

12-05-2018 Town Council Meeting
Responses to Council Questions (#1)

ITEM #13: Consider Authorizing the Town Manager to Execute a Cooperative Agreement with GoTriangle on the Durham-Orange Light Rail Transit Project

Council Question: Can we get a list of the comments/issues the town submitted that GoTriangle is working to resolve (p. 321, Article 2, A, 50% Milestone Design Review)?

Staff Response: *Attached is a summary of the staff comments on the DOLRT 50% designs from GoTriangle.*

Council Question: Can homeland security concerns in regards to sharing detailed construction drawings of community infrastructure be elaborated upon? Are these concerns pursuant to federal requirements or guidance?

Staff Response: Detailed designs of public infrastructure are often not shared publically or posted on public websites to help prevent their use in possible terrorist activities. *(I would suggest adding that OWASA, for instance, does not share the location of their water and sewer mains for use on the Town's interactive map.)*

GoTriangle Response: GoTriangle must abide by both state and federal regulations pertaining to restricted data related to the light rail system. Go Triangle must also abide by similar state and federal regulations that pertain restricted data that GoTriangle has obtained from third parties, such as the location of utility lines, for the purposes of designing the light rail system. With specific regard to transportation systems GoTriangle must abide by the following:

- 1) 49 Code of Federal Regulations 1520 which governs Sensitive Security Information pertaining to security plans, measures, vulnerability / threat assessments, critical rail infrastructure information, and so on pursuant to the definitions within this regulation.
- 2) North Carolina General Statute 132-1.7 which restricts data pertaining to the construction plans for GoTriangle owned or other publicly owned buildings or infrastructure facilities.

In addition to State and Federal Requirements for public information, GoTriangle must also abide by the terms of use under which GoTriangle has obtained similar data from private third parties such as medical facilities, shopping centers, office buildings, and so on.

Council Question: When would GoTriangle start negotiating a separate agreement with OWASA regarding OWASA owned and operated utilities, which may be affected by the project?

GoTriangle Response: GoTriangle will negotiate an agreement with OWASA, but this agreement is not one of the 'critical' third-party agreements that must be finalized imminently. GoTriangle's contractor will construct the OWASA-owned relocations so we'll negotiate an agreement with the utility owner, OWASA, explaining their rights and ours, and the process by which they will inspect and accept the new/relocated facilities. We will need that by mid-2019 so the relevant terms can be folded into the Civil West construction contract. When the 90% designs are in hand in early 2019, we can begin discussing the particulars of the agreement.

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Council Question: What are the state and federal requirements referred to in Sec. F of the draft Chapel Hill Cooperative Agreement on page 3 of the draft agreement?

GoTriangle Response:

GoTriangle and the Federal Transit Administration (FTA) in cooperating with the US Army Corps of Engineers (USACE), the Federal Highway Administration (FHWA) and the US Environmental Protection Agency (USEPA) prepared environmental documents for the Durham-Orange Light Rail Project pursuant to the National Environmental Policy Act (NEPA). The environmental documents identify the anticipated project impacts, the alternatives considered, as well as the means for avoiding, minimizing, or mitigating the project impacts.

To date, the following environmental documents have been prepared and shared for public review:

- Draft Environmental Impact Statement (August 2015),
- Combined Final Environmental Impact Statement/Record of Decision (FEIS/ROD) (February 2016),
- Supplemental Environmental Assessment – NCCU Station Refinement (November 2016),
- Amended Record of Decision (Amended ROD) (December 2016), and
- Supplemental Environmental Assessment – Proposed Refinements (October 2018).
- All project documents are available on the GoTriangle light rail resource library, under “documents.” <https://gotriangle.org/lightrail/resource-library>

The current [Amended ROD](#) and prior Combined [FEIS/ROD](#) outlines all required mitigation commitments as well as the anticipated permits and approvals for the light rail project. For a list of project mitigation commitments, please see: Table Amended ROD-1. For a list of anticipated permits and approvals, please see Table ROD-2 and Table Amended ROD-2. As local, state, and federal requirements may change prior to permit application, GoTriangle will consult with the appropriate resource agency prior to application to confirm the permit applicability and requirements.

