



GoTriangle
Board of Trustees
Wed, March 27, 2019 12:00 pm-2:30 pm

I. Call to Order and Adoption of Agenda

ACTION REQUESTED: Adopt agenda with any changes requested.
(1 minute *Ellen Reckhow*)

II. Recognition

- A. Introduction of New Hires
(1 minute *Jeff Mann*)
- B. Announcement of Promotions
(1 minute *Jeff Mann*)
- C. Presentation of Service Awards
(5 minutes *Christy Winstead*)

III. Public Hearing - Proposed Fare Change

IV. Public Comment

The public comment period is held to give citizens an opportunity to speak on any item. The session is no more than thirty minutes long and speakers are limited to no more than three minutes each. Speakers are required to sign up in advance with the Clerk to the Board.
(*Ellen Reckhow*)

V. Consent Agenda

Items listed on the consent agenda are considered as a single motion. At the request of any Board member, or member of the public, items may be removed from the consent agenda and acted on by a separate motion. Items pulled from the consent agenda will be placed at the beginning of the general business agenda for discussion and action. Any Board member wishing to remove an item from the consent agenda should advise staff in advance.

ACTION REQUESTED: Approve consent agenda.
(1 minute *Ellen Reckhow*)

- A. Minutes

ACTION REQUESTED: Approve draft minutes.

1. February 27, 2019

VI. General Business Agenda

Items listed on the general business agenda are for discussion and possible action. Such designation means that the Board intends to discuss the general subject area of that agenda item before making any motion concerning that item.

- A. Items Removed from the Consent Agenda

ACTION REQUESTED: Discuss and take action on any items removed from the consent agenda.
(1 minute *Ellen Reckhow*)

- B. Regional Technology Integration Study

ACTION REQUESTED: Authorize the President/CEO to sign a contract with the consultant, WSP, for a Regional Technology Integration Study.
(15 minutes Sandra Freeman)

VII. Other Business

A. General Manager's Report

(5 minutes Jeff Mann)

Contracts

1. Transit Operations Report

(5 minutes Patrick Stephens)

2. Wake Transit Update

(5 minutes Stephen Schlossberg & Patrick McDonough)

B. Chair's Report

(5 minutes Ellen Reckhow)

C. Board Member Reports

1. CAMPO Executive Board Representative

(5 minutes Will Allen III)

2. DCHC MPO Board Representative

(5 minutes Ellen Reckhow)

3. Regional Transportation Alliance (RTA) Rep.

(5 minutes Will Allen III)

VIII. Closed Session - D-O LRT Project

ACTION REQUESTED: Enter into Closed Session pursuant to NCGS §143-318.11.(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged; and

NCGS §143-318.11.(5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

IX. Next Steps for D-O LRT

A. Design Change Approval: Modification of the Pettigrew Street Alignment

ACTION REQUESTED: Approve the proposed changes to the Pettigrew Street alignment.

(10 minutes John Tallmadge)

B. D-O LRT Project Reimbursement Agreement for City of Durham Plan Review

ACTION REQUESTED: Approve agreement with the City of Durham, as recommended by the O&F Committee, for reimbursement of final design plan review, with a total dollar amount not to exceed \$500,000 and authorize the President/CEO to execute the agreement.

(15 minutes John Tallmadge)

Durham Reimbursement Agreement

C. Professional Services Contract Amendment – GEC Phase 3B

ACTION REQUESTED: Approve the agreement with HDR, Inc. for additional final design

services with a total dollar amount not to exceed \$14,191,953 and authorize the President/CEO to execute the agreement.

(15 minutes John Tallmadge)

X. Adjournment

(Ellen Reckhow)

**GoTriangle Board of Trustees
Meeting Minutes
February 27, 2019**

Board Room, The Plaza, 4600 Emperor Blvd., Suite 100
Durham, NC

Board Members Present:

| | |
|----------------------------------|----------------------|
| Will Allen III | Mark Marcoplos |
| Sig Hutchinson | Michael Parker |
| Wendy Jacobs (arr. 12:25 p.m.) | Ellen Reckhow, Chair |
| Vivian Jones | Steve Schewel |
| Valerie Jordan (arr. 12:10 p.m.) | Russ Stephenson |

Board Members Absent:

| | |
|-----------------------------|---------------------------------|
| Andy Perkins | Nina Szlosberg-Landis (excused) |
| Jennifer Robinson (excused) | |

Chair Ellen Reckhow officially called the meeting to order at 12:04 p.m.

I. Adoption of Agenda

Action: On motion by Parker and second by Allen the agenda was adopted, with the changes noted below. The motion was carried unanimously.

- Removed a Closed Session (ROMF Litigation).
- Added a Closed Session (D-O LRT Project – Duke Agreement) pursuant to NCGS §143-318.11.(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged; and NCGS §143-318.11.(5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

II. Recognition

A. Introduction of New Hires

President and CEO Mann announced the hiring of the following Bus Operators: Mia James, Justin Ruffin and Susie Thomas.

B. Announcement of Promotions

Mann then announced the promotion of Meredith DeAngelo from Office Assistant to Travel Services Associate, Ronald Nolan and Dennis Peterson from Paratransit Operator II to III, and Paul Straw from Employer Service Specialist to Employer Services Supervisor.

III. Public Comment

No comments.

IV. Consent Agenda

Action: On motion by Schewel and second by Allen the consent agenda was approved. The motion was carried unanimously.

