

**WAKE TRANSIT MASTER PARTICIPATION AGREEMENT  
("PARTICIPATION AGREEMENT")**

**Between**

**GOVERNANCE ILA PARTIES:**

**RESEARCH TRIANGLE REGIONAL PUBLIC TRANSPORTATION AUTHORITY  
("GoTriangle"), CAPITAL AREA METROPOLITAN PLANNING ORGANIZATION  
("CAMPO"), and COUNTY OF WAKE ("Wake County")**

**and**

**ELIGIBLE PARTICIPANT PARTIES:**

**CITY OF RALEIGH, TOWN OF CARY, TOWN OF APEX, TOWN OF FUQUAY-  
VARINA, TOWN OF GARNER, TOWN OF HOLLY SPRINGS, TOWN OF  
KNIGHTDALE, TOWN OF MORRISVILLE, TOWN OF ROLESVILLE, TOWN OF  
WAKE FOREST, TOWN OF WENDELL, TOWN OF ZEBULON, NORTH CAROLINA  
STATE UNIVERSITY, AND RESEARCH TRIANGLE PARK FOUNDATION**

**(Hereinafter referred to as "Participant Parties" once such entity has executed the  
Participation Agreement);**

**(All parties collectively referred to herein as "Parties")**

**WITNESSETH:**

**WHEREAS**, the Parties to this Participation Agreement, who have or may have specific roles in the implementation of public transit and the support of public transit infrastructure in the Wake County area, have determined that it is in their best interest and the best interest of the constituents they represent to coordinate future public transit planning, funding, expansion and construction; and

**WHEREAS**, an extensive community driven process was used to develop a strategic transit vision document that set forth an enhanced public transit plan for Wake County, referred to as the "*Wake County Transit Plan*" ("Wake Transit Plan"), and this plan was unveiled on or about December 8, 2015, and adopted by the GoTriangle Board of Trustees on May 25, 2016, CAMPO's Executive Board on May 18, 2016, and the Wake County Board of Commissioners on June 6, 2016; and

**WHEREAS**, in conjunction with the Wake Transit Plan, the Governance ILA Parties adopted the *Wake Transit Governance Interlocal Agreement* ("Governance ILA") that creates a governance structure for the implementation of the Wake Transit Plan by and through the annual Wake Transit Work Plan; and

**WHEREAS**, the Governance ILA specifically created the Transportation Planning Advisory Committee ("TPAC"), made up staff representatives from the Governance ILA Parties and the

Eligible Participant Parties, and charged the TPAC with coordinating and recommending the planning and implementation aspects of the Wake Transit Work Plan; and

**WHEREAS**, the Governance ILA and the Parties to this Participation Agreement contemplate an inclusive and cooperative process for the continuous development and implementation of the Wake County Transit Plan, whereby the Parties are collectively enabled to make recommendations, develop, and review the Wake Transit Work Plan and have a role in the approval of the Wake County Transit Plan through structured representation on the CAMPO Executive Board and GoTriangle Board of Trustees that have jurisdiction over the development and implementation of the Wake Transit Work Plan; and

**WHEREAS**, the purpose of this Participation Agreement is to: 1) serve as the master joint agency operations agreement referenced in Section 8.02 of the Governance ILA; 2) establish standards that will govern the Parties' eligibility for inclusion of sponsored Implementation Elements in the Wake Transit Work Plan and receipt of any funding allocation from Wake County Transit Tax Revenue; 3) evidence the Parties' approval of the Wake County Transit Plan and the annual update process; and 4) confirm the Parties' roles in carrying out Transportation Planning Advisory Committee (TPAC) responsibilities; and

WHEREAS, local Governmental Parties are authorized to enter into this Participation Agreement pursuant to, *inter alia*, N.C.G.S. §§ 160A-20.1; 160A-312; 160A-313; 160A-610; 153A-275; 153A-276; and 153A-449.

