

**STATE OF NORTH CAROLINA**

**COUNTY OF WAKE**

**INTERLOCAL AGREEMENT**

**BETWEEN**

**CITY OF RALEIGH**

**AND**

**WAKE COUNTY**

**REGARDING**

**SHARED TRANSIT RESOURCES**

This Interlocal Agreement (the “Agreement”), entered into this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the **CITY OF RALEIGH, NORTH CAROLINA**, a public body politic and corporate of the State of North Carolina (hereinafter “Raleigh”) and **WAKE COUNTY, NORTH CAROLINA**, a public body politic and corporate of the State of North Carolina (hereinafter “Wake County”); collectively referred to herein as “the Parties”;

**WITNESSETH:**

**WHEREAS**, the City of Raleigh and Wake County each have responsibilities for providing quality transportation services for portions of their respective populations with special transportation needs; and

**WHEREAS**, the City of Raleigh owns and operates the GoRaleigh Access Operations and Maintenance Facility (“GoRaleigh Access Facility”) located at 1430 South Blount Street in Raleigh, North Carolina; and such facility is appropriate and convenient for the colocation of certain transit vendors utilized by Raleigh and Wake County; and

**WHEREAS**, City of Raleigh is willing to extend licenses to utilize the GoRaleigh Access Facility to selected transit vendors of Wake County and City of Raleigh and Wake County shall realize a benefit in the form of reduced expenditure for budgeted facility costs of Wake County vendors; and

**WHEREAS**, Wake County utilizes the services of the software vendor Routematch in licensing the use of software for centralized trip and maintenance scheduling and Routematch can accommodate City of Raleigh operations; and

**WHEREAS**, the City of Raleigh desires to co-utilize and share the cost of services of Routematch; and

**WHEREAS**, City of Raleigh shall reimburse Wake County for the actual cost of services provided to City of Raleigh under the contracts with Routematch; and

**WHEREAS**, Wake County and the City of Raleigh each perceive a benefit in the increased efficiency and cost savings generated by sharing the resources described above; and

**WHEREAS**, the City of Raleigh and Wake County desire that this agreement shall formalize the terms of the shared use of the above described resources; and

**WHEREAS**, the Parties pursuant to the authority of Chapter 160A-461 *et seq.* of the North Carolina General Statutes are authorized to enter into this Interlocal Agreement 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**

1.01 The purpose of this Agreement is to define the responsibilities of the Parties and the terms of use with regard to sharing certain transit resources as outlined in this agreement, including the City's extension of licenses to certain vendors for use of the GoRaleigh Access Facility, and the shared use of the software vendor, referred to collectively herein as "Shared Transit Resources."

## **ARTICLE II TERM**

2.01 The initial term of this Agreement shall be from September 1, 2017 through June 30, 2022.

2.02 Thereafter, if both Parties agree to a renewal, then they are authorized by this Agreement to enter up to two (2) successive two (2) year terms by mutual written amendment.

## **ARTICLE III METHOD OF FINANCING**

3.01 Appropriations for the purposes established herein may be established through the normal budget and appropriations processes of the City of Raleigh and Wake County. However, there is no requirement that City of Raleigh or Wake County provide additional funding for the functions described herein beyond the specific costs enumerated in this Agreement. Unavailability of funds to finish or continue this undertaking shall result in immediate termination of this agreement with no requirement of compliance with the notice provisions hereunder.

3.02 For the term of this Interlocal Agreement, Wake County shall accept and appropriate COR Reimbursement Funding for the payment of City of Raleigh related expenses under the contract with Routematch. The Wake County Finance Department shall determine the appropriate fiscal year and fund to which the COR Reimbursement Funding shall be paid based upon standard accounting practices employed by Wake County.

3.03 For any renewal term of this Interlocal Agreement, City of Raleigh shall appropriate and Wake County shall accept COR Reimbursement Funding sufficient to cover the payment of City of Raleigh related expenses under the contract with Routematch, or other vendors providing like shared services as may be agreed upon in the future by the Parties.

## **ARTICLE IV**

### **GoRaleigh Access FACILITY**

4.01 The City of Raleigh is the Owner of the GoRaleigh Access Operations and Maintenance Facility located at 1430 South Blount Street, Raleigh, North Carolina. This is a federally funded facility. The City of Raleigh's Transit Program shall keep this facility in good operating condition to accommodate centralized staging for transportation services in Raleigh and Wake County. Wake County shall have no responsibility for the operation or maintenance of the GoRaleigh Access Facility, or costs related thereto.

4.02 The City and the County acknowledge that the transportation vendor selected through the RFP process has a need to occupy the GoRaleigh Access Facility for the provision of transportation services. The City of Raleigh agrees to continue separate License Agreements to the selected Wake County vendor until such date as that Licensee ceases to have a contract to provide transportation services to Wake County or City of Raleigh, whichever occurs last. Under the terms of such License, the Licensee's facility costs shall be limited to paying a proportionate share of utilities and general maintenance and cleaning expenses; provided that nothing herein shall limit Licensee's responsibility for damages that may be caused as a result of occupancy or the City of Raleigh's ability to require financial responsibility for such damages from the Lessee/Licensee.