The following consent agenda items were approved:

- January 17, 2019 – Work Session Minutes;
- January 23, 2019 – Regular Session Minutes;
- Set a public hearing for the proposed fare change for March 27, 2019;
- Approved *Budget Ordinance Amendment 2019 0002 GoTriangle FY19 Triangle Tax District - Wake Capital Fund Budget Ordinance Amendment* and *Budget Ordinance Amendment 2019 0003 GoTriangle FY19 Triangle Tax District -- Wake Operating Fund Budget Ordinance Amendment*;
- Approved the Commuter Rail System Level Guidelines and Evaluation Report; and
- Adopted the Wake Transit Concurrence Process.

Budget Ordinances 2019 0002 and 2019 0003, the *Commuter Rail System Level Guidelines and Evaluation Report* and the *Wake Transit Concurrence Process* are attached and hereby made a part of these minutes.

V. General Business Agenda**A. Items Removed from Consent Agenda**

None.

B. Operations & Finance Committee Report

Committee Chair Sig Hutchinson reported that three items from Committee were approved on the consent agenda: setting a public hearing on the proposed fare changes, Wake Transit budget amendments and the Wake Transit concurrence process. He stated that the Committee also discussed a reimbursement with the City of Durham related to the D-O LRT project, fall service changes and an amendment to the GEC professional services contract. These items will come to the Board at a future meeting.

C. Planning & Legislative Committee Report

Committee Chair Michael Parker stated that the Committee forwarded one item to the consent agenda: the Commuter Rail System Level Guidelines and evaluation report.

Jordan arrived.

VI. Other Business**A. General Manager's Report**

A list of contracts approved by the President and CEO is attached and hereby made a part of these minutes.

Mann reported that the RUS Bus project is progressing well and an application is being submitted for brownfields designation. The RFQ for development of the RUS bus facility site has been released. Over 70 interested parties attended the pre-proposal meeting. The kick-off meeting was held with the FTA for the \$20 million BUILD grant to help support development of RUS Bus. The RFP to support development of the Wake Durham Commuter Rail Project has been released. This work will prepare to take the project into the Federal pipeline by December 2019.

1. Transit Operations Report

Patrick Stephens noted that the Board had received information in response to Hutchinson's question about cost per mile comparisons for diesel, natural gas and electric buses. This information is attached and hereby made a part of these minutes.

Stephens added that the Proterra buses should begin production in July or August, with delivery in September. Once the buses are received, mechanics and operators will be trained and the buses should be on the road around November.

Stephens stated that the Board would begin receiving a monthly performance report in March.

2. Durham-Orange Light Rail Transit Program Update

John Tallmadge reported that a letter was received from Transportation Secretary Trogdon indicating the \$190 million for the D-O LRT project was included in the draft STIP and no further legislative action is required to commit that money. FTA has been notified that this money is pledged as part of the financial plan. In preparation for construction, work is being done on bid document language and sequencing of utility relocation work, which is scheduled to begin at the end of this calendar year. Work also continues with Durham's office of economic workforce development and the public engagement team continues to talk to the community about the status of the project and recent changes to and benefits of the project.

Tallmadge reported that with the design changes along Pettigrew Street the train speed has improved by several minutes, which will result in higher ridership, with 26,000 daily boardings forecasted.

3. Wake Transit Update

Patrick McDonough reported that GoRaleigh is hosting a meeting tonight at Wake Med to share information on the New Bern Avenue corridor, including potential station locations. Travel forecasting work on the commuter rail side revealed some coding errors in the model, which are being corrected and quality checked. This work will not impact the schedule.

Reckhow asked about the trip that was previously discussed to see the Virginia Railway Express. Mann stated that the summer would be an appropriate time to visit.

Parker asked about a management plan for the commuter rail project. Mann responded that he met with NCRRT Tuesday to finalize the plan for a project team approach to manage the study. He stated that for the pre-planning work only two additional positions are needed.

B. Chair's Report

Chair Reckhow noted that a Board work session is scheduled for Wednesday, March 6.

C. Board Member Reports**1. CAMPO Executive Board Representative**

Will Allen III reported that CAMPO also approved the Wake Transit concurrence process, the Q3 budget amendments, and the 10 year operating and capital plan for Wake Bus. The group also received a briefing on the FY20 Wake Transit work plan.

2. DCHC MPO Board Representative

Michael Parker stated that Chapel Hill will be meeting with FTA to ask for an extension of the BRT project timeframe because 50% of non-Federal funds have yet to be identified as required. A timeframe was discussed for the Orange and Durham transit plans to be released to the public for a 21 day review period.

3. Regional Transportation Alliance (RTA) Representative

Will Allen III said a trip could be planned to south Florida.

4. Chatham/Orange Joint Planning Task Force Representative

Mark Marcoplos reported that three major topics were discussed: a pilot project Orange County has with Open Broadband to extend broadband to the county, an update on the Jordan Lake water intake and Chatham Transit Network service from Siler City to Pittsboro to Chapel Hill along with on demand service.

Allen stated that NCDOT has organized a trip for the Smithfield Selma Chamber of Commerce to Raleigh Union Station and learn about commuter rail and their options for connecting.

Stephenson reported that NCDOT Division V reported there is reduced funding in the 2020-2029 STIP. Raleigh signal system upgrades have been removed, which staff says is critical for developing signal progression for BRT corridors. A number of road projects also are being delayed.

Jacobs arrived.

VII. Closed Sessions

A. Railroad Negotiations

Pursuant to NCGS §143-318.11.(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged; and NCGS §143-318.11.(5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

Action: On motion by Schewel and second by Parker the Board entered into closed session at 12:37 p.m. pursuant to the General Statutes and purpose listed above. The motion was carried unanimously.

Action: The Board took a break from 1:45-1:52 p.m.

Action: On motion by Jones and second by Allen the Board adjourned Closed Session A at 2:43 p.m. The motion was carried unanimously.