**NOW THEREFORE**, in consideration of the above recitals and the mutual covenants herein contained, the Parties hereto agree as follows:

## **ARTICLE I PURPOSE, SCOPE & LIMITATION OF AUTHORITY, RESPONSIBILITIES, TERM & EFFECTIVE DATE**

1.01 **Purpose.** The Parties hereby recognize that the Wake County Transit Plan (inclusive of the Wake Transit Financial Plan as defined in Section 2.17), as implemented by annual Wake Transit Work Plans, will serve as a guidance document for public transit investment in Wake County. The primary purpose of this Participation Agreement is to serve as the master joint agency operations agreement referenced in Section 8.02 of the Governance ILA and set the standards for all Parties who desire to receive project funding from Wake County Transit Tax Revenues. This Participation Agreement also confirms the roles of the Parties with respect to future planning, design, funding, and implementation of the Wake County Transit Plan through their roles in carrying out Transportation Planning Advisory Committee (TPAC) responsibilities.

1.02 **Scope & Limitation of Authority.** This Participation Agreement shall be limited to the purposes enumerated herein. No Party by virtue of execution of this Participation Agreement has the right to expand, abridge, limit or constrain the authority or actions of (1) GoTriangle and CAMPO or the TPAC created by the Governance ILA with respect to the administration of the Wake County Transit Plan; or (2) any other Party, except as specifically agreed to herein.

Nothing herein shall be construed to grant funding for any Implementation Element (defined herein in Article II) to any Party. Further, any Party receiving Wake County Transit Tax Revenue for an Implementation Element is wholly responsible for implementation of the element except as may be set forth by future agreements between individual Parties. This Participation Agreement shall not confer additional responsibilities upon other Parties for particular Implementation Elements. The Parties hereby recognize that the official governance and oversight for the Wake County Transit Plan according to the terms of the Governance ILA and this Participation Agreement shall reside with CAMPO's Executive Board and the GoTriangle Board of Trustees to which every Party to this Participation Agreement has structured representation.

**1.03 Responsibilities of the Governance ILA Parties.** The Governance ILA Parties shall have the responsibilities and duties set out in the Governance ILA.

**1.04 Responsibilities of the Participant Parties.** The Participant Parties shall:

- (a) Provide staff to serve on the TPAC; and
- (b) Prior to and as a condition of receiving Wake Transit Tax Revenue to deliver Implementation Elements as identified within the Wake Transit Work Plan, negotiate and enter into Capital Funding Agreements and/or Operating Agreements.

**1.05 Term & Effective Date.** This Participation Agreement shall become effective upon approval and execution by the CAMPO Executive Board, the GoTriangle Board of Trustees and at least two Eligible Participant Parties ("Effective Date"). The Term of this Participation Agreement shall be from the Effective Date until June 30, 2042, unless otherwise amended by the prior express written agreement of the Parties.

## **ARTICLE II DEFINITIONS**

**2.01 "CAPITAL FUNDING AGREEMENT"** shall mean an agreement between Party and other Parties to provide an Implementation Element or a project plan if the Implementation Element is to be provided by the party. 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. At a minimum, the Capital Funding Agreement shall set forth these elements required by the Governance ILA:

- (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 amendments and termination; and
- (m) Issue resolution process.

2.02 “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.

2.03 “COMMUNITY FUNDING AREAS” shall mean areas in Wake County with limited fixed route transit service offerings as defined in the Wake County Transit Plan where additional transit services can be provided with joint participation and funding from the local government(s) and/or Research Triangle Park. Community Funding Areas by definition do not include Town of Cary and City of Raleigh.

2.04 “COMPONENT UNIT” shall mean 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.

2.05 “GOVERNANCE INTERLOCAL AGREEMENT” or “GOVERNANCE ILA” shall mean the Transit Governance Interlocal Agreement dated May 18, 2016 between Research Triangle Regional Public Transportation Authority (“GoTriangle”), Capital Area Metropolitan Planning Organization (“CAMPO”), and Wake County that provides a plan of governance related to the implementation of public transit services and projects outlined in the Wake County Transit Plan.

2.06 “IMPLEMENTATION AGREEMENTS” shall mean the regular and annual agreements that outline the details of how projects in the Wake County Transit Annual Work Plan shall be implemented. These agreements shall be designated as Operating Agreements or Capital Funding Agreements and will clearly outline implementation standards as defined. These agreements shall contain all requirements as defined in the Participation Agreement for each type of agreement. The expected amount of funds associated with each Implementation Agreement will be clearly defined in the Wake Transit Work Plan.

2.07 “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 Transit Work Plan.

