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Policy Framework for Use of Wake Transit Funds to Acquire Real Property

Part I: Purpose

The purpose of this policy framework is to outline rules and expectations for the use of "Wake Transit Tax Revenue," as defined by the Wake Transit Master Participation Agreement, for the acquisition, maintenance, use, and disposition of real property for a Wake Transit Plan implementation purpose. This policy framework clarifies the requirements and responsibilities of Wake Transit Plan implementation project sponsors and assigned lead agencies for the following:

- 1) Submission of necessary information for the Wake County Transit Planning Advisory Committee's (TPAC) review of requests for funding the acquisition and use of real property;
- 2) Maintenance and reporting of certain information and data for real property acquired with Wake Transit Tax Revenues;
- 3) Allowable methods for the disposal of and use of applicable proceeds for real property acquired with Wake Transit Tax Revenues; and
- 4) Methods for incorporating and institutionalizing this policy framework into program-level processes for Wake County Transit Plan implementation.

Part II: Applicability

This policy framework applies to the acquisition, management, use, and disposition of real property acquired with "Wake Transit Tax Revenue," as defined by the Wake Transit Master Participation Agreement, that meets or exceeds certain applicability thresholds. This policy framework does not apply to the acquisition of personal property, real property leasing, or the acquisition of easements or other nonpossessory interests. It is the intent of this policy framework to apply to cases in which the real property to be acquired would be used for such projects as transit centers, maintenance and operations facilities, transit stations, park-and-ride facilities, construction laydown areas, transit administrative offices, and right-of-way for fixed-guideway facilities. Part IV: Real Property Inventory and Utilization Plan and Part V: Real Property Disposal Methods of this policy framework shall apply to any case in which Wake Transit Tax Revenue will be used to acquire any individual parcel, or combination of contiguous parcels, that exceed both of the following thresholds:

- 1) Land area of 0.10 acre; and
- 2) At the time of acquisition, has an assessed or appraised value of greater than \$50,000 based on the greater of a fair market value appraisal commissioned by the project sponsor for the parcel(s) or, in cases in which a fair market value appraisal is not commissioned, the most recent general reappraisal conducted by the applicable county tax assessor.

Acquisition of real property that will exclusively support streetside bus stop or bus transfer point infrastructure is **exempt** from the requirements of this policy framework, insofar as any applicable individual parcels, or combination of contiguous parcels, do not exceed both of the following thresholds:

- 1) Land area of 0.50 acre; and
- 2) At the time of acquisition, has an assessed or appraised value of greater than \$75,000 based on the greater of a fair market value appraisal commissioned by the project sponsor for the parcel(s) or, in cases in which a fair market value appraisal is not commissioned, the most recent general reappraisal conducted by the applicable county tax assessor.

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The same thresholds provided above shall apply to the project funding request submission requirements detailed in Part III: Submission of Information for Consideration of Funding Real Property Acquisition of this policy framework in cases for which the applicable subject property has been identified at the time of the funding request. For cases in which the subject property has not been identified, and therefore an assessment of value to determine applicability is unavailable, project sponsors should make efforts to provide the information requested in Part III of this policy framework if the real property to be acquired is likely to exceed the established thresholds.

If Federal Transit Administration (FTA) or other sources of federal or state funding are used to acquire real property that is covered by the scope of this policy framework in combination with Wake Transit Tax Revenues, in the event of any conflict or inconsistency between the real property applicability terms and provisions of this policy framework and the real property applicability regulations and provisions of the FTA Award Management Circular (FTA C 5010.1E, or any subsequent updates thereto), or other applicable federal or state administrative regulations, the applicable federal or state administrative regulations shall control. For all cases in which Wake Transit Tax Revenue is used to acquire real property, in the event of any conflict or inconsistency between the terms and provisions of this policy framework and applicable state or federal law, the applicable state or federal law shall control.

Part III: Submission of Information for Consideration of Funding Real Property Acquisition

Any project sponsor proposing the use of Wake Transit Tax Revenue for the acquisition of real property applicable to this policy framework shall submit information to sufficiently answer the following questions in or with the applicable Wake Transit Work Plan project funding request form or amendment request form:

1) Necessity:

- a. Why is acquiring title to the property(ies) a better alternative than leasing or other arrangements?
- b. Can the project proposed to make use of the property(ies) still move forward without acquiring title?
- c. What is the useful life of the project that is proposed to make use of the subject property(ies)?

2) Location and Size:

- a. If available, what is the location (address or other descriptive information to understand the general location of the property) and size of the subject property?
- b. If a single property has not been selected, what feasible locations, described in general terms, have been identified as options/finalists?

3) Property Value(s):

- a. What is the appraised value of the subject property(ies) or of those properties identified as options/finalists (per applicable county tax assessor)? A range of value may be provided.