B. D-O LRT Project – Duke Agreement

Pursuant to NCGS §143-318.11.(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged; and NCGS §143-318.11.(5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

Action: On motion by Jones and second by Jacobs the Board entered into closed session at 2:43 p.m. pursuant to the General Statutes and purpose listed above. The motion was carried unanimously.

Action: On motion by Jones and second by Parker the Board adjourned Closed Session B at 4:00 p.m. The motion was carried unanimously.

VIII. Adjournment

Action: Chair Reckhow adjourned the meeting at 4:00 p.m.

Ellen Reckhow, Chair

Attest:

Michelle C. Dawson, CMC
Clerk to the Board

Draft

MEMORANDUM

TO: GoTriangle Board of Trustees
FROM: Finance, Information Technology
DATE: March 21, 2019
SUBJECT: **Regional Technology Integration Study**

Strategic Objective or Initiative Supported:

GoTriangle will conduct a study to assess existing technologies among transit operating agencies in the region in order to design a coordinated technology integration plan.

Action Requested

Staff requests that the GoTriangle Board of Trustees authorize the President and CEO to sign a contract with the consultant, WSP, for a Regional Technology Integration Study. Funding for the study was approved as part of the FY19 adopted budget.

Background and Purpose

GoTriangle staff will work with consulting firm WSP to develop a regional technology integration plan and roadmap to support vehicle operations and customer interaction across each mode of transit service in the region. The study will identify the steps that must be taken by the transit agencies jointly and individually to promote emerging technologies and improve technology implementations. The assessment will include an evaluation of the region's current technology, an analysis of the transit agencies' technology needs, and a general technology implementation plan (roadmap). It will assist the partners to assess their existing technologies and align them in an integrated, regional plan. The plan will advance the goals, business objectives and priorities of the region as well as each regional partner.

Funding for the project was approved as part of the adopted FY19 budget.

Financial Impact

\$250,000 Approved FY19 Budget – No incremental impact.

Attachments

- None

Staff Contact(s)

- Sandra Freeman, (919) 485-7415, sfreeman@gotriangle.org

CONTRACT WORK ORDERS FOR FEBRUARY 2019 (< \$100K)

| Contract # | Contractor (or subject if no contractor listed) | Contract Amount | Subject | Comments | President/CEO (J Mann) Date Executed | General Counsel (S Blake) Date Executed |
|------------|---|-----------------|--|---|--|---|
| 19-010 | Temporary Right of Way Agreement | \$1,750 | | Provides for a Temporary Right of Way Agreement. The cost shall not exceed the contract amount. Term of agreement shall terminate upon completion of the project or at midnight, July 22, 2019. | 2/1/2019 | 2/1/2019 |
| 19-011 | GoPass Program Agreement | - | | Provides for North Ridge Country Club Agreement with GoTriangle. Payment is based on 55% on each recorded boardings. Term of agreement is 2/1/2019 to 1/31/2022. | 2/1/2019 | 2/1/2019 |
| 19-008 | Pest Management Program | \$127.00/mo. | | Provides for Pest Management at the location 200-210 South West St., Raleigh, NC. Term of agreement will be month-to-month until either party cancels. The monthly cost is \$127.00. | 2/1/2019 | 1/31/2019 |
| 18-102 | GoPass Agreement/ Stewart Engineering, Inc. | - | | Provides for a GoPass Agreement with Stewart Engineering. Payment is based on number of boardings recorded: GoDurham 55% of the full fare; GoRaleigh 40% of full fare. Term of agreement is 2/1/2019 to 1/31/2022. | 2/1/2019 | 1/31/2019 |
| 18-041C | Task Order 1 | \$8,836 | Lane Street Building Hazardous Material Assessment | Provides for Task Order 1 from the A/E On Call Agreement with A1 Consulting Group, Inc. for Lane Street Building Hazardous Material Assessment. Total is the contract amount. | 2/1/2019 | 1/31/2019 |
| 18-041C | Task Order 3 | \$9,616 | Field Investigation/ Inspection of BOMF Fuel Lines and Sumps | Provides for Task Order 3 from the A/E On Call Agreement with A1 Consulting Group, Inc. for inspection to determine the cause of water intrusion in the sumps that connect to the diesel fuel lines. Total cost for project shall not exceed the contract amount. | 2/5/2019 | 2/5/2019 |
| 18-041C | Task Order 2 | \$39,379 | BOMF Pavement Replacement | Provides for Task Order 2 from the A/E On Call Agreement with A1 Consulting Group, Inc., for design documents, bid documents and limited construction administration services. Total cost for project shall not exceed contract amount with optional permit application fee of \$2,500 if required. | 2/7/2019 | 2/5/2019 |
| 16-045 | Task Order 2 Amendment | \$94,818.22 | Master Agreement w/ Nelson Nygaard Amendment/Staffing Model & Staffing Expectations Plan | Provides for Task Order 2 Amendment to extend the term of the contract to 3/30/2019 and a new Statement of Work. Cost shall not exceed the contract amount. | 2/7/2019 | 2/8/2019 |
| 16-045 | Task Order 4 Amendment | \$15,259 | GoDurham Short Range Transit Plan Fare Analysis | Provides for the addition of GoDurham Short Range Transit Plan Fare Analysis. The cost shall not exceed the contract amount. | 2/13/2019 | 2/12/2019 |
| 13-007 | Interlocal Software Usage Agreement | - | RideShark Corporation Interlocal Software Usage Agreement | Request Stakeholder signature of RideShark Corporation Interlocal Software Agreement, a privacy agreement that prevents the selling, distributing or the disclosing of proprietary information of software or personal registrant information. | 2/14/2019 | 2/14/2019 |

MEMORANDUM

TO: GoTriangle Board of Trustees

FROM: Light-Rail Project Team

DATE: March 17, 2019

SUBJECT: **Project Request for Design Change Approval: Modification of the Pettigrew Street Alignment**

Strategic Objective or Initiative Supported

This item supports strategic objective 1.1: increase number of customers served with sustainable transportation services.