2.08 “INTERLOCAL AGREEMENT FOR THE ADMINISTRATIVE DISTRIBUTION OF THE WAKE COUNTY \$7 VEHICLE REGISTRATION TAX” shall mean the Agreement executed on or about January 2017, currently by and between Wake County, City of Raleigh, Town of Cary, Town of Wake Forest, City of Durham, and GoTriangle for the administrative distribution of funds derived from a new Wake County \$7.00 Vehicle Registration Tax in accordance with N.C.G.S. § 105-570, as such agreement may be amended from time to time to include other eligible units of local government within Wake County.

2.09 “MAJOR FUND” shall mean, 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.

2.10 “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.

2.11 “MULTI-YEAR OPERATING PROGRAM” shall mean the annual document describing transit operating programs, which could include the implementation of local bus, express bus, Bus Rapid Transit, and commuter rail services. 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.

2.12 “OPERATING AGREEMENT” shall mean an agreement to provide an Implementation Element of the Wake County Transit Annual Work Plan funded by Wake Transit Tax Revenue. At a minimum, the Operating Agreement shall set forth these elements required by the Governance ILA:

- (a) Description of operations (to include transit service area, minimum service delivery standards and characteristics, standards for elements such as stops, frequency, span, service productivity and headways)
- (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 amendments and 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.

2.13 “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 Annual 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.

2.14 “SPECIAL DISTRICT” or “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.

2.15 “TRANSIT PLANNING ADVISORY COMMITTEE” or “TPAC” shall mean the committee created by the Governance ILA that is jointly charged with coordinating and recommending the planning and implementation aspects of the Wake County Transit Annual Work Plan.

2.16 “WAKE COUNTY TRANSIT TAX REVENUE” or “WAKE TRANSIT TAX REVENUE” shall be defined as all revenues derived from transit funding sources in support of the Wake County 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.

2.17 “WAKE COUNTY TRANSIT PLAN” shall mean the plan adopted by CAMPO, GoTriangle and the Wake County Board of Commissioners outlining multiple decades of investment in transit and transit infrastructure. The numerical data, assumptions, schedules, priorities, and implementation aspects of the Wake County Transit Plan will be reflected in the annually adopted WAKE TRANSIT WORK PLAN.

2.17 “WAKE TRANSIT FINANCIAL PLAN” shall mean annual and long-term financial documents that project revenues and expenditures and include 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.

2.18 “WAKE TRANSIT WORK PLAN” or “ANNUAL WORK PLAN” shall mean the comprehensive plan for transit capital and operations presented by the TPAC and approved by CAMPO and GoTriangle on an annual basis which directs funding and implementation for a specific year.

### **ARTICLE III TRANSIT PLANNING ADVISORY COMMITTEE**

**3.01 Scope & Authorization.** The Transit Planning Advisory Committee was established and enabled by and through the Governance ILA. By execution of this Participation Agreement, the Parties confirm their commitment to serve on the TPAC and to carry out the responsibilities enumerated in this Article in association with their TPAC membership.

**3.02 Membership.** The Parties to this Participation Agreement shall have representative membership on the TPAC as follows: two (2) staff members appointed by Wake County, two (2) staff members appointed by GoTriangle, two (2) staff members appointed by CAMPO, 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 and one (1) staff member appointed by the Research Triangle Park Foundation.

**3.03 Bylaws.** As of the date of this Participation Agreement, the TPAC has enacted bylaws which have been approved by the GoTriangle Board of Trustees and CAMPO Executive Board. The TPAC bylaws shall govern quorum and voting standards, operational rules for the composition and function of the TPAC, and guidelines for the scheduling of meetings to carry out the responsibilities contained within this Article as listed below.

**3.04 TPAC Responsibility for the annual Wake Transit Work Plan.** Subject to its continuation and authority as set forth in the Governance ILA, the TPAC shall develop recommendations for each of the following elements of the Wake Transit Work Plan, as further defined in the Governance ILA:

- (a) Annual Operating Budget Ordinance for the Wake Transit Major Fund which will appropriate funds for the planning, operation and administration of transit implementation elements; and
- (b) Annual Tax District administration budget for the Wake Transit major operating and capital fund; and

- (c) Multi-Year Capital Improvement Plan (CIP) for the Wake Transit major capital fund that clearly identifies specific projects, parties responsible for coordinating projects, project funding sources, and project expenditures; and
- (d) Annual Capital Budget Ordinance 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 for the Wake Transit major operating fund that clearly identifies specific projects, parties responsible for operating those projects, project funding sources, and project expenditures; and
- (f) Update of the long term Wake Transit Financial Plan and financial model assumptions; and
- (g) Capital Funding Agreements as defined herein; and
- (h) Operating Agreements as defined herein.