4.03 Wake County shall not be a party to any License Agreement offered or entered pursuant to this Section and nothing herein shall be construed to make Wake County responsible for performance of any terms of a License entered pursuant to this Section or any damage caused by City of Raleigh or a Licensee.

4.04 City of Raleigh shall have an affirmative duty to terminate the License of the aforementioned selected Wake County Vendor upon Wake County informing City of Raleigh that such Vendor no longer has an active or current contract with Wake County, unless the City of Raleigh has a contract with selected vendor, to provide transportation services. Any termination shall be pursuant to any conditions of termination set forth in any agreement between said Vendor and the City of Raleigh.

4.05 City of Raleigh agrees that during the term of this Agreement, they will not offer a license to any other vendor for co-utilization of the GoRaleigh Access facility unless 1) such vendor offers transportation services to either City of Raleigh or Wake County and 2) such License does not interfere with the terms of this Interlocal Agreement or any other active License Agreement for use of the GoRaleigh Access Facility.

4.06 The City of Raleigh must give Wake County ninety (90) days' notice of intent to terminate any Lease or License entered pursuant to this Article prior to such termination becoming effective. The termination of any or all License Agreements entered pursuant to this Section shall give Wake County the right to terminate this Interlocal Agreement and terminate the availability of City of Raleigh services provided under vendor contracts with Routematch, provided that Wake County must give City of Raleigh ninety (90) days' notice of any intended termination(s) or modification(s) of contract responsibilities.

**ARTICLE V**  
**SHARED SERVICES OF**  
**SOFTWARE VENDOR**

5.1 Wake County has selected the Software vendor Routematch to provide transportation services for Wake County. The vendor is willing to expand the scope of services under contract to accommodate the transportation needs of the City of Raleigh contingent upon satisfactory contractual arrangements by and between Wake County and City of Raleigh.

5.2 For the initial term of this Interlocal Agreement, the City of Raleigh shall pay to Wake County a maximum of Four Hundred Thirty-Eight Thousand Seven Hundred Forty-Eight and 00/100s Dollars (\$438,748.00), payable in monthly installments based upon 1/12<sup>th</sup> of the amount budgeted for each fiscal year as indicated in Attachment A (Budget). The rates in fiscal years 2021 and 2022 shall increase by 3.5%. The Parties agree that the method of calculating the cost of services attributable to City of Raleigh is fair and reasonable to both Parties. The Parties agree that Wake County shall have no liability to City of Raleigh for failure of either vendor to execute the contemplated contract(s), or termination by either party once executed. In the event that a vendor contract is terminated, Wake County shall have no responsibility to procure like or similar services from another vendor on behalf of City of Raleigh; provided that from the date of termination of that vendor contract, the City of Raleigh shall receive a credit towards the Fixed Monthly Rate in the amount of the prorated cost the portion of payment attributable to the City of Raleigh services under that vendor contract. The Parties agree that, except for the responsibility to pay as set forth in the respective vendor contracts, Wake County shall not be responsible for the timeliness, performance or non-performance of services by Routematch for the City of Raleigh. To the extent permitted by law, City of Raleigh shall hold Wake County harmless for any actual or alleged loss, delay, penalty, or cost associated with the performance or non-performance of Routematch.

**ARTICLE VI**  
**TERMINATION**

6.01 The Parties shall each have the right to terminate this Agreement with or without cause upon giving ninety (90) days electronic and written notice to the other party delivered to the following addresses:

For Wake County: Anita Davis-Haywood  
Wake County Human Services MD#060  
Transportation Program Manager  
P.O. Box 46833  
Raleigh, NC 27620  
Anita.Davis@wakegov.com

For City of Raleigh: Mr. David Eatman, Transit Administrator  
City of Raleigh Public Works Department  
222 W. Hargett Street  
Raleigh, North Carolina 27602  
david.eatman@raleighnc.gov

The roles and responsibilities of each party shall terminate ninety (90) days after notice is given by withdrawing party in accordance with this Agreement unless otherwise agreed by the written consent of the Parties executed with the same formality as the foregoing document.

## **ARTICLE VII AMENDMENT**

7.01 Any amendment to this Agreement to be effective must be in writing, signed by both Parties, and executed with the same formality and approvals as the foregoing Agreement.

## **ARTICLE VIII RELATIONSHIP OF PARTIES**

8.01 Wake County and the City of Raleigh are, and shall remain independent contractors with respect to any service or function performed under this Agreement. Except as provided for in this Agreement, each party shall select the means, method, and manner of performing their respective services herein. Each party is an independent contractor and shall not represent itself or be deemed as an officer, agent or employee of the other party for any purpose. Nothing under this Agreement is intended or should be construed in any manner to create a partnership or venture between the Parties. Each party agrees that it will obey all State and Federal statutes, rules and regulations which are applicable to any responsibility or duty outlined herein.