Action Requested

Staff requests that the GoTriangle Board of Trustees Planning & Legislative Committee recommend approval of the proposed changes to the Pettigrew Street alignment.

Background and Purpose

At the July 26, 2017, meeting, the Board of Trustees approved the Design Change Approval Policy (Policy) for the D-O LRT Project. The Policy established three Categories of changes:

- Category 1 includes changes which would require approval by each signatory board of the Transit Plans: the Durham Board of County Commissioners, the Orange Board of County Commissioners, the DCHC-MPO Policy Board, and the GoTriangle Board of Trustees.
- Category 2, includes changes which would require approval by the GoTriangle Board of Trustees. For changes in this category, GoTriangle staff will provide the Durham and Orange Boards of County Commissioners and the DCHC-MPO Policy Board with the opportunity to review and provide input on the change prior to bringing the change to the GoTriangle Board of Trustees for final approval.
- Category 3, generally includes all other proposed design changes and establishes that the D-O LRT Project Director has approval authority for design changes within this Category. However, the D-O LRT Project Director and/or Executive Oversight Team may choose to recommend that design changes in Category 3 should be elevated to the GoTriangle Board of Trustees for approval.

Request to Modify the Pettigrew Street Alignment

In the baseline scope of the D-O LRT Project as defined in the Record of Decision (ROD) and Amended ROD issued by the Federal Transit Administration (FTA) in February 2016 and December 2016, respectively, the light rail alignment is at-grade through downtown Durham between Gregson Street and Alston Avenue, running parallel to Pettigrew Street. The proposed change

would grade separate the alignment at Duke Street, Blackwell Street, Mangum Street, Dillard Street, and Fayetteville Street using a combination of vertical alignment changes. It would also include roadway re-alignments in the vicinity of the existing Ramseur Street railroad grade crossing. The specific changes include the following:

- Light rail underpass of Duke Street
- Light rail tunnel running under Blackwell Street and Mangum Street
- Light rail bridge over Dillard Street and Fayetteville Street
- Re-alignment of Pettigrew Street to the south between Fayetteville Street and Alston Avenue to remove the light rail at-grade crossing of Grant Street

This proposed change falls into category 3. Because this design change is substantial, GoTriangle staff recommends that the change be elevated to the GoTriangle Board of Trustees for approval.

Following are some of the key issues related to this proposed change, clarifying why the GoTriangle staff is recommending this change.

- This portion of the light rail alignment is located within right-of-way owned by the North Carolina Railroad Company (NCR). Norfolk Southern Railway Company (NS) operates on and maintains the existing railroad track that is also located in this corridor.
- The baseline at-grade design assumed the light rail system could operate using traffic signals adjacent to the existing railroad track. Once the project entered the Engineering phase and worked on signal design in more detail, the project team determined that light rail operation by traffic signals was not feasible. The roadway clearance requirements associated with traffic signal operation of the light rail system could not be met due to technological constraints with the circuitry on the existing active railroad track.
- The design team coordinated with NS, NCR, the City of Durham, and the North Carolina Department of Transportation Rail Division over many months to evaluate alternatives to traffic signal operation of the light rail system in the NCR corridor at the grade crossings adjacent to existing railroad grade crossings. As a result, GoTriangle recommended the use of shared crossing gates. NS did not accept this alternative due to concerns about technical feasibility, impacts to their operations, safety, and liability.
- The changes identified above remove all proposed light rail grade crossings adjacent to existing railroad grade crossings. This change was presented to NCR and NS and was accepted conceptually based on the information available at the time. The railroads will need to approve the final design of the light rail alignment and infrastructure in the NCR corridor.
- The type of light rail alignment change selected at each crossing was based on design constraints (grades supported an underpass rather than an overpass at Duke Street), schedule considerations (lengthy coordination requirements with historic preservation entities precluded a bridge structure over Blackwell and Mangum Streets), transit-oriented development goals (the roadway re-alignment at Grant Street supports future station area development), and cost considerations (a bridge was chosen over an underpass at Dillard Street and Fayetteville Street due to cost).



GoTriangle staff has submitted an environmental re-evaluation check-list to the FTA to compare the environmental effects of the proposed refinements to the effects previously disclosed in the environmental documents, and determine if the commitments outlined in the environmental re-evaluation check-list mitigate the effects. The FTA has determined that a revised supplemental environmental assessment shall be issued to include the changes to the design on Pettigrew Street.

GoTriangle staff is continuing to work with NCRR, NS, and other stakeholders regarding the final design details of the alignment change.

Financial Impact

The construction cost estimate for the proposed change is approximately \$80,000,000 to \$100,000,000 more than the baseline design. The design cost impacts are reflected in the GEC contract amendment that is also on the March 27th agenda for consideration.

Attachments

- Map showing the Proposed Project Refinements

Staff Contact(s)

- John Tallmadge, 919-485-7430, jtallmadge@gotriangle.org



MEMORANDUM

TO: GoTriangle Board of Trustees
FROM: Light-Rail Project Team
DATE: March 17, 2019
SUBJECT: **D-O LRT Project Reimbursement Agreement for City of Durham Plan Review**

Strategic Objective or Initiative Supported

This item supports strategic objective 1.1: increase number of customers served with sustainable transportation services.

Action Requested

Staff requests that the Board approve the subject agreement with the City of Durham for reimbursement of final design plan review, with a total dollar amount not to exceed \$500,000 and authorize the President/CEO to execute the agreement.