**3.05 Ancillary Responsibilities.** In addition to the responsibilities outlined in Section 3.04 above, on an as needed, recurring basis, the TPAC shall also provide, as further defined in the Governance ILA:

- (a) Recommendations on detailed elements of a multi-year service implementation plan; and
- (b) Staffing model and staffing expectations plan; and
- (c) A program management policy and plan for the Community Funding Areas; and
- (d) Templates containing minimum standards for project and financial reports for the Wake Transit Major Funds; and
- (e) A project prioritization policy that guides the development of the CIP and longer term operating program and annual budgets; and
- (f) Designation of project sponsors (Parties responsible for each respective capital and operating project), including Parties responsible for each Implementation Element;
- (g) A multiyear vision plan; and
- (h) 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; and
- (i) Detailed strategies 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 herein; and any other non-enumerated responsibilities to assist with the development of the Wake Transit Work Plan as determined by the TPAC's internal deliberation processes or as requested by CAMPO and GoTriangle.

**3.06 Non-Delegation.** The TPAC shall not delegate its responsibility to review and present documents and products which are defined in Sections 3.04 and 3.05 as TPAC responsibilities.

**3.07 Right to Inspect.** All Parties to this Participation 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. The TPAC shall maintain such books and records in a manner which facilitates review by the Parties.



**ARTICLE IV  
ELIGIBILITY FOR WAKE COUNTY TRANSIT TAX REVENUE FUNDING**

4.01 **Requirements for Inclusion in the Wake Transit Work Plan.** It is hereby acknowledged that as a prerequisite of a Party's formal request for inclusion of an Implementation Element in the Wake Transit Work Plan, the Party must: 1) be a Party in good standing to this Participation Agreement; 2) be a member of the TPAC; and 3) be or be added as a Party in good standing to the Interlocal Agreement for the Administrative Distribution of the Wake County \$7 Vehicle Registration Tax (only if Party is an eligible municipality in Wake County pursuant to N.C.G.S. 105-570). It is expressly agreed and understood that the conditions set forth in this Participation Agreement are a pre-requisite for funding allocations from Wake County Transit Tax Revenues and no Party may receive Wake County Transit Tax Revenues unless they remain in compliance with the terms and conditions of this Participation Agreement.

4.02 **Implementation Agreements.** The Parties to this Participation Agreement acknowledge that all Implementation Elements contained in the Wake Transit Work Plan, whether partially or fully funded with Wake County Transit Tax Revenues, will not move forward until Implementation Agreements, which shall include a Capital Funding Agreement and an Operating Agreement, are executed by and between the Party or Parties and GoTriangle, as administrator of the Special District. Each Capital Funding Agreement and Operating Agreement shall contain all elements in the definitions of such agreements as set forth in this Participation Agreement. If any Implementation 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 also be a party to the agreement. The purpose of this Section is to acknowledge, as defined, the minimum requirements of Implementation Agreements. Nothing herein shall be construed to bind a future governing board of a Party or otherwise alter its ability to negotiate or approve the contents of an Implementation Agreement.

4.03 **Community Funding Areas.** Community Funding Areas projects shall be included in the Wake Transit Work Plan and shall meet all eligibility requirements set forth in this Article.

**ARTICLE V  
SUPPLANTATION/SUPPLEMENTATION**

5.01 As of the Effective Date of this Participation Agreement, N.C.G.S. § 105-508.2 and N.C.G.S § 105-564 requires that the net proceeds of the special tax district be used only to supplement and not to supplant or replace existing funds or other resources for public transportation systems. For purposes of this Article, the "net proceeds of the special tax district" shall only be the ½ percent sales tax proceeds collected under N.C.G.S. § 105-508.2 and regional transit authority vehicle registration tax proceeds collected under N.C.G.S § 105-564. It is the intent of the Parties of this Participation Agreement to comply with these statutes and as may hereafter be amended.

