of Raleigh, one (1) staff member appointed by each of the municipalities of Apex, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell, and Zebulon and one (1) staff member appointed by North Carolina State University, collectively (“Non-ILA Party Members”). Appointment to the TPAC shall be by action of the designated authority of each member.

b. **Regular Membership.** The initial meeting of the TPAC shall be called by Wake County within fifteen (15) days of the execution of this Agreement. Co-chairs shall be established at the initial meeting. Within ninety (90) days of execution of this Agreement, the initial members of the TPAC shall establish rules, agencies, and expectations for regular membership. Membership shall include any agency or groups the initial members of TPAC may deem necessary to fully execute the responsibilities outlined herein. When determining regular membership, the initial members of the TPAC should take into consideration various required skill sets, specifically in local planning, budgeting, finance, project construction and operations.

c. **Operational Rules of TPAC.** Within ninety (90) days of execution of the Agreement, the members of the TPAC shall, consistent with the responsibilities outlined in Section 3.03 and the flexibilities outlined in Section 3.04, submit to the CAMPO Executive Board and GoTriangle Board of Trustees for approval: 1) bylaws including the provisions of Section 3.05; 2) rules dictating the composition, organization, and function of the TPAC; 3) a meeting schedule; 4) a list of deadlines for the submittals defined herein; 5) identification of the Party to serve as lead agency for each of the responsibilities enumerated in Section 3.03; and 6) a request to a partner agency or agencies of staff resources to meet TPAC administrative needs.

d. **Timeliness.** The TPAC shall develop processes and procedures to allow decisions to be made in a timely manner. Duties not specifically denoted under Section 3.03 may be delegated to other groups. The designation and delegation of these duties shall be approved by the CAMPO Executive Board and the Go Triangle Board of Trustees.

3.03 **Responsibilities.** The TPAC shall be charged with the development or delegation to a Party as lead agency of the following:

- a. Wake County Transit Work Plan, including all of its separate elements defined in Section 2.41;
- b. Detailed elements of a Multi-Year Service Implementation Plan;

- c. Staffing model and staffing expectations plan, including requested consideration of any costs associated with additional staff required to administer the Wake County Work Plan;
- d. Program management policy and plan for the Community Funding Areas identified in the Wake County Transit Plan;
- e. Templates containing minimum standards for project and financial reports for the Wake Transit Major Funds and others to follow (first version by October 1, 2016);
- f. Project prioritization policy that guides the development of the CIP and longer term operating program and annual budgets;
- g. Designation of project sponsors (agencies responsible for each respective capital and operating project), including agencies responsible for each Implementation Element;
- h. Multiyear vision plan;
- i. An articulated strategy for each Implementation Element or agreement, which shall include scope, geography, purpose and goals, processes for allowing amendments, and processes for addressing Significant Concerns. Very detailed strategies shall be developed for capital/infrastructure projects exceeding \$1,000,000; and
- j. An articulated strategy for incorporating or accounting for public outreach, involvement, and communication with the deliverables set forth in a, b, d, f, g, and h.

The TPAC may add to the list of enumerated responsibilities by its internal deliberation processes; however, the TPAC may not exclude any responsibility from this list without approval of all Parties to this Agreement.

3.04 Assignment.

The TPAC may, by vote or by other mechanism allowed in its bylaws, assign the creation and maintenance of certain documents for which it is responsible to Parties or TPAC members. However, the TPAC shall not delegate its responsibility to review and present documents and products which are defined in Section 3.03 as TPAC responsibilities. All documents related to the duties of Section 3.03 produced on behalf of the TPAC must be reviewed by TPAC prior to release.

3.05 Minimum Quorum and Voting.

The Parties to this Agreement agree that the TPAC deliberation process must allow decisions to be made in an efficient and timely manner. A quorum shall be five (5) of the six (6) members appointed by the Parties to this Agreement. The TPAC shall develop a method for weighted voting if requested by any TPAC member or as determined by TPAC bylaws.

3.06 Right to Inspect.

All Parties to this Agreement, or their authorized representative(s), shall have the right to inspect, examine, and make copies of any and all books, records, electronic files,

agreements, minutes, and other writings and work products related to the operation and day-to day business of the TPAC.

