

NORTH CAROLINA  
WAKE COUNTY

### **FUNDING AGREEMENT**

THIS AGREEMENT entered into as of the \_\_\_\_\_ day of November, 2017, by and between the COUNTY OF WAKE, a body politic and corporate of the State of North Carolina (the "County") and the TOWN OF CARY, a North Carolina municipal corporation ("Town" or "Cary")) (together referred to as the "Parties").

### **PRELIMINARY STATEMENT**

WHEREAS, pursuant to Session Law 1991-594, Wake County authorized a prepared food and beverage tax of up to 1% of the sales price of prepared food and beverages sold at retail; and

WHEREAS, pursuant to Session Law 1991-594, Wake County and City of Raleigh subsequently entered an Interlocal Agreement ("ILA") designating funds from the Occupancy and Prepared Food/Beverage Taxes for the purpose of acquiring, constructing, or financing convention centers, civic centers, performing arts centers, coliseums, auditoriums, and facilities related to sports and cultural events; and

WHEREAS, the terms of the ILA and subsequent amendments provide a basis for distribution of funds by the City of Raleigh and County consistent with the enabling legislation; and

WHEREAS, the Town of Cary owns and maintains sports facilities including WakeMed Soccer Park, USA Baseball National Training Complex, and Cary Tennis Park that provide recreational opportunities for Wake County residents and visitors; and

WHEREAS, Wake County and the Town of Cary recognize benefits of maintaining sports facilities to enhance the sports and recreation appeal in Cary and Wake County for residents and visitors and the ongoing attractions of tournaments including those held by the NCAA, which provide an economic impact to the Town of Cary and Wake County; and

WHEREAS, between March 2016 and June 2016, Wake County and the City of Raleigh engaged community stakeholders in a Phase I review of the Countywide Room Occupancy and Prepared Food and Tax Revenues governance and financial models. During this review, the Town of Cary submitted a request for funding support for Town of Cary sports facilities to allow them to remain competitive and attract sporting events; and

WHEREAS, as a result of this review, the Raleigh City Council and Wake County Board of Commissioners adopted the 20<sup>th</sup> Amendment to the Revised Interlocal Agreement Between Wake County and The City of Raleigh Relating to Room Occupancy and Prepared Food and Beverage Tax Revenues. The 20<sup>th</sup> Amendment establishes that Wake County will receive Two Million and no/100 Dollars (\$2,000,000) annually for the purpose of providing

funding for community projects in accordance with the Enabling Acts, at the sole discretion of the County; and

WHEREAS, between February 2017 and April 2017, Wake County and the City of Raleigh engaged community stakeholders in a Phase II review of the Countywide Room Occupancy and Prepared Food and Beverage Tax Revenues and, during this review, the stakeholders demonstrated support for a commitment of up to One Hundred Twenty Five Thousand and no/100 Dollars (\$125,000) from Wake County to be used by the Town of Cary to develop a 20-Year Comprehensive Capital Improvement Plan for their sport facilities WakeMed Soccer Park, USA Baseball National Training Complex, and Cary Tennis Complex ("Comprehensive Capital Improvement Plan" or "Plan"); and

WHEREAS, on May 8, 2017, the Wake County Commissioners received a presentation on the outcomes of the Phase II review, including a recommendation to commit up to One Hundred Twenty Five Thousand and no/100 Dollars (\$125,000) for the Comprehensive Capital Improvement Plan ("Comprehensive Plan"). The source of funds for this Plan is the Two Million and no/100 Dollars (\$2,000,000) provided to Wake County annually for funding community projects from the Countywide Room Occupancy and Food and Beverage Tax Revenues; and

NOW THEREFORE, in consideration of the mutual promises contained herein, County and Town agree as follows:

1. The Comprehensive Plan shall be a 20-year horizon plan, and shall include facility assessments and capital expenditure needs for a period of 20 years for each of the three Town of Cary sports facilities to include the WakeMed Soccer Park, USA Baseball National Training Complex, and Cary Tennis Park. The Plan should include all Project Deliverables described in Section 2 Scope, Tasks 1-3 in the Cary Sports Venues Assessment RFP issued by the Town of Cary on August 23, 2017. Said RFP is included as Attachment "A" to this Agreement.
2. The Town shall be responsible for the procurement process, consultant oversight, and development of the Comprehensive Capital Improvement Plan, which has an anticipated completion date of December 2018.
3. The Town shall pay all fees and expenses associated with the Comprehensive Capital Improvement Plan, including any overruns and any new or additional costs that arise during the Plan. The Cost for the Plan is estimated to be \$123,000.00. The Town has sufficient funds to pay for the balance of the cost of the Plan over and above the County's contribution of \$125,000.00.
4. The County will reimburse the Town for the cost of the Plan up to \$125,000.00 upon receipt of a copy of the completed Comprehensive Plan and a letter from the Town Manager with the full project budget for plan deliverables as defined by the RFP, actual expenditures on the Plan, and a statement of the Town's acceptance of the final report. All requests for disbursement of the County's funding commitment

must be made within 15 months of the effective date of this Agreement unless the parties have entered into a written agreement for an extension of this date.

5. Prior to the expiration of the 15 month period to request reimbursement and in the event that the Plan is in process but not completed by the estimated date of December 2018, Town may request, and the Wake County Manager may reasonably grant, extensions of time for the period to request reimbursement. Consent to requests for reasonable extensions of time shall not be unreasonably withheld by the Wake County Manager; provided that the Plan shall be completed in sufficient time to allow for its consideration in the next Room Occupancy/Food and Beverage stakeholders review (to be complete by January 1, 2020).
6. The Town acknowledges that neither this Agreement nor the Plan shall commit the County to provide funds over and above the \$125,000.00 funding commitment or to provide operating or capital funds for the completion of any part of the improvements contemplated by the Comprehensive Plan.
7. The final Plan will be shared with Wake County, City of Raleigh and other stakeholders in preparation for the next Room Occupancy/Food and Beverage stakeholders review (to be complete by January 1, 2020) to consider identified capital expenditure needs.
8. If Town does not make a request for disbursement within the time limit set out in Section 4 above or does not meet the conditions precedent to disbursement for this Funding Commitment, and all or part of the funds committed are not disbursed, then such funds shall remain a part of the Major Facilities Capital Trust Fund free and clear of any further obligation to Town under this or any other Agreement.
9. Further Agreements. The Town and County agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of this Agreement and to work together in good faith and with all due diligence to provide for and carry out the purpose of this Agreement.
10. Amendment. Any extension of the term of this Agreement and/or change to the content of this Agreement shall be by written amendment.
11. Notices. Any notice given pursuant to this Agreement shall be deemed given if delivered by hand or if deposited in the United States Mail, postage paid, certified mail, return receipt requested and addressed as follows:
  - a. If to the Town of Cary:  
Town of Cary  
Attn: Deputy Town Manager  
PO Box 8005

Cary, NC 27512

b. If to Wake County:  
Wake County  
Attn: Denise Foreman, Asst County Manager  
P.O. Box 550  
Raleigh, NC 27602

12. Verification of Work Authorization. All Parties, and any permitted subcontractors, shall comply with Article 2, Chapter 64, of the North Carolina General Statutes.

13. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

Executed as of the day and year first above written.

TOWN OF CARY  
Deputy Town Manager  
316 N. Academy St  
Cary, NC 27613

COUNTY OF WAKE  
County Manager  
PO Box 550  
Raleigh, NC 27605

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Deputy Town Manager

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County Manager

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

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Deputy Finance Officer

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Wake County Finance Officer