For the Town Council’s reference, provided below is an excerpt from FEIS/ROD Table ROD-2 noting the permits and approvals relevant to the Town of Chapel Hill that are anticipated for the project:

| Regulatory Program or Proposed Action | Applicability | Responsible Entity |
|---|--|---------------------------|
| Federal Permits | | |
| Section 404 of the Clean Water Act of 1977 as amended | Required for discharge of dredged or fill materials into waters of the United States, including wetlands and | USACE |

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| Nationwide or Individual Permit | streams, in conjunction with this project | |
| Section 810 Application (23 U.S.C. § 142(g); 23 C.F.R. § 810) | Required to permit the Federal Highway Administration (FHWA) to authorize a state to make available to a publicly-owned mass transit authority existing highway rights-of-way for rail or other non-highway public mass transit facilities | FHWA |
| Section 7 Endangered Species Consultation | Required for project sites with potential federally listed threatened and endangered species | USFWS |
| State Permits | | |
| Buffer Authorization | Required since the project will result in impacts to stream buffers within the Neuse River and Jordan Lake watersheds. | NCDEQ Division of Water Resources |
| Conditional Letter of Map Revision | Required if the project results in an increase in flood levels during the base flood discharge. | NCDPS Emergency Management |
| Isolated Wetlands/Non-404 Jurisdictional Permit | Required for impacts to waters of the state that are not considered jurisdictional by the USACE under Section 404 | NCDEQ Division of Water Resources |
| Land Disturbance Activities | Required for construction activities disturbing lands | NCDEQ Division of Land Quality |
| NCDOT State Safety Oversight Approval | Required prior to revenue service | NCDOT |
| NCDOT Construction, Use and Occupancy Agreements | Required for construction within and use of NCDOT and federal ROW | NCDOT |
| No-Rise Certification | Required if the project does not increase flood levels during the base flood discharge. | NCDPS Emergency Management |
| Road Crossing Permit | Required if crossing of NCDOT controlled access road right-of-way | NCDOT |
| Section 106 MOA (Historic and Archeological) | Required for mitigating impacts to historic and archaeological properties | SHPO |
| Section 401 of the Clean Water Act of 1977 as amended (Water Quality Certification) | Required when a Section 404 permit is needed for the discharge of dredged or fill materials into waters of the United States, including wetlands and streams | NCDEQ Division of Water Resources |

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| Sediment and Erosion Control Plans Approval | Required prior to construction | NCDEQ Division of Energy, Mineral, and Land Resources Land Quality Section |
| State Stormwater Permits | Required when impervious surface percentage thresholds are exceeded. Since Orange and Durham counties are classified as Phase II Tipped Counties, the NCDEQ Division of Energy, Mineral and Land Resources must issue state stormwater permits unless post-construction discharges are authorized under the Town or City's MS4 permits | Town of Chapel Hill, City of Durham, NCDEQ Division of Energy, Mineral and Land Resources |
| Regional and Local Permits | | |
| Building Permits | Required for the construction of buildings and related mechanical, electrical, and plumbing systems to ensure code compliance | Town of Chapel Hill |
| Encroachment Permit or Agreement | Required if crossing of uncontrolled access road right-of-way | Town of Chapel Hill |
| Floodplain development permit | Required for all construction, grading, development, or the storage of equipment or materials within the Special Flood Hazard Area | Town of Chapel Hill |

As a condition of the Capital Investment Grant, the FTA will require that the project comply with the Record Of Decision (ROD) and all applicable state and federal requirements.

12-05-2018 Town Council Meeting
Responses to Council Questions (#3)

ITEM #13: Consider Authorizing the Town Manager to Execute a Cooperative Agreement with GoTriangle on the Durham-Orange Light Rail Transit Project

Council Question: Right now, Art. 1, Sec. A of draft Cooperative Agreement reads “This Agreement shall become effective on the last date executed below and shall continue in force until...terminated pursuant to Art. 5.F. of this Agreement. Right now, there is no Art. 5.F. What language/section is this meant to refer to?”

Staff Response: *This language is meant to refer to 6F. The agreement has been updated with this revision.*

Council Question: What is the response to inquiries made as to why the date of expiration is not November 30, 2019, since that is the deadline for the state to provide funding for the light rail project? Is setting the expiration date at November 30, 2019 feasible?

Staff Response: *The 2019 date was set by the N.C. General Assembly. The 2021 date has been included so that the agreement doesn't have to be amended in the event that state legislative deadlines change in the future. This is consistent with other Cooperative Agreements that GoTriangle is signing.*

Council Question: In Art. 1, Sec. H of the draft Cooperative Agreement, what is meant exactly by “Project’s construction of improvements to be owned, operated and maintained by the City”? Can some examples be provided here?