ARTICLE IV TERM, TERMINATION, AMENDMENT

4.01 Term.

a. **Effective Date.** This Agreement shall become effective upon the properly authorized execution of the Agreement by all Parties. With the exception of the pre-referendum duties set forth in Article III and Article VII, the responsibilities of the Parties as outlined in this Agreement shall become effective upon the date of a successful referendum in accordance with N.C.G.S. 105-509, approving a one-half percent (1/2%) local sales and use tax in Wake County for the financing of the Tax District, if this shall occur.

b. This Agreement shall continue for a period of twenty five (25) years from the Effective Date, unless otherwise amended by the prior express written agreement of the Parties.

c. Any amendment, termination, or renewal of the Term must be in the form of a written instrument properly authorized and executed by the governing boards of each Party.

d. The Parties agree that the Term shall be extended by mandatory amendment though the final maturity dates of any debt issued and payable from Wake County Transit Tax Revenues if such date(s) occur after the 25-year initial term.

4.02 Termination.

a. **Material Breach.** In the event that any Party violates a responsibility, duty, or assumption stated in Article V, the other Party(ies) shall give written notice of the breach and request to cure. If such breach is not cured within thirty (30) days of written notice thereof, any non-breaching Party may, without further notice or demand, in addition to all other rights and remedies provided in this Agreement, at law or in equity, terminate this Agreement and recover any damages to which it is entitled as a result of said breach. In the event of a non-material breach of the Agreement, the termination procedure set forth in 4.02(b) shall apply.

b. **Termination upon one (1) year's notice.** Any Party may terminate its participation in this Agreement with or without breach by giving written notice to each other Party of intent to terminate, as well as reasons for terminating (which shall be in the sole discretion of the terminating party), at least one (1) year prior to the effective termination date.

c. **Bankruptcy/Insolvency Special Provisions.** If any Party applies for or consents to the appointment of a receiver, trustee or similar officer for it or any substantial part of its property or assets, or any such appointment is made without such application or consent by such Party and remains undischarged for sixty (60) days, or files a petition in bankruptcy or makes a general assignment for the benefit of creditors, then such action shall constitute a material breach of this Agreement not requiring notice and opportunity to cure, and the other Party(ies) may terminate effective immediately.

d. **Cooperation Provisions.** In the event of a termination pursuant to any subsection hereunder, the terminating Party shall **not** be relieved of any existing and unperformed obligations up until the effective date of termination, and the Agreement shall remain in effect as to the non-withdrawing Parties. The non-withdrawing Parties, beginning at the time notice of termination is received, shall work together in good faith to determine if the intent and purpose of the Agreement can be accomplished by executing any Amendments deemed necessary and/or adding any parties deemed necessary to perform the executory obligations of the withdrawing Party.

e. **Non-Exclusive Remedies.** No remedy provided in this Agreement shall be considered exclusive of any other remedy in law or in equity.

f. **Repeal and Dissolution.** Nothing herein shall be construed to restrict Wake County's ability to repeal any transit tax previously enacted, and consideration will be given by the County to any transit taxes levied in support of debt service in support of the Wake Transit Work Plan. Nothing herein shall be construed to restrict Wake County's ability to request dissolution of the special tax district in accordance with N.C.G.S. 105-509.1 and N.C.G.S. 105-473(a).

g. **Notice.** Any written or electronic notice required by this section shall be delivered to the Parties at the following addresses:

For GoTriangle: GoTriangle
General Manager
PO Box 13787
Research Triangle Park, NC 27709

With a copy to GoTriangle
General Counsel
P.O. Box 13787
Research Triangle Park, NC 27709

For CAMPO: Capital Area Metropolitan Planning Organization
Executive Director
One Bank of America Plaza
421 Fayetteville Street, Suite 203
Raleigh, NC 27601

For Wake County: Wake County Manager
Wake County Justice Center
301 S. McDowell St.
Raleigh, NC 27601

With a copy to Wake County Attorney
Wake County Justice Center
301 S. McDowell St.
Raleigh, NC 27601

4.03 Amendment.

If any Party desires to amend the Agreement, then the proposed amendment and the reasons for the proposed amendment shall be communicated in writing to the other Parties. If the Parties agree to the proposed amendment, then the amendment shall be effected by entering a written amendment to the Agreement. An amendment that does not change the substantive or financial commitments of the Agreement may be executed by the Wake County Manager, the CAMPO Executive Director, and the GoTriangle General Manager. Any other amendment to the terms of this Agreement to be effective must be in the form of a written instrument properly authorized and executed by the governing boards of each Party to this Agreement.