## **ARTICLE IX NON-ASSIGNMENT**

9.01 Neither 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 party to this Agreement.

## **ARTICLE X NON-APPROPRIATION**

10.01 Wake County and City of Raleigh are governmental entities, and the contract validity is based upon the availability of public funding under the authority of their respective statutory mandates.

In the event that funds are not available and not appropriated to the program specified in this Agreement, then this Agreement shall automatically expire without penalty to either party.

In the event of a legal change in either party's statutory authority, mandate, and mandated functions which adversely affects the authority to continue performing obligations under this Agreement, then this Agreement shall automatically expire without penalty to either party.

## **ARTICLE XI NO THIRD PARTY BENEFICIARIES**

11.01 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.

## **ARTICLE XII NO WAIVER OF SOVEREIGN IMMUNITY**

12.01 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.

## **ARTICLE XIII NO WAIVER OF QUALIFIED IMMUNITY**

13.01 No officer, agent or employee of either 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.

## **ARTICLE XIV GOVERNING LAW**

14.01 The Parties acknowledge that this Agreement shall be governed by the laws of the State of North Carolina.

## **ARTICLE XV ENTIRE AGREEMENT**

15.01 The terms and provisions herein contained constitute the entire agreement by and between Wake County and the City of Raleigh and shall supersede all previous communications, representations or agreements, either oral or written between the Parties hereto with respect to the subject matter hereof.

#### **ARTICLE XVI SEVERABILITY**

16.01 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.

#### **ARTICLE XVII COUNTERPARTS**

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

#### **ARTICLE XVIII NON-DISCRIMINATION**

18.01 In consideration of the signing of this Contract, the Parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, sex, age, handicap, or sexual orientation with reference to the subject matter of this Contract, no matter how remote. The Parties further agree in all respects to conform with the provisions and intent of City of Raleigh Ordinance 1969-889, as amended. This provision is hereby incorporated into this Contract for the benefit of the City of Raleigh and its residents, and may be enforced by action for specific performance, injunctive relief, or other remedy as provided by law. This provision shall be binding on the successors and assigns of the Parties with reference to the subject matter of this Contract.

#### **ARTICLE XIX APPLICABLE LAW**

19.01 All matters relating to this Contract shall be governed by the laws of the State of North Carolina, without regard to its choice of law provisions, and venue for any action relating to this Contract shall be Wake County Civil Superior Court or the United States District Court for the Eastern District of North Carolina, Western Division.

#### **ARTICLE XX E-VERIFY**

20.01 Contractor shall comply with E-Verify, the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law and as in accordance with N.C.G.S. §64-25 et seq. In



addition, to the best of Contractor's knowledge, any subcontractor employed by Contractor as a part of this contract shall be in compliance with the requirements of E-Verify and N.C.G.S. §64-25 et seq.

**ARTICLE XXI**  
**IRAN DIVESTMENT**

By signing this agreement, the Parties certify that as of the date of execution of this Agreement 1) they do not appear on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S Chapter 147, Article 6E (G.S. 147-86.55 to 147-86.63) and published on the State Treasurer's website at [www.nctreasurer.com/Iran](http://www.nctreasurer.com/Iran) and 2) each certify that they will not utilize any subcontractor that appears on the Final Divestment List in the performance of duties under this Agreement.

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

<b>CITY OF RALEIGH, NORTH CAROLINA</b>  By: _____	This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act.  _____ Finance Officer City of Raleigh, North Carolina
<b>ATTEST:</b>  By: _____  <b>Clerk</b>  [Seal]	This instrument is approved as to form and legal sufficiency.  _____ City Attorney
<b>WAKE COUNTY, NORTH CAROLINA</b>  By: _____ County Manager	This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act.  _____ Finance Director Wake County, North Carolina
[Seal]  <b>ATTEST:</b>  _____ Clerk	This instrument is approved as to form and legal sufficiency.  _____ County Attorney

## ATTACHMENT A BUDGET

FY18-22 Wake County/COR ILA Budget

Technology/RouteMatch

	FY18	FY19	FY20	FY21	FY22	5 year Totals
<b>6 Additional Licenses/ S Support Hosting</b>	4,500	4,500	4,500	4,658	4,821	22,978
<b>Core System/Support/Hosting</b>	43,383	43,383	43,383	44,901	46,472	221,521
<b>FTA Vet Grant/Support</b>	30,000	40,000	40,000	41,400	42,849	194,249
<b>Subtotals</b>	\$77,883	\$87,883	\$87,883	\$90,958	\$94,142	

\*Cost includes 3.5 % increase for years 4 and 5

**5yr Totals** \$438,748