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- b. If a more recent appraisal than that of the applicable county tax assessor has been performed by the project sponsor, what is the appraised value according to the most recent appraisal?
- 4) Funding Source(s):
 - a. Will any share of the cost for the subject property(ies) to be acquired come from funding sources other than Wake Transit Tax Revenue?
 - b. If so, disclose any other revenue sources and the projected respective shares of each.
- 5) Title Issues: If applicable and known, what other interests in title to the subject real property(ies) are there or will there be that are relevant to the TPAC's consideration of funding acquisition of the property (e.g., liens, significant easement interests, etc.)?
- 6) Environmental Issues:
 - a. If applicable and known, what environmental issues exist on the subject property(ies)?
 - b. Does acquisition of the property involve environmental remediation, significant grading, or demolition of pre-existing structures?
- 7) Displacements:
 - a. How many parcels are affected by the acquisition?
 - b. If applicable and known, would residents of businesses be displaced and need to be relocated from the subject property or any of the properties identified as options/finalists?
- 8) Incidental Uses:
 - a. What other potential uses are there for the subject property beyond the most immediate intended use?
 - b. Would acquisition of the subject property help meet other goals of Wake County Transit Plan implementation that are unrelated to the specific immediate intended use?

Information that answers the preceding questions will be provided by project sponsors with the submission of applicable funding or amendment requests beginning on July 1, 2021. The Capital Area Metropolitan Planning Organization (CAMPO) will incorporate the preceding questions into the Wake Transit Work Plan project funding request and amendment request form templates beginning on July 1, 2021. Real property acquisition funding requests submitted before July 1, 2021, are **exempt** from the information submission requirements detailed in this section.

With the submission of the aforementioned information by project sponsors, the TPAC and/or its delegate subcommittees should consider each request in light of the following questions:

- 1) **Need** – Is the acquisition of the property necessary or beneficial to the continued implementation of the Wake County Transit Plan as opposed to other potential viable alternatives?

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- 2) **Cost** – Are the costs of the proposed real property acquisition and its continued use reasonable for the applicable project’s relative level of priority toward the implementation of the Wake County Transit Plan? Are the costs reasonable compared to other viable options?
- 3) **Location** – Does the location of the subject property comport with the needs of the applicable project and the overall intent of the project toward implementation of the Wake County Transit Plan?

Part IV: Real Property Inventory and Utilization Plan

All project sponsors receiving Wake Transit Tax Revenue for real property acquisition that is applicable to this policy framework shall prepare and keep up to date a real property inventory and utilization plan for all real property acquired. The following information should be maintained for each applicable individual parcel, or combination of contiguous parcels:

- 1) Wake Transit Work Plan project ID number
- 2) Property location;
- 3) Summary of any conditions on title;
- 4) Original acquisition cost;
- 5) Appraised value and date of appraisal;
- 6) Wake County Transit Tax Revenue participation percentage;
- 7) Percentage of participation of any other funding partners;
- 8) Brief description of existing improvements;
- 9) Current use of property;
- 10) Planned use of property and schedule for planned use; and
- 11) If no eligible use is planned, proposal for disposition of property, with reasons included (e.g., system or design changes, project alignment change, acquired for construction staging and laydown and construction is complete, etc.).

The preceding information should be updated as often as necessary to accurately portray the listed characteristics, but no less frequently than annually, and should be reported as part of the 4th quarter progress report for the subject Wake Transit Work Plan project in accordance with otherwise established reporting deadlines. The preceding information shall also be provided in accordance with the aforementioned timelines for all real property applicable to this policy framework, regardless of when funding was requested or when it was acquired.

Part V: Real Property Disposal Methods

If it has been reported by the project sponsor through the real property inventory and utilization plan that there is no remaining eligible use of real property that has been acquired with Wake Transit Tax Revenue, project sponsors should take action to fully dispose of the subject real property within three (3) years in accordance with one of the following disposal methods:

- 1) Sell and Reimburse the Wake Transit Capital Fund

Competitively market in accordance with sales procedures that provide for maximum competition to the extent practicable to achieve the highest possible return, sell the subject property, and reimburse the Wake Transit Capital Fund with the net proceeds in an amount that equals the same percentage of interest represented by the share of Wake Transit Tax Revenues used for the property’s acquisition. Net proceeds are defined as the amount realized from the sale of the subject property no longer needed for its originally intended

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use minus the expense of any actual and reasonable selling and other necessary expenses associated with repairs to make the property saleable. Marketing, brokerage, and other reasonable transaction costs shall be considered reasonable selling expenses. These expenses may be deducted from the total amount of proceeds resulting from the sale of the subject property at the same percentage of interest represented by the share of Wake Transit Tax Revenues used for the property's acquisition. Net proceeds from the sale of subject property must be reimbursed to the Wake Transit Capital Fund within one (1) year of settlement.