ARTICLE V RESPONSIBILITIES, FINANCIAL DUTIES and ASSUMPTIONS OF THE PARTIES

The responsibilities of the Parties are as follows:

5.01 GoTriangle shall carry out its legal, contractual, fiscal, and fiduciary duties as the administrator of the Tax District as follows:

- a. shall administer and manage the Tax District, including carrying out its legal, contractual, fiscal, and fiduciary duties;
- b. shall comply with the responsibilities of a local government prescribed by the North Carolina Budget and Fiscal Control Act;
- c. shall adhere to the Financial Plan as defined by this Agreement, and any amendments authorized thereto;
- d. shall adhere to the Equitable Use of Net Proceeds Within or to Benefit the Special District as defined in this Agreement;
- e. shall distribute the Financial Plan to each unit of local government within its jurisdiction in accordance with N.C.G.S. 105-508.1;

- f. shall use or expend all Wake County Tax Revenue and Wake Transit Plan Revenue only as specifically budgeted in the Wake County Transit Work Plan;
- g. shall not pledge, represent, appropriate, or covenant to appropriate any portion of Wake County Tax Revenue or Wake Transit Plan Revenue to cover any debt service, encumbrances, or operating or other expenses that do not arise from the Wake County Transit Work Plan;
- h. shall maintain adequate Operating Fund Balances and Capital Fund Balances in the Wake Transit major operating and capital funds per debt and capital policies and guidelines mutually agreed to by TPAC;
- i. shall obtain approval from the Local Government Commission for all issuances of debt, certain capital leases, and other financial agreements as required by law;
- j. shall not, under the provisions of N.C.G.S. 160A-20, create any security interest in real or personal property funded by Wake Transit major operating and capital funds unless 100% of the proceeds of the related financing are for projects in the Wake Transit Work Plan;
- k. shall ensure that any proceeds from the sale, transfer and disposition of property, or from insurance proceeds for projects funded by Wake County Transit Revenue be used for Wake Transit projects in accordance with the Wake Transit Work Plan;
- l. shall include provisions in all applicable financing documentation to the effect that GoTriangle has entered into an Agreement prohibiting the use of Wake County Transit Tax Revenues and Wake Transit Plan Revenue to fund debt service or other expenses that do not arise from the Wake Transit Work Plan;
- m. shall, unless otherwise agreed to by Wake County or included in the Wake County Transit Work Plan, in connection with the financing of capital facilities outside of Wake County, include provisions in all applicable financing documentation to the effect that GoTriangle does not intend to pay debt service or fund operating expenses or other costs associated with such capital facilities or the operation thereof from Wake County Tax Revenues and that GoTriangle has entered into an Agreement prohibiting the use of Wake County Tax Revenue for such purpose;
- n. shall maintain such books, records, and systems of accounts so that the expenditures of Wake County Tax Revenue and Wake Transit Plan Revenue are accounted for as expended on the Wake Transit Work Plan as budgeted and reported in the Wake Transit major operating and capital funds;
- o. shall provide any and all Financial Statements, accountings, reports, and information to TPAC within thirty (30) days of request, and produce drafts of documents created on behalf of the TPAC for review and feedback from TPAC prior to GoTriangle's issuance, approval, and release of

Comprehensive Annual Financial Reports, adopted budget documents, and applications for Grant Funding approval;