5.02 To comply with this regulation, all Parties commit to pursue state and federal matching funding sources, which are not controlled locally, for implementation of eligible projects. Efforts to use existing funds or other resources, including state and federal matching funding sources, will be documented and publically available as a condition of receiving Wake County Transit Tax Revenue. Any audits required as a condition of receiving the identified funding sources shall be available for public inspection as well.

5.03 The most recently reported local fiscal year prior to the Effective Date of this Participation Agreement shall be the baseline for comparison of annual budgets for all Parties for the Term of the Agreement. It is anticipated that this year will be the locally reported fiscal year for FY 16.

5.04 Nothing herein shall be construed to modify, abridge, or deny the 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.

5.05 In the event that the statutory language or judicial interpretation of the terms set forth in N.C.G.S. 105-508.2 or N.C.G.S § 105-564 change after execution of this Participation Agreement, then and in that event, any such change shall have prospective application only. Provided that all Parties have acted in good faith, no determinations of compliance with supplantation/supplementation requirements for the purpose of past funding shall be re-examined.

## **ARTICLE VI AMENDMENT, TERMINATION AND NOTICE**

6.01 **Amendment.** This Participation Agreement may be amended to add parties or to change content. After the Effective Date of this Participation Agreement, any Eligible Participant Party or Governance ILA Party may become a Party to this Participation Agreement upon execution of the Participation Agreement by an authorized designee of that Party's governing board (or equivalent). If any Party desires to amend the content of the Participation Agreement, then the proposed amendment and the reasons for the proposed amendment shall be communicated in writing to the TPAC. All Parties that have executed the Participation Agreement must agree to the amendment in writing.

6.02 **Termination upon a year's notice.** Any Party may terminate its participation in this Participation Agreement 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. Notwithstanding the above, any withdrawing Party shall have a duty to fulfill all obligations and duties of Implementation Agreements unless such Agreements are terminated in accordance with their provisions. Any Party terminating participation shall be ineligible for future Wake County Transit Tax Revenue Funding for any Implementation Element until and unless the Party re-enters into the Participation Agreement.

**6.03 Cooperation Provisions.** In the event of a termination, the terminating Party shall not be relieved of any existing and unperformed obligations up until the effective date of termination, and the Participation 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 Participation 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.

6.04 **Notice.** Any written or electronic notice required by this Participation Agreement shall be delivered to the Parties at the following addresses, with a copy where designated for each party, which copy shall not in and of itself constitute notice:

For the Town of Apex:

Town of Apex  
Town Manager  
PO Box 250  
Apex, NC 27502

For the Town of Cary:

Town of Cary  
Town Manager  
PO Box 8005  
Cary, NC 27512

With a copy to:

Town Attorney  
PO Box 8005  
Cary, NC 27512

For CAMPO:

Capital Area Metropolitan Planning Organization  
Executive Director  
One City Plaza  
421 Fayetteville Street, Suite 203  
Raleigh, NC 27601

For the Town of Fuquay-Varina:

Town of Fuquay-Varina  
Town Manager  
401 Old Honeycutt Road  
Fuquay-Varina, NC 27526

For the Town of Garner:

Town of Garner  
Town Manager  
PO Box 446  
Garner, NC 27529

For GoTriangle:

GoTriangle  
General Manager  
PO BOX 13787  
Research Triangle Park, NC 27709

with a copy to:

GoTriangle  
General Counsel  
PO Box 13787  
Research Triangle Park, NC 27709

For the Town of Holly Springs:

Town of Holly Springs  
Town Manager  
PO Box 8  
Holly Springs, NC 27540

For the Town of Knightdale:

Town of Knightdale  
Town Manager  
PO Box 640  
Knightdale, NC 27545

For the Town of Morrisville:

Town of Morrisville  
Town Manager  
PO Box 166  
Morrisville, NC 27560

For North Carolina State University:

North Carolina State University  
Vice Chancellor for Finance and Administration  
Campus Box 7001, A Holladay Hall  
Raleigh, NC 27695

For the City of Raleigh:

City of Raleigh  
Attn: City Manager  
PO Box 590  
Raleigh, NC 27602

with a copy to:

City of Raleigh  
Attn: City Attorney  
PO Box 590  
Raleigh, NC 27602

For the Town of Rolesville

Town of Rolesville  
Town Manager  
PO Box 250  
Rolesville, NC 27571

For Wake County:

Wake County  
County Manager  
P.O. Box 550  
Raleigh, N.C. 27602

with a copy to:

Wake County Attorney  
P.O. Box 550  
Raleigh, N.C. 27602

For the Town of Wake Forest:

Town of Wake Forest  
Town Manager  
301 S. Brooks Street  
Wake Forest, NC 27587

For the Town of Wendell:

Town of Wendell  
Town Manager  
15 E. Fourth St.  
Wendell, NC 27591

For the Town of Zebulon:

Town of Zebulon  
Town Manager  
1003 N. Arendell Ave  
Zebulon, NC 27597

## **ARTICLE VII MISCELLANEOUS PROVISIONS**

**7.01 Representations and Warranties.** The Parties each represent, covenant and warrant for the other's benefit as follows:

- (a) Each Party has all necessary power and authority to enter into this Participation Agreement and to carry out the transactions contemplated by this Participation Agreement, and this Participation Agreement has been authorized by each Party's governing body. This Participation Agreement is a valid and binding obligation of each Party.

- (b) To the knowledge of each Party, neither the execution and delivery of this Participation Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Participation Agreement, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either Party is now a party or by which either is bound, or constitutes a default under any of the foregoing.
- (c) To the knowledge of each Party, there is no litigation or other court or administrative proceeding pending or threatened against such Party (or against any other person) affecting such Party's rights to execute or deliver this Participation Agreement or to comply with its obligations under this Participation Agreement. Neither such Party's execution and delivery of this Participation Agreement, nor its compliance with its obligations under this Participation Agreement, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.
- (d) The Parties agree to work together in good faith and will all due diligence to provide for and carry out the purpose of this Participation Agreement.

**7.02 Dispute Resolution.** In the event of conflict or default that might arise for matters associated with this Participation Agreement, the Parties agree to informally communicate to resolve the conflict. If any such dispute cannot be informally resolved, then such dispute, or any other matter arising under this Participation Agreement, shall be subject to resolution in a court of competent jurisdiction. Such disputes, or any other claims, disputes or other controversies arising out of, and between the Parties shall be subject to and decided exclusively by the appropriate general court of justice of Wake County, North Carolina.

**7.03 No Waiver of Non-Compliance with Participation Agreement.** No provision of this Participation Agreement shall be deemed to have been waived by any Party hereto unless such waiver shall be in writing and executed by the same formality as this Participation Agreement. The failure of any Party hereto at any time to require strict performance by the other of any provision hereof shall in no way affect the right of the other Party to thereafter enforce the same. In addition, no waiver or acquiescence by a Party hereto of any breach of any provision hereof by another Party shall be taken to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.

**7.04 Governing Law.** The parties intend that this Participation Agreement be governed by the law of the State of North Carolina. Proper venue for any action shall solely be Wake County.

**7.05 Assignment.** No Party may sell or assign any interest in or obligation under this Participation Agreement without the prior express written consent of the other Parties.

**7.06 Independence of the Parties.** Nothing herein shall be construed to modify, abridge, or deny the authority or discretion of any Party to independently develop, administer, or control transportation projects pursuant to enumerated authority or funding sources separate from those outlined in this Participation Agreement.

**7.07 Execution in Counterparts/Electronic Version of Participation Agreement.** This Participation Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Any Party may convert a signed original of the Participation Agreement to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Participation Agreement shall be deemed for all purposes to be an original signed Participation Agreement.

**7.08 No Waiver of Sovereign Immunity.** Nothing in this Participation Agreement shall be construed to mandate purchase of insurance by Wake County pursuant to N.C.G.S. 153A-435 or purchase of insurance by any municipality pursuant to N.C.G.S. 160A-485; 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 any Party's defense of sovereign or governmental immunity from any cause of action alleged or brought against any Party for any reason if otherwise available as a matter of law.

**7.09 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 Participation Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute this Participation 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.

**7.10 Verification of Work Authorization; Iran Divestment Act.** All Parties, and any permitted subcontractors, shall comply with Article 2, Chapter 64, of the North Carolina General Statutes. The Parties hereby certify that they, and all permitted subcontractors, if any, are not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58.

**7.11 Third-Party Beneficiaries.** There are no third-party beneficiaries to this Participation Agreement

**7.12 Recitals.** The Recitals are incorporated in this Participation Agreement.