Background and Purpose

Coordination with the City of Durham is a critical component of the final design of the light-rail project. It is critical to obtain timely review and input from the City in order to deliver the project. The reimbursement agreement will allow GoTriangle to reimburse the City of Durham for their time and expenses for review of project plans at final design milestones, coordination with GoTriangle staff and consultants during interim review periods, and other administrative development approvals. The full scope of the review effort for the City of Durham and its consultants is expected to change over time, as the project and project schedule evolve over time. GoTriangle and City staff will monitor the work performed under the agreement. In the event that the total work effort is expected to exceed \$500,000, GoTriangle staff would bring a request for a contract amendment to the GoTriangle Board at that time.

Financial Impact

The maximum not-to-exceed amount for the agreements listed in this memorandum is \$500,000 to be funded through the remainder of FY19 and FY20. This reimbursement agreement will be funded as part of the light-rail project, with local revenues from the Durham and Orange funds. These expenses are reimbursable at 50 percent when the New Starts Full Funding Grant Agreement is awarded. The total FY19 budget for final design reimbursement is \$2,200,000, which is sufficient to fund the FY19 activities associated with this agreement. Additional funds required for the balance of the work will be budgeted for FY20.

Attachments

- Reimbursement agreement

Staff Contact(s)

- John Tallmadge, 919-485-7430, jtallmadge@gotriangle.org
- Tom Henry, 919-485-7589, thentry@gotriangle.org



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**NORTH CAROLINA
DURHAM COUNTY**

**REIMBURSEMENT AGREEMENT FOR
FINAL DESIGN REVIEW FOR THE
DURHAM-ORANGE LIGHT RAIL
TRANSIT PROJECT**

**RESEARCH TRIANGLE REGIONAL
PUBLIC TRANSPORTATION AUTHORITY
D/B/A GOTRIANGLE**

AND

GOTRIANGLE CONTRACT NUMBER: 19-016

CITY OF DURHAM

THIS REIMBURSEMENT AGREEMENT FOR FINAL DESIGN REVIEW FOR THE DURHAM-ORANGE LIGHT RAIL TRANSIT PROJECT (Agreement) is made and entered into on the last date executed below, by and between the Research Triangle Regional Public Transportation Authority d/b/a GoTriangle (GoTriangle), a public body and body corporate and politic of the State of North Carolina, and the City of Durham, North Carolina (Reimbursee). GoTriangle and Reimbursee may be referred to individually as “Party” and collectively as “Parties.”

I. RECITALS

A. GoTriangle

GoTriangle is a regional public transportation authority organized and operating in Durham, Orange, and Wake Counties, North Carolina, pursuant to N.C.G.S. §§ 160A-600 *et seq.*

B. Reimbursee

Reimbursee is a municipality in Durham County, North Carolina.

C. Purpose of Agreement

In order to implement the Durham-Orange Light Rail Transit (D-O LRT) Project (“Project”) in a timely and efficient manner, extensive coordination and collaboration between GoTriangle and Reimbursee is required, particularly with respect to the development of final construction drawings. The purpose of this Agreement is to establish terms and conditions upon which Reimbursee is to be reimbursed for actual costs incurred for work performed by Reimbursee to support the timely completion of critical Project-related tasks as set forth in Section II.B (Scope of Work) below. The Parties acknowledge that the D-O LRT Project is being developed in close coordination with the Federal Transit Administration (FTA) and is eligible for federal funding through FTA’s Capital Investment Grant Program. Expenditures and activities in furtherance of the D-O LRT Project are therefore subject to applicable federal law and regulation.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by GoTriangle and Reimbursee, the Parties agree as follows:

II. TERMS AND CONDITIONS

A. Term of the Agreement

The term of this Agreement shall commence on the last date executed below and shall continue until December 31, 2028 (Term) or until this Agreement is terminated pursuant to Section II.J.ii. This Agreement may be extended by mutual written agreement of the Parties.

B. Scope of Work

This Agreement is independent from the Interim Reimbursement Agreement for Design Review for the Durham-Orange Light Rail Transit Project, which was fully executed by the parties on December 20, 2018 (“Interim Agreement”), which authorized reimbursement up to ninety-nine thousand dollars (\$99,000.00). The work to be performed by Reimbursee under this Agreement (Work) is all work in excess of the work reimbursed under the Interim Agreement, that is requested of Reimbursee by GoTriangle, and that is supportive of the Project and the terms set forth in the Cooperative Agreement that was entered into by the parties on December 20, 2018 and is attached hereto as **Attachment A**. GoTriangle may also request that Reimbursee perform work in furtherance of the Project that is not necessarily contemplated by the Cooperative Agreement. GoTriangle agrees to reimburse Reimbursee for such requested work.

C. Bluebeam

Reimbursee’s comments on the D-O LRT Project documents will be provided to GoTriangle using Bluebeam software in accordance with the **Bluebeam Review Procedures** incorporated herein by reference and attached hereto as **Attachment B and also pursuant to the terms of the Cooperative Agreement**. GoTriangle will be available to provide timely training and technical support associated with the use of Bluebeam.

D. Performance of the Work

In performing the Work under this Agreement, Reimbursee shall use either qualified in-house personnel and/or qualified third-party contractors.

E. Reimbursement by GoTriangle

Reimbursee shall invoice GoTriangle for the actual rates and costs for Reimbursee’s in-house personnel and for any third-party contractor retained by Reimbursee to perform the Work pursuant to this Agreement. The reimbursable hourly rates are provided in **Attachment C**. GoTriangle shall reimburse Reimbursee for the actual rates and costs invoiced by Reimbursee for the Work performed pursuant to this Agreement, up to and including an amount not to exceed \$500,000.00 (NTE Amount). If Reimbursee’s actual incurred rates and costs for the Work will exceed \$500,000.00, GoTriangle and Reimbursee will work together to develop an estimate of the additional funds required to complete the Work and amend this Agreement accordingly. Reimbursee shall provide GoTriangle with billing documentation and any other information as may be required by FTA.