2) Offset Within Same Defined Wake Transit-Funded Project

Competitively market in accordance with sales procedures that provide for maximum competition to the extent practicable to achieve the highest possible return, sell the subject property, and apply the net proceeds, as defined in Method #1 above, from the sale to the cost of appropriate replacement property under the same Wake Transit Work Plan-defined project (i.e., represented by a single project ID). To effectuate this disposal method, a Wake Transit Work Plan amendment will be required for Wake Transit-funded transit centers, operations and maintenance facilities, park-and-ride facilities, transit stations, or other similar projects that are represented as a separate distinct implementation element in the applicable Wake Transit Work Plan or projects that are otherwise applicable to this policy framework in which a single parcel or a single grouping of contiguous parcels was acquired for the subject project. For other projects involving more than one (1) single parcel or one (1) single grouping of contiguous parcels, this disposal method may be implemented without a Wake Transit Work Plan amendment, but all actions and records associated with the disposition and acquisition of proceeds must be documented and reported in the quarterly progress report covering the quarter of the applicable actions. Project sponsors may not hold any net proceeds generated from this disposal method for greater than one (1) year from the date of sale. Any net proceeds not applied to a replacement property within one (1) year must be immediately reimbursed to the Wake Transit Capital Fund.

3) Sell and Keep Net Proceeds in Open Project

Competitively market in accordance with sales procedures that provide for maximum competition to the extent practicable to achieve the highest possible return, sell the subject property, and apply the net proceeds, as defined in Method #1 above, to reduce the gross cost of the same Wake Transit-funded project. This disposal method may be beneficial to project sponsors responsible for implementing Wake Transit-funded projects with multiple separate property purchases or with multiple project actions and phases wrapped into a single implementation element as defined by the applicable Wake Transit Work Plan. It may additionally be beneficial to projects in which real property must be acquired for construction staging and laydown activities and will be sold when those activities are complete and while other project activities are still ongoing. Consequently, this disposal method shall only be applicable to projects involving the cases referenced above. Project sponsors may not hold any net proceeds generated from this disposal method from being applied to the same project, if eligible, for greater than two (2) years from the date of sale. Any net proceeds not applied to eligible costs under the same project within two (2) years must be immediately reimbursed to the Wake Transit Capital Fund.

For cases in which the project sponsor's collection of net proceeds from the sale of the subject property causes the Wake Transit share of available funds for the project to exceed

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the original budget amount allocated in the applicable Wake Transit Work Plan, the project sponsor should reimburse the Wake Capital Fund in an amount equal to the difference between the total funds made available for the project after the sale of the subject property and the original budget amount allocated in the applicable Wake Transit Work Plan within one (1) year of the sale of the subject property.

4) Transfer Property to Other Eligible Project

Transfer real property acquired with Wake Transit Tax Revenues for a specific implementation element defined in an adopted Wake Transit Work Plan to use for another separate implementation element. This disposal method will require a Wake Transit Work Plan amendment to adjust funding allocations and scopes of work associated with the donor and recipient projects, as appropriate.

5) Retain Title with Buyout

Retain title to the subject Wake Transit-funded real property and compensate the Wake Transit Capital Fund at the same percentage of interest represented by the share of Wake Transit Tax Revenues used for the property's acquisition. In this case, the subject property shall undergo a fair market appraisal, and the share of the funds due to the Wake Transit Capital Fund must be reimbursed within one (1) year of the appraisal. The buyout shall be in an amount equal to the percentage of Wake Transit's interest in the fair market value as determined by the appraisal.

Fair Market Value Exemption for Certain Real Property Uses

For cases in which a project sponsor sells the subject property and applies the net proceeds to the purchase of real property that will be used for publicly supported affordable housing or other transit-oriented or -supportive land uses, the project sponsor is permitted to only reimburse the Wake Transit Capital Fund with the net proceeds in an amount that equals the amount of Wake Transit Tax Revenues used for the property's acquisition OR the percentage of interest represented by the share of Wake Transit Tax Revenues used for the property's acquisition in cases in which the amount of net proceeds is less than the amount of Wake Transit Tax Revenues used for the property's acquisition. The same fair market value exemption provisions shall apply to cases in which a project sponsor retains title to the subject property, as per Method 5 described above, and the subject property will be used for publicly supported affordable housing or other transit-oriented or -supportive land uses

Further Provisions

In any case in which real property that has been acquired with Wake Transit Tax Revenues will be sold, the applicable sales procedures shall provide for maximum competition to the extent practicable to achieve the highest possible return. The preceding disposal methods shall apply to all real property applicable to this policy framework, regardless of when funding was requested or when the real property was acquired.

In the event there is a federal or state interest in a property that is being disposed and which is subject to this policy framework, and there is any conflict or inconsistency between the real property disposal terms and provisions of this policy framework and the real property disposal regulations and provisions of the Federal Transit Administration Award Management Circular (FTA C 5010.1E, or any updates thereto) or other applicable state or federal administrative regulations, the applicable state or federal administrative regulations shall control.

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Part VI: Further Methods of Institutionalization

All project-level funding agreements that tie to projects involving real property acquisition included in adopted annual Wake Transit Work Plans shall expressly require compliance with this policy framework. For project-level funding agreements that tie to projects involving real property acquisition included in previously adopted Wake Transit Work Plans that have already been executed, express compliance with Parts IV and V of this policy framework will be included in any future project-level funding agreements for additional phases or allocations that are part of the same project, or in any amendments to the original agreement, regardless of reason for the amendment.