Staff Response: *This refers to public improvements such as sidewalks, bike paths, and roads that will be built through the project and transferred to the Town for ownership and ongoing maintenance.*

Council Question: Under Art. 1, Sec. H of the draft Cooperative Agreement, it reads, “GoTriangle shall provide the City a complete set of record drawings as required for formal acceptance by Chapel Hill Town Council. GoTriangle agrees to adhere to other procedures as necessary to ensure timely acceptance by Town Council.” What does the “complete set of record drawings” refer to exactly?

Staff Response: *These record drawings show the design and location of the public improvements as they are constructed on the ground. The Town requires these in order to accept the facilities for ownership and ongoing maintenance.*

12-05-2018 Town Council Meeting
Responses to Council Questions (#3)

Council Question: Were the 50% milestone design drawings for City review referred to under Art. 2, Sec. A on page 7 of the draft Durham Cooperative Agreement, shown to and/or reviewed by Durham City Council or Durham City staff or both?

Staff Response: *The design drawings were shown to Durham City staff. We are not sure if they were shown to the Durham City Council. In general, the Durham process is structured to review the project designs through the regular staff review process.*

Council Question: Right now, Art. 5, Sec. G on the draft CH Cooperative agreement looks to be mislabeled, since the immediate preceding section is Section "E." This section should be labeled "F" instead of "G."

Staff Response: *This is a typo. The agreement has been updated with this correction.*

Amy Harvey

From: Ross Tompkins
Sent: Wednesday, December 05, 2018 10:06 AM
To: Amy Harvey
Subject: FW: Staff Responses to Council Questions #1
Attachments: Revised_Cooperative_Agreement-Redlined_12-4-18.pdf; Revised_Cooperative_Agreement-Clean_12-4-18.pdf; Attachment A - GoTriangle Map.pdf; Attachment B - B GoTriangle Project Schedule.pdf; Attachment C - MOA Protection of Historic and Archeological Resources.pdf; Two-page Summary of Chapel-Hill-Cooperative-Agreement-revised_12-3-18.pdf; DOLRT_Project-timeline-181203.pdf; Presentation-ROMF-1006A-181201.pdf; Summary_of_Chapel_Hill_Comments_DOLRT-50%Plans-Spring_2018.pdf; Staff Responses to Council Questions 12-03-18 #1.docx

Here is one email.

From: Maurice Jones
Sent: Tuesday, December 4, 2018 7:11 PM
To: Pam Hemminger <phemminger@townofchapelhill.org>; Jess Anderson <janderson@townofchapelhill.org>; Donna Bell <dbell@townofchapelhill.org>; Allen Buansi <abuansi@townofchapelhill.org>; Hongbin Gu <hgu@townofchapelhill.org>; Nancy Oates <noates@townofchapelhill.org>; Michael Parker <mparker@townofchapelhill.org>; Rachel Schaevitz <rschaevitz@townofchapelhill.org>; Karen Stegman <kstegman@townofchapelhill.org>
Cc: Flo Miller <fmiller@townofchapelhill.org>; Mary Jane Nirdlinger <mnirdlinger@townofchapelhill.org>; Ross Tompkins <rtompkins@townofchapelhill.org>; Ralph Karpinos <rkarpinos@townofchapelhill.org>; Ben Hitchings <bhitchings@townofchapelhill.org>; Loryn Clark <lclark@townofchapelhill.org>; Jeanne Brown <jbrown2@townofchapelhill.org>
Subject: Staff Responses to Council Questions #1

Mayor and Council,

Attached you will find the responses to questions raised on the other issues on the agenda.

A note on GoTriangle, there are three options to consider:

- *Discuss the item, refine the agreement and vote on it.
- *Discuss the item, refine the agreement, send the staff back for further discussion with GoTriangle and defer the item to January 16th for a vote.
- * Discuss the item, refine the agreement, send staff back for further discussion with GoTriangle and authorize the Town Manager to finalize the document based on your agreed upon direction.

Also, I'd like to thank Ralph Karpinos and Ben Hitchings for their hard work since last Thursday to develop a revised document for your consideration. They worked diligently with our staff and GoTriangle's representatives to craft a document that takes into consideration the concerns raised by the Council and the public last Wednesday night.

Let me know if you have any other questions.