1. Invoicing GoTriangle

All itemized invoices submitted to GoTriangle shall reasonably substantiate the actual work performed with an itemization of the individuals performing the work and hours incurred to complete the work. Reimbursee shall submit an itemized invoice and a progress report based on the Work satisfactorily completed by Reimbursee to GoTriangle not more frequently than every thirty (30) days.

2. Payment Terms

GoTriangle, within thirty (30) days of receipt of an invoice from Reimbursee, shall review and reimburse one hundred percent (100%) of the rates and costs invoiced, unless GoTriangle within ten (10) days of receipt of the invoice notifies Reimbursee that it has a question about an invoiced cost. GoTriangle agrees to reimburse Reimbursee in full within thirty (30) days of receipt of an invoice for all costs invoiced about which GoTriangle does not question Reimbursee. In the event GoTriangle has a question about an invoiced cost from Reimbursee, the designated representatives of the Parties agree to discuss promptly the questioned cost(s) and to make reasonable efforts to resolve the matter(s). If the designated representatives cannot resolve the matter(s) within thirty (30) days after receiving notice of the questioned cost(s) from GoTriangle, the appropriate manager of Reimbursee and of GoTriangle shall meet promptly to resolve the matter(s).

3. Auditing

Reimbursee shall maintain books and records supporting all amounts invoiced to GoTriangle during the performance of the Work. Reimbursee shall preserve such books and records for the duration of this Agreement and for three (3) years thereafter, during which time upon five (5) calendar days' prior written notice, GoTriangle employees or contractors, as well as authorized representatives of the Federal or State government, shall have access to the pertinent records relating to the amounts invoiced by Reimbursee and shall have the right to make any copies thereof for audit or verification purposes.

F. Public Records

GoTriangle and Reimbursee are public entities and are subject to the North Carolina Public Records Law (Chapter 132 of the N.C. General Statutes, as amended) and other requirements under Federal and State law. This Agreement shall be interpreted consistently with such requirements.

G. Federal Contracting Requirements

The Work to be performed under this Agreement will be financed in whole or in part with Federal funding. As such, Federal laws, regulations, policies, and related administrative practices apply to this Agreement. The most recent of such Federal requirements, including amendments made after the execution of this Agreement, shall govern unless the Federal Government determines otherwise. Reimbursee is responsible for complying with all applicable Federal law, regulation, and policy with regard to the Work performed under this Agreement.

H. Ownership of Materials

Each Party shall maintain ownership of any materials or work product generated by that Party in the performance of this Agreement.

I. No Representations; No Warranties; Disclaimer and Limitation of Liability

Regardless of the nature of the cause of action, whether in contract, tort, or otherwise, in no event shall Reimbursee or GoTriangle be liable to each other or to any third party for any consequential, special, reliance, indirect, or punitive damages, regardless of whether Reimbursee or GoTriangle knew or should have known of the possibility of such damages.

J. Other Provisions

i. Agreement Modifications

Any changes, amendments, corrections, modifications, or additions to this Agreement shall be by an amendment in writing; shall be executed and approved by the duly authorized representative (or her/his designee) of each respective Party; shall be in accordance with applicable law; and shall become effective upon approval by both GoTriangle and Reimbursee.

ii. Termination of Agreement

For Convenience. Either Party may terminate this Agreement for its convenience. The terminating Party shall notify the other Party in writing at least sixty (60) days in advance of such election to terminate this Agreement.

For Cause. Either Party may terminate this Agreement for the material breach of the other Party following written notice to the breaching Party, specifying the nature of the breach and providing a thirty-day (30-day) cure period in which to cure the breach to the reasonable satisfaction of the notifying Party. The 30-day cure period shall commence upon receipt of the written notice by the breaching Party. If the breach is not cured in the cure period, the non-breaching Party may terminate the Agreement. If the breach cannot reasonably be cured in the cure period, the Parties may agree in writing to extend the cure period beyond thirty (30) days, or the non-breaching Party may terminate the agreement upon expiration of the cure period.

This Agreement is void and unenforceable if all or part of Federal, State, or local funds applicable to this Agreement are not available to GoTriangle. GoTriangle's obligations under this Agreement are subject to the availability of authorized funds, determined by GoTriangle's fiscal budget, which runs from July 1 to June 30 of each fiscal year. GoTriangle may terminate this Agreement, or any part of the Work, without prejudice to any right or remedy of GoTriangle, for insufficient funds.

If this Agreement is terminated for insufficient funds: (i) GoTriangle will be liable only for payment in accordance with the terms of this Agreement for Work actually completed prior to the termination date designated by GoTriangle in its notice of termination; and (ii) Reimbursee shall be released from the obligation to perform further Work pursuant to this Agreement.