- p. shall not issue or authorize the issuance of any Preliminary Official Statement, Official Statement, or similar securities offering documents in connection with the financing of improvements by GoTriangle unless such document has previously been submitted to Wake County for review and comments regarding the nature of the security and sources of payment of the amounts due in connection with the financing;
- q. shall provide staff to serve on the TPAC;
- r. shall enter into Capital Funding Agreements and Operating Funding Agreements to study, plan, and construct public transit infrastructure capital Implementation Elements and to deliver other operating Implementation Elements as identified within the Wake Transit Work Plan;
- s. shall provide required financial and status reports on Implementation Elements budgeted and reported for the Wake Transit major operating and capital funds;
- t. shall annually review and approve required documents and perform other any other actions consistent with the terms of this Agreement or powers authorized by a process to be established by TPAC;
- u. shall coordinate approval of the components of the Wake County Transit Work Plan identified in Section 2.41 by the GoTriangle Board of Trustees;
- v. shall comply with N.C.G.S. 143-6A-4 regarding submissions or award of any bid or proposals to vendors, and contractors or subcontractors for any and all operating and project agreements;
- w. perform other any other actions consistent with the powers and duties set forth in N.C.G.S. 160A, Article 26;
- x. comply with N.C.G.S. 143-6A-4, the “Iran Divestment Act Certification”; and
- y. to the extent applicable, shall comply with 23 U.S.C. 134, 49 U.S.C. Chapter 53, and N.C.G.S. Chapter 136.

5.02 **CAMPO** shall carry out its legal, contractual, fiscal, and fiduciary duties as the Metropolitan Planning Organization as follows:

- a. shall coordinate/ align Wake Transit Plan Revenue with other transportation investment and state and federal funding;
- b. shall provide staff to serve on the TPAC;
- c. shall enter into Capital Funding Agreements to study and plan public transit infrastructure Capital Projects and deliver Implementation Elements as identified within the Wake County Transit Work Plan;
- d. shall provide required financial and status reports on Implementation Elements for which CAMPO is responsible that are funded in-part or wholly by the Tax District;
- e. shall serve as the coordinating agency between the Parties, N.C. Department of Transportation, and federal agencies including but not limited to the Federal Highway Administration, the Federal Transit Administration, and the Federal Railroad Administration;

- f. shall annually review and approve required documents;
- g. shall coordinate approval of the components of the Wake County Transit Work Plan by the Capital Area Metropolitan Planning Organization Executive Board;
- h. shall identify projects using federal transit funding and ensure that the multi-year operating program, the Annual Operating and Capital Budgets including such projects are coordinated with the annual program of projects (“POP”) and Transportation Improvement Program;
- i. shall comply with N.C.G.S. 143-6A-4, the “Iran Divestment Act Certification”;
- j. when applicable and appropriate, shall apply for, secure, and direct reasonably available funding toward components of the Wake County Transit Work Plan consistent with its other responsibilities within the MPO;
- k. shall program and administer funding, including but not limited to grant funding, and perform all required duties to apply for, coordinate, and align transit funding, if applicable and appropriate, with other transportation investment and state and federal funding; and
- l. shall perform other any other actions consistent with the powers and duties set forth in 23 U.S.C. 134 *et seq.*, 49 U.S.C. Chapter 53 and as recognized under the laws of North Carolina pursuant to N.C.G.S. Chapter 136.

5.03 **Wake County** shall carry out its legal, contractual, fiscal, and fiduciary duties as a unit of local government as follows:

- a. shall provide staff to serve on the TPAC;
- b. shall call a Conference Committee, if required under Article VII and Article X of this Agreement;
- c. shall serve in an advisory capacity for operation and management of transit services and review of financial data, work plan, and projections for all Capital and Infrastructure projects under this Agreement through membership and/or appointment to the TPAC;
- d. shall call an advisory referendum before the voters of Wake County for the purpose of authorizing the levy of a ½ percent sales tax for transit;
- e. shall not issue any general obligation bonds, or appropriate property tax revenue or Article 39, 40, 42, 44, or Medicaid hold harmless sales tax revenue to subsidize or supplant revenues for projects and transit services in the Wake County Transit Plan;
- f. comply with N.C.G.S. 143-6A-4, the “Iran Divestment Act Certification”;
- g. perform other any other actions consistent with the powers and duties set forth in N.C.G.S. Chapter 153A and N.C.G.S. 105-561 *et seq.*; and
- h. to the extent applicable, shall comply with 23 U.S.C. 134, 49 U.S.C. Chapter 53, and N.C.G.S. Chapter 136.