All the Best,
Maurice

STATE OF NORTH CAROLINA
COUNTY OF ~~DURHAM~~ ORANGE

GOTRIANGLE CONTRACT NUMBER: 18-03129

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

AND

CITY OF DURHAM TOWN OF CHAPEL HILL

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT ("Agreement") is made by and between the ~~CITY OF DURHAM, NORTH CAROLINA~~ TOWN OF CHAPEL HILL (the "CityTown"), a municipality in Orange County and Durham ~~Durham~~ County, North Carolina, and the RESEARCH TRIANGLE REGIONAL PUBLIC TRANSPORTATION AUTHORITY d/b/a GOTRIANGLE, "a public body and body politic and corporate of the State of North Carolina" (N.C.G.S. § 160A-603), with a principal office located at 4600 Emperor Boulevard, Durham, North Carolina 27703 ("GoTriangle"). The CityTown and GoTriangle may be referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. GoTriangle

GoTriangle, a regional public transportation authority organized under the laws of North Carolina, operates and conducts its activities in Durham, Orange, and Wake counties of North Carolina. GoTriangle's powers, duties, and purposes are set forth in Article 26 of Chapter 160A of the North Carolina General Statutes (N.C.G.S.), as amended. GoTriangle's broad purpose is "to finance, provide, operate, and maintain for a safe, clean, reliable, adequate, convenient, energy efficient, economically and environmentally sound public transportation system for the service area of the Authority through the granting of franchises, ownership and leasing of terminals, buses and other transportation facilities and equipment, and otherwise through the exercise of the powers and duties conferred upon it, in order to enhance mobility in the region and encourage sound growth patterns" (N.C.G.S. § 160A-608). GoTriangle is the local sponsor for the Durham-Orange Light Rail Transit Project ("Project") and is working directly with the Federal Transit Administration ("FTA") to deliver the Project for the benefit of the general public.

B. The CityTown

The CityTown is a municipality in Durham-Orange and County Durham Counties, North Carolina. Based on preliminary engineering plans, there are ~~fourteen-six~~ (614) planned Project stations (Leigh Village, Gateway, Patterson Place, MLK Jr. Parkway, South Square, LaSalle Street, Duke/VA Medical Centers, Ninth Street, Buchanan Boulevard, Durham, Blackwell Mangum, Dillard Street, Alston Avenue, and NCCU/UNC Hospitals, Mason Farm Road, Hamilton Road, Friday Center Drive, Woodmont, and Gateway) in the CityTown (collectively "CityTown Stations"). See *Attachment A* (Project Map). The CityTown supports the Project and recognizes its value to Durham-Chapel Hill residents, the general public, and the State of North Carolina. As proposed, the Project may impact various CityTown resources, including rights-of-way (both fee simple and easements), other land, ~~utilities~~, facilities, buildings, drainage systems (those accepted and maintained by the CityTown), and other properties and assets owned by the CityTown (collectively, "CityTown Property").

C. Durham-Orange Light Rail Transit Project

The Project, with a budget of approximately \$2.47 billion, is a major investment in public transportation infrastructure and is eligible for federal funding through FTA's Capital Investment Grant ("CIG") program. The Project is a light rail transit service with stations located at major activity centers in Chapel Hill and Durham along a 17.7-mile alignment. The Project also includes a rail operations and maintenance facility ("ROMF") to be located outside of the Town limits, and parking facilities. See *Attachment A* (Project Map). The Project is currently in the engineering phase of the CIG program. During the engineering phase, project sponsors must satisfy several requirements, including the completion of all critical third party agreements. This Agreement has been identified by FTA as critical and a precondition to construction funding.

D. Purpose of Agreement: Ongoing Cooperation and Coordination

This Agreement describes major roles and responsibilities applicable to each Party in connection with the successful implementation of the Project. Sustained cooperation and coordination between the Parties is necessary in order to build the Project within established parameters of budget and schedule, while also minimizing impacts to CityTown Property to the greatest extent practicable. This Agreement memorializes the Parties' commitment to cooperate in good faith and is a record of their shared interest in advancing the Project to full operation and revenue service in a timely, cost-effective, and efficient manner.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the benefits of which flow to the CityTown and

GoTriangle from each other, and in further consideration of the mutual covenants, terms, conditions, restrictions, and representations contained or incorporated into this Agreement, the Parties agree as follows:

ARTICLE 1- GENERAL AGREEMENTS ON PROJECT DEVELOPMENT

A. Term of the Agreement

This Agreement shall become effective on the last date executed below and shall continue in force until terminated by written agreement between the Parties; terminated pursuant to Art. 6.F. of this Agreement; or on December 31, 2021, if GoTriangle has not obtained a Full Funding Grant Agreement (“FFGA”) from the FTA for the Project by that date (“Term”).