In the event of termination of this Agreement for any reason, GoTriangle shall reimburse Reimbursee for all actual Work and costs incurred to that point for completed Work and also for all direct costs Reimbursee reasonably incurs in connection with ending any Work.

iii. Controlling Law and Compliance with Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina without regard to any conflict of laws provisions. The Parties shall comply with all applicable Federal, State, and local laws and regulations in effect at the time of the execution of this Agreement.

iv. Notice

All notices, communications, documents, and other materials submitted or exchanged between the Parties pursuant to this Agreement shall be in writing and shall be addressed to the representatives for each Party as set forth below and shall be deemed to have been duly given (i) on the date of delivery, if delivered personally to the Party to whom notice is given, or (ii) on the date of actual receipt if mailed by United States mail, postage prepaid, return receipt requested. Notices and other communications shall be directed to the Parties at the addresses listed below:

GoTriangle Contacts

John Tallmadge
Interim D-O LRT Project Director
GoTriangle
Delivery Address: 411 W. Chapel Hill Street, Suite 1000, Durham, North Carolina 27701
US Mail: P.O. Box 13787, RTP, North Carolina 27709
Email: jtallmadge@gotriangle.org
Telephone: 919.485.7579

In the event Reimbursee is providing notice or other communications to GoTriangle regarding termination, default, or a dispute regarding the terms of this Agreement, also provide a copy of the same to:

Shelley Blake, General Counsel
GoTriangle
Delivery Address: 4600 Emperor Boulevard, Suite 100, Durham, North Carolina 27703
US Mail: P.O. Box 13787, RTP, North Carolina 27709
Email: sblake@gotriangle.org
Telephone: 919.485.7561

Reimbursee (City of Durham) Contact

Patrick O. Young, AICP
Durham City-County Planning Department
101 City Hall Plaza, Durham NC, 27701
Email: patrick.young@durhamnc.gov
Phone: 919-560-4137 Ext. 28273

Telephonic and electronic mail communications and facsimile transmittals may be used to expedite communications, but neither shall be considered official communications under this Agreement unless and until confirmed in writing by the Party to whom the communication was sent. A Party shall promptly notify the other Party if there is a change regarding the person(s) to whom notices and other communications shall be directed.

v. Non-Waiver

No failure or waiver or successive failures or waivers on the part of either Party, its successors or permitted assigns, in the enforcement of any provision of this Agreement shall operate as a discharge of any such provision nor render the same invalid, nor impair the right of either Party hereto, their successors or permitted assigns, to enforce

the same in the event of any subsequent breaches by the other Party hereto, its successors or permitted assigns.

vi. Merger

This Agreement constitutes the entire agreement of the Parties, all prior discussions, representations, and agreements being merged herein. The Agreement may not be changed, modified, extended, or amended, nor any provision thereof waived, except by a written amendment in accordance with Section II.J.i.

vii. Severability

If any part, term, or provision of this Agreement is judicially determined to be illegal or in conflict with any applicable law, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be invalid or illegal.

viii. No Third Party Rights

Except as expressly set forth herein, the representations, warranties, terms, and provisions of this Agreement are for the exclusive benefit of the Parties hereto, and no other person or entity shall have any right or claim against either Party by reason of any of these terms and provisions or be entitled to enforce any of these terms and provisions against either Party.

ix. Survivorship

Any and all provisions, promises, and warranties contained herein which by their nature or effect are required or intended to be observed, kept, or performed after termination of this Agreement will survive the termination of this Agreement and remain binding upon and for the benefit of the Parties hereto.

x. Successors and Assigns

Subject to the provisions herein, this Agreement shall be binding upon and inure to the benefit of the Parties, their successors and permitted assigns. No assignment of this Agreement shall be permitted except with the express written consent of the other Party, which consent shall not be unreasonably withheld.

xi. Relationship of the Parties

Nothing contained in this Agreement will be deemed to be construed by the Parties or any third party as creating a partnership, an agency relationship, or joint venture between the Parties or any of their respective employees, representatives, or agents. Neither Party has any express or implied authority to assume or create any obligations on behalf of the other or to bind the other to any contract, agreement, or undertaking with any third party.

xii. Further Assurances

Each Party, upon the request of the other Party, shall execute and deliver such further documents and instruments as such other Party may reasonably deem appropriate to carry out the terms and conditions of this Agreement, provided that such further

documents and instruments are consistent with the terms and conditions of this Agreement.

xiii. Time is of the Essence

The Parties acknowledge and agree that time is of the essence with respect to each term and condition of this Agreement.

xiv. Captions and Headings

The captions, headings, and section numbers of this Agreement are for convenience and in no way define or affect the meanings hereof.

xv. Attachments and Exhibits

The Attachments and/or Exhibits attached hereto are an integral part of this Agreement and are incorporated into this Agreement as fully as if the contents thereof were set out in full herein at each point of reference thereto.

xvi. Iran Divestment Act

Pursuant to N.C.G.S. § 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. § 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/Iran and will be updated every one hundred eighty (180) days.

Reimbursee (i) represents that neither it nor its agents, third party consultants, or subcontractors are on the Final Divestment List of persons that the State Treasurer has determined engages in investment activities in Iran; and (ii) agrees that it shall not utilize any subconsultant that is identified on the Final Divestment List to perform the Work under this Agreement.

If Reimbursee receives information that a person is in violation of the Act as stated above, Reimbursee shall immediately notify GoTriangle in writing. GoTriangle will offer Reimbursee an opportunity to respond and GoTriangle will take action as appropriate and as provided for by laws and regulations or this Agreement. Should this Act be repealed, this Agreement shall remain valid.

xvii. Commercial Non-Discrimination

GoTriangle values and promotes the full complement of diversity in the workplace. As a condition of entering into this Agreement, Reimbursee represents and warrants that it shall not discriminate on the basis of race, color, gender, religion, sexual orientation, veteran status, national origin, ethnicity, age, or disability, or for any other reason prohibited by law in the solicitation, selection, hiring, or treatment of third party consultants, vendors, suppliers, subconsultants, or commercial customers in connection with the Work to be performed pursuant to this Agreement, nor shall Reimbursee retaliate against any person or entity for reporting instances of such discrimination.

xviii. Flow Down Requirements

This Agreement shall be specifically incorporated by reference into all third-party

contracts and subcontracts regarding or pertaining to the Work. All provisions required by law, regulation, or this Agreement shall apply to all subcontracts of any tier.