ARTICLE VI
ANTICIPATED ROLES OF TRANSIT SERVICE PROVIDING ENTITIES and
NON TRANSIT SERVICE PROVIDING MUNICIPALITIES

6.01 Transit Service- Providing Entities

The Parties contemplate that the Transit Service Providing Entities, meaning any municipality or agency that directly or through contract provides public transportation services in Wake County, including but not limited to the Town of Cary, City of Raleigh, Wake County, and GoTriangle (when functioning as a transit provider), shall participate at a minimum as follows:

- a. shall provide staff to serve on the TPAC;
- b. shall enter into Capital Funding Agreements and Operating Agreements to deliver Implementation Elements as identified within the Wake Transit Work Plan;
- c. shall provide required financial and status reports on Implementation Elements funded in-part or wholly by the Tax District; and
- d. shall perform any other responsibility consistent with statutory authority and the terms of this Agreement.

6.02 Non-Transit Service Providing Municipalities

The Parties contemplate that the Non-Transit Service Providing Municipalities, meaning any municipality located in Wake County that does not provide public transportation services, shall participate a minimum as follows:

- a. shall provide staff to serve on the TPAC;
- b. shall enter into Capital Funding Agreements to deliver Implementation Elements as identified within the Wake Transit Work Plan;
- c. shall provide required financial and status reports on Implementation Elements funded in-part or wholly by the Tax District; and
- d. shall perform any other responsibility consistent with statutory authority and the terms of this Agreement.

ARTICLE VII
PROCESS FOR RECOMMENDATION, APPROVAL, AND DEVELOPMENT OF
WAKE COUNTY TRANSIT WORK PLAN and OPERATING AND CAPITAL
PROJECT ORDINANCES and AGREEMENTS

7.01 The Wake County Transit Work Plan, which shall consist of the component documents outlined in Section 2.41, shall be assembled and reviewed by a date to be determined (“TBD”) by TPAC as part of their organizational duties.

7.02 The TPAC shall present the Wake County Transit Work Plan to the CAMPO Executive Board and the GoTriangle Board of Trustees for approval by a date to be determined by TPAC. The schedule shall allow each agency adequate time to review documentation, identify concerns and coordinate issues prior to the commencement of the fiscal year for which the Wake Transit Work Plan is to be in effect. Included in the schedule shall be a procedure for the TPAC to plan for and schedule advanced review of Significant Concerns, if any, with the Go Triangle Board of Trustees and the CAMPO Executive Board.

7.03 Upon receipt of the documents of the Wake Transit Work Plan, the CAMPO Executive Board and Go Triangle Board of Trustees shall have 3 options:

- a. approve the Wake Transit Work Plan as recommended;
- b. develop a specific listing of minor issues or technical corrections for the Wake Transit Work Plan; or
- c. develop a specific listing of Significant Concerns with Wake Transit Work Plan.

7.04 If the CAMPO Executive Board or Go Triangle Board of Trustees creates a detailed listing of minor issues or technical corrections for the recommended Wake Transit Work Plan, staff of the respective Boards will make corrections and both Boards will review the modified documents for approval.

7.05 If the CAMPO Executive Board or GoTriangle Board of Trustees creates a detailed listing of Significant Concerns with the recommended Wake Transit Work Plan, this listing shall be forwarded to a Conference Committee process as defined in Article X of this Agreement. If the Conference Committee process will extend past the commencement of the fiscal year for which the Wake Transit Work Plan is to be in effect, a sixty (60) day Operating Budget Ordinance allowing operations to continue at current funding levels may be enacted and only Capital Projects for which funds have been previously appropriated may continue.

7.06 For FY 2017, items identified in 7.01 shall be presented at the time of adoption of the ½ percent local option sales tax, if it is adopted, or no later than **January 15, 2017**. No funds shall be spent or costs obligated until items identified in the Wake County Transit Work Plan are presented by the TPAC and approved by the regular and statutorily prescribed processes of the CAMPO Executive Board and the Go Triangle Board of Trustees. The format of items identified in the Wake County Transit Work Plan shall be agreed upon by TPAC by a date TBD, but no later than **October 1, 2016**.

7.07 All Parties in this Agreement, or their authorized representative, shall have the right to inspect, examine, and make copies of any and all books, accounts, invoices, records, electronic files, agreements, minutes, and other writings and work products related to the funding of Tax District operations or projects. The cost of any audit or review conducted under the authority of this Section is the responsibility of the Party requesting the audit or review unless a material breach is detected, in which case the breaching party shall be responsible for the reasonable costs of audit or review.

7.08 **Implementation.** An Operating or Capital Project Funding Agreement shall be approved and distributed for each Implementation Element consistent with the requirements of Article VIII. These agreements must be prepared prior to distributing funds and starting the Project(s).

ARTICLE VIII REQUIRED CAPITAL PROJECT FUNDING & OPERATING AGREEMENTS

8.01 For each Capital Project or a group of projects under a Master Agreement appropriated in the annual Capital Project Ordinance, a Capital Project Funding Agreement is required. This Capital Project Funding Agreement shall set forth at a minimum:

- a. Technical project description with anticipated project performance characteristics;
- b. Project implementation schedule and milestones;
- c. Detailed revenue and expenditure projections by fiscal year;
- d. Reporting requirements;
- e. Plan for return of funds if project fails;
- f. Audit provisions;
- g. Allocation of matching funds for local systems if applicable;
- h. If project is debt funded, provisions for addressing any items required for title, debt covenants, or other related items;
- i. A provision that the designated sponsor must as a condition of the agreement undertake and complete any projects already under contract to complete with no supplantation of funding;
- j. Public involvement and engagement expectations.
- k. Reporting requirements;
- l. Method for termination;
- m. Issue resolution process; and
- n. Audit provisions.

If any such capital or infrastructure project covered by a capital funding agreement or Master Agreement involves federal or state funding that is otherwise under the distribution and program management responsibility of CAMPO or, regardless of funding source, constitutes a regionally significant project as defined in 23 CFR § 450.104, CAMPO shall be a party to the agreement.

8.02 For each Implementation Element of the Wake County Work Plan funded in the Annual Operating Budget, an Operating Agreement is required. The Operating Agreement shall set forth at a minimum:

- a. Description of operations;
- b. Allocation of costs and funding sources consistent with multi-year operating program and annual operating budget amounts;
- c. Minimum annual service performance evaluation method;

- d. Respective roles of parties and transit agencies in the provision of the projects and services outlined;
- e. Issue resolution process;
- f. Method for termination;
- g. All Federal Transit Administration required certifications and assurances in accordance with 23 U.S.C. 134, 29 U.S.C. 623, 42 U.S.C. 2000, 42 U.S.C. 6102, 42 U.S.C. 12112, 42 U.S.C. 12132, 49 U.S.C. 5303; 49 U.S.C. 5332, 29 CFR Part 1630, 41 CFR Parts 60 *et seq.*;
- h. Reporting requirements; and
- i. Public involvement and engagement expectations.

If any such operating project covered by an Operating Agreement or Master Agreement involves federal or state funding that is otherwise under the distribution and program management responsibility of CAMPO or, regardless of funding source, constitutes a regionally significant project as defined in 23 CFR § 450.104 , CAMPO shall be a party to the agreement.

Before any Operating Agreement is executed, GoRaleigh, GoTriangle in its capacity as a transit provider, the Town of Cary, and Wake County TRACS shall enter into and execute a master joint agency operations agreement that commits the transit agencies to implementing all projects contained within the Wake County Transit Plan and that lays out provisions ensuring cost-effective delivery of operating projects, minimum service standards, and any other provisions ensuring operating projects funded with Wake County Tax Revenue and Wake Transit Plan Revenue are carried out at a level of quality and efficiency consistent with transit operations best practice conventions.

ARTICLE IX

PROCESS FOR CAPITAL, NON-CAPITAL, INFRASTRUCTURE, and SERVICE DELIVERY PROJECTS REPORTING

9.01 The Tax District shall be reported as a Component Unit and shall include the Wake Transit major operating and capital funds separate from any and all major funds and/or other special tax districts within the Tax District, in the body of annually audited financial statements, as required by Governmental Accounting Standards Board (GASB) standards for major funds reported by blended component units. As administrator of the Tax District, GoTriangle shall present an annually audited financial statement for the separate component unit by **December 15th** of the subsequent fiscal year to the CAMPO Executive Board and the Wake County Board of Commissioners.