xix. Not Debarred by Federal or State Government

It is the policy of both GoTriangle and Reimbursee not to enter into any agreement with another entity that has been debarred by any governmental agency (Federal or State). GoTriangle and Reimbursee certify by signature of this Agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any unit of Federal or State government.

xx. Construction of Terms

Each Party has agreed to the particular language of this Agreement. Questions of interpretation shall not be resolved by any rule or presumption either for or against the drafter(s), but rather in accordance with the fair and plain meaning of the terms contained herein.

xxi. Acknowledgements

Each Party acknowledges that the individual executing this Agreement on its respective behalf is authorized to execute the document and to bind the Party to the terms contained herein. The Parties further acknowledge that they have read this Agreement, conferred with their legal counsel, and fully understand the contents of this Agreement. A copy, electronically scanned copy, or facsimile copy of the signature of any Party shall be deemed an original with each fully executed copy of this Agreement as binding as an original.

xxii. Separate Counterparts

This Agreement may be executed in one or more counterparts, each of which, when so executed, shall be deemed to be an original. Such counterparts shall together constitute and be one of the same instrument.

xxiii. E-Verify Requirements

(a) If this contract is awarded pursuant to North Carolina General Statutes (NCGS) 143-129 – (i) the contractor represents and covenants that the contractor and its subcontractors comply with the requirements of Article 2 of Chapter 64 of the NCGS; (ii) the words "contractor," "contractor's subcontractors," and "comply" as used in this subsection (a) shall have the meanings intended by NCGS 143-129(j); and (iii) the City is relying on this subsection (a) in entering into this contract. (b) If this contract is subject to NCGS 143-133.3, the contractor and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NCGS.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute and deliver the Agreement.

CITY OF DURHAM, NORTH CAROLINA

**RESEARCH TRIANGLE REGIONAL PUBLIC
TRANSPORTATION AUTHORITY
d/b/a GOTRIANGLE**

BY: _____
NAME: Thomas J. Bonfield
TITLE: City Manager
DATE: _____, 2019

BY: _____
NAME: Jeffrey G. Mann
TITLE: GoTriangle President and CEO
DATE: _____, 2019

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act by GoTriangle. GoTriangle’s Federal Tax Identification Number is **561718037**.

Saundra Freeman
CFO & Director of Administrative Services

Reviewed and approved as to legal form by GoTriangle.

Shelley Blake
General Counsel

- Attachment A: Cooperative Agreement
- Attachment B: Bluebeam Review Procedures
- Attachment C: City Staff and Consultant’s Hourly Reimbursement Rates

MEMORANDUM

TO: GoTriangle Board of Trustees
FROM: Light Rail Project Team
DATE: March 17, 2019
SUBJECT: **Professional Services Contract Amendment – GEC Phase 3B – Additional Final Design Services**

Strategic Objective or Initiative Supported

This item supports Strategic Objective 1.1: Increase number of customers served with Sustainable Transportation Services.

Action Requested

Staff requests that the Board approve the subject agreement with HDR, Inc. for additional final design services with a total dollar amount not to exceed \$14,191,953 and authorize the President/CEO to execute the agreement.

Background and Purpose

On July 28, 2017, the Federal Transit Administration (FTA) admitted the light-rail project into the Engineering Phase of the FTA New Starts Program. The FTA has since acknowledged GoTriangle's intent to pursue a Full Funding Grant Agreement (FFGA) for the project in September 2019.

On July 27, 2016, the Board of Trustees authorized the President/CEO to execute Phase 1 of a Professional Services Contract with HDR for GEC Services for the light-rail project. The term for Phase 1, Design Feasibility Studies and Financial Planning, was up to three (3) months, in an amount not to exceed \$500,000.

On December 14, 2016, the Board of Trustees authorized the President/CEO to execute Phase 2, which included a continuation of the Phase I Scope as well as additional tasks determined to be necessary to further the design baseline prior to advancing the Final Design. The term for Phase 2, Design Feasibility Studies, Supplemental Engineering, and Advanced Permitting, was up to five (5) months, in an amount not to exceed \$6,000,000.

On May 24, 2017, the Board of Trustees authorized the President/CEO to execute Phase 3 of the contract with HDR for GEC services for the light-rail project, which encompasses those components of the Final Design of the project identified in the initial Phase 3 Scope.

On September 26, 2018, the Board of Trustees authorized the President/CEO to execute Phase 3B, Additional Final Design Services. The Additional Final Design Services identified in that amendment included changes to the scope of design services required to accommodate significant changes in the design and engineering of the light-rail project that were identified since the beginning of Phase 3, Final Design.

On December 19, 2018, the Board of Trustees authorized the President/CEO to execute further Additional Final Design Services to Phase 3B up to \$900,000 for the design of university-owned utilities. The current authorized amount for Phase 3/3B is \$94,600,000. The amount paid through their February invoice is \$74,353,050.10 which is 75.89% of their authorized contract value.

GoTriangle staff has negotiated with the GEC for the Additional Final Design Services listed below at a value not to exceed \$14,191,953

- Pettigrew Street Design Changes
- Erwin Road Design Changes
- Design of Shared Utility Duct Bank
- Redesign of the Mason Farm Road Station
- Additional Supplemental Environmental Documentation
- Extended Design Management

Financial Impact

Funding for the first year of this contract amendment is available in the approved FY19 Budget which includes approximately \$62 million for professional services related to the Light-Rail Project, therefore, no budget amendment is required. Funding for FY20 and subsequent years of the contract amendment term is included in the overall budget for the project.

Attachments

- None

Staff Contact

- John Tallmadge, 919-485-7430, jtallmadge@gotriangle.org