9.02 At the time of the presentation of the annually audited financial statements, GoTriangle shall present an update of the Wake County Transit Work Plan projects including project milestones and timelines and operations of the system. This presentation shall be considered an Annual Wake Transit Report.

9.03 GoTriangle, as administrator of the Tax District, shall issue Quarterly Financial Reports (non-GAAP) for the quarters ending **September 30th , December 31st March 31st** to the TPAC for the Wake Transit major operating and capital funds. These Reports will be due 60 days after the end of the respective quarter. The format of this report shall be agreed upon by the Parties to this Agreement by **October 1, 2016**.

9.04 At the time of the submittal of the quarterly financial reports, GoTriangle shall also submit an update of projects including project milestones and timelines and transit operations. The format of this report shall be agreed upon by the Parties of this agreement by **October 1, 2016**.

ARTICLE X CONFERENCE COMMITTEE

10.01 **Creation.** If Wake County, CAMPO, or Go Triangle has a Significant Concern that may affect the ability to proceed with the Recommended Wake Transit Work Plan or any element of implementation of the same, then the Wake County Board of Commissioners will call for the creation of a Conference Committee for the resolution of the same. The purpose of the Conference Committee will be limited to resolving the issue(s) identified in a Significant Concern listing. The Conference Committee will be convened within fifteen (15) days of the receipt of the listing of Significant Concerns.

10.02 **Minimum Membership.** The Conference Committee will consist of at least two (2) Board of Commissioner members appointed by Wake County, two (2) Executive Board members appointed by CAMPO, and two (2) Board of Trustee members appointed by GoTriangle. The Parties shall each designate members and provide a listing of names within (15) days of the receipt of listing of Significant Concerns with recommended Wake Transit Work Plan.

10.03 **Other Membership.** The Wake County Board of Commissioners shall, at its discretion, appoint members representing other transit agencies, municipalities, areas or Wake County residents at large. The Board may also consider representatives with specific technical perspectives or knowledge. At least one (1) other member shall be appointed at all times to allow for the Conference Committee to have an odd number of members.

10.04 **Staff Resources.** The Parties to this Agreement agree to provide all staff resources required to understand the issue(s) identified in the listing of Significant Concerns with the recommended Wake Transit Work Plan to the Conference Committee.

10.05 **Facilitation.** The Wake County Board of Commissioners shall, at its discretion, appoint a facilitator to the Conference Committee. The facilitator shall work with staff and the Conference Committee to understand the listing of Significant Concerns and develop multiple scenarios / options for resolution. Although each scenario must result in a viable Wake Transit Work Program, they may differ in the amount of changes proposed.

10.06 Decision-making. The Conference Committee shall consider all recommended scenario / options. If consensus is not attained on any of the scenario / options, the Committee shall vote on each scenario / option and the scenario / option with the highest number of votes will be selected. If two or more scenario / options receive the same number of votes, the Conference Committee will break the tie vote.

10.07 The decision of the Conference Committee shall be binding on the TPAC.

ARTICLE XI AGREEMENT RELATED DISPUTE RESOLUTION

It is the desire and intent of the Parties to resolve any disputes in a collaborative manner and to avoid, if possible, the expense and delay of litigation. In the event that any Party cannot resolve an issue with another Party under this Agreement, the affected Party shall engage in the following process:

- a. Any Party may give written notice to another Party or Parties of any dispute not resolved in the ordinary course of business. Within ten (10) business days after delivery of the written notice by regular or electronic mail, the receiving Party(ies) shall submit a written response to the disputing Party, and designate in the notice a representative who will represent that Party in the negotiation to resolve the dispute.
- b. Within ten (10) business days of receiving the response, the appointees of the disputing and receiving Parties shall meet at a mutually acceptable time and place, and thereafter, as often as necessary to resolve the dispute.
- c. All reasonable requests for information made by one Party to the other shall be honored in a timely fashion to permit constructive discussion.
- d. If the dispute cannot be resolved, including a dispute about entering an Amendment to the Agreement, one or more of the Parties shall submit a detailed listing of Significant Concern(s) to the Wake County Board of Commissioners to request a Conference Committee.
- e. The duty to engage in dispute resolution is a material part of this Agreement enforceable by equitable relief.
- f. Upon failure to resolve a dispute through the steps outlined in this Agreement, any Party may engage in other dispute resolution processes agreed upon by the Parties or pursue any legal or equitable remedies available.

ARTICLE XII NON-ASSIGNMENT DELEGATION OF DUTY

12.01 No Party shall assign any portion of this Agreement or the rights and responsibilities hereunder to another person or entity who is not a party to this Agreement

without the prior written consent of the other Parties. Notwithstanding the above, nothing herein shall restrict the rights of any party to contract with any third-parties for the implementation of the Wake County Transit Work Plan as contemplated herein.

12.02 Except as expressly stated herein, this Agreement shall not change the delegation of any duty previously delegated to a Party by federal law, state statute, local ordinance or resolution, and shall not create any new duty which does not exist under federal law, state statute, local ordinance or resolution.

12.03 Nothing herein shall modify, abridge, or deny any authority or discretion of Wake County with regard to calling for a special election as set forth in N.C.G.S. 163-287 or considering authorization to conduct a referendum by vote as set forth in N.C.G.S. Chapter 105, Article 43, Part 3.

12.04 Nothing herein shall modify, abridge, or deny any authority or discretion of any Party or municipality to independently develop, administer, or control transportation projects pursuant to enumerated authority or funding sources separate from the authority and funding sources outlined in this Agreement.

ARTICLE XIII OTHER PROVISIONS

13.01 **No Third Party Beneficiaries.** This Agreement is not intended for the benefit of any third party. The rights and obligations contained herein belong exclusively to the Parties hereto, and shall not confer any rights or remedies upon any person or entity other than the Parties hereto.

13.02 **No Waiver of Sovereign Immunity.** Nothing in this Agreement shall be construed to mandate purchase of insurance by Wake County pursuant to N.C.G.S. 153A-435; or to be inconsistent with Wake County's "Resolution Regarding Limited Waiver of Sovereign Immunity" enacted October 6, 2003; or to in any other way waive Wake County's defense of sovereign or governmental immunity from any cause of action alleged or brought against Wake County for any reason if otherwise available as a matter of law.

13.03 **No Waiver of Qualified Immunity.** No officer, agent or employee of any Party shall be subject to any personal liability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute this Agreement in their official capacities only, and not in their individual capacities. This section shall not relieve any such officer, agent or employee from the performance of any official duty provided by law.

13.04 **Ethics Provision.** The Parties acknowledge and shall adhere to the requirements of N.C.G.S. 133-32, which prohibits the offer to, or acceptance by any state or local

employee of any gift from anyone with a contract with the governmental entity or from a person seeking to do business with the governmental entity.

13.05 Governing Law, Venue. The Parties acknowledge that this Agreement shall be governed by the laws of the State of North Carolina. Venue for any disputes arising under this Agreement shall be in the courts of Wake County, North Carolina.

13.06 Entire Agreement. The terms and provisions herein contained constitute the entire agreement by and between the Parties hereto and shall supersede all previous communications, representations or agreements, either oral or written between the Parties hereto with respect to the subject matter hereof.

13.07 Severability. If any provision of this Agreement shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement.

13.08 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original.

13.09 Verification of Work Authorization. To the extent applicable, all Parties, and any subcontractors hired for purposes of fulfilling any obligations under this Agreement or any Operating Agreement or Funding Agreement contemplated by this Agreement, will comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," and will provide documentation or sign affidavits or any other documents requested by either party demonstrating such compliance.

[Signature pages follow this page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their corporate names by their duly authorized officers, all by the Resolution of their governing board, spread across their minutes, as of the date first above written.

RESEARCH TRIANGLE REGIONAL PUBLIC TRANSPORTATION AUTHORITY (d/b/a GoTriangle) By: _____ Jeffrey G. Mann, General Manager	This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act. _____ Saundra Freeman, Chief Financial Officer for GoTriangle
[Seal] ATTEST: _____ By _____ Clerk	This instrument is approved as to form and legal sufficiency. _____ Karen Porter, Interim General Counsel For GoTriangle

WAKE COUNTY, NORTH CAROLINA By: _____ County Manager	This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act. _____ Finance Director Wake County, North Carolina
[Seal] ATTEST: _____ Clerk	This instrument is approved as to form and legal sufficiency. _____ County Attorney