B. Project Cooperation

The Parties shall work efficiently and cooperatively to review and resolve all Project-related matters between the Parties in a cost-effective manner. This cooperation shall encompass engineering and design, construction and inspections, and operations and maintenance. The Parties shall support the schedule for the Project developed by GoTriangle and shall take timely actions on matters for which they are responsible under this Agreement. The Parties shall continue to work together to identify ways to improve bicycle and pedestrian connections to stations, to identify strategies to further minimize the visual effects of the Project, and to minimize impacts to CityTown Property.

To carry out this Agreement effectively, each Party shall appoint a Project Coordination Manager (“PCM”). The PCM for each Party shall routinely monitor the status of Project-related decision-making and commitments by the Parties; shall routinely confer with the PCM for the other Party; and shall facilitate ongoing and productive coordination between the Parties, including (i) the exchange and flow of information between GoTriangle and the CityTown specific to the Project, (ii) making non-binding recommendations to resolve any problems or issues concerning the Project, and (iii) ensuring issues are elevated to decision makers and resolved in a timely manner.

C. Future Agreements

The Parties recognize that additional approvals and agreements will be necessary for the implementation of the Project. The Parties shall continue to work together as outlined in Art. 1.B. to resolve outstanding matters referenced throughout Articles 2, 3, and 4 of this Agreement. The mutual understandings of the Parties shall be memorialized in future agreements. Such future agreements may cover the following topics: ~~a full reimbursement agreement that will compensate the City and its consultants for work pursuant to an agreed-upon design review scope~~; temporary construction easements; dedications of right-of-way or facilities; parking; utilities; pre-revenue service testing; operations and maintenance, including management of CityTown traffic signals interconnected with the light rail system; and the GoPass program.

D. Project Schedule

Commented [BH1]: This provision is included so that the agreement doesn't have to be amended in the event that state legislative deadlines change in the future. This is consistent with the other Cooperative Agreements that GoTriangle is signing.

Commented [BH2]: The Parties have already executed a full reimbursement agreement.

The CityTown and GoTriangle shall use reasonable efforts to adhere to the Project Schedule, incorporated into this Agreement as Attachment B. Notifications of schedule adjustments affecting the CityTown will be provided to the CityTown as soon as such adjustments are made.

E. State and Federal Requirements

GoTriangle and the CityTown shall comply with all state and federal requirements applicable to the Project, including the requirements of the FTA and its CIG program and other requirements related to the Project's eligibility for state and federal funding. Such state and federal requirements may also include, when applicable, requirements related to contracting, procurement, and worker protections (e.g., the Davis-Bacon Act). In addition, GoTriangle shall continue to implement commitments contained in final environmental documentation pursuant to the National Environmental Policy Act.

F. Applicability of CityTown Requirements

The Project is a linear public transportation system comprised of component parts, such as tracks, bridges, station platforms (currently planned with canopy architecture), and electrical systems. The siting, design, construction, installation, operation, and maintenance of the component parts of the Project are exempt from regulation under the CityTown's zoning authority, except where a component part constitutes the "erection, construction, and use of buildings" within the meaning of North Carolina law (N.C.G.S. § 160A-392). To date, the Parties have identified parking decks and transformers, if any, and the ROMF as components of the Project, subject to CityTown zoning. The Project does not currently include any parking decks within the CityTown. The Parties have also identified traction power sub-stations ("TPSS") as components that may be subject to Town zoning. The CityTown retains the right to review any changes to the project design or scope that are not excluded from the CityTown's zoning purview pursuant to N.C.G.S. § 160A-392.

The CityTown will review design drawings and approve construction of the Project as outlined in Art. 2 of this Agreement. As part of its review to date, the Town City has also identified the following approvals as necessary for various components of the Project:

- I. Where the component includes construction of rail lines, paths or walkways, station platforms, TPSS units, utilities, road crossings or surface parking within right-of-way held by NCDOT, or the CityTown, or NC Railroad Norfolk Southern Railroad, an encroachment agreement or other appropriate agreement must be executed with the corresponding holder of the right-of-way interest.
- II. Where the component includes the construction of road crossings within right-of-way held by NCDOT, or the CityTown, or NC Railroad, a Construction Management Plan must be approved by the CityTown.
- III. Where the component includes construction of surface parking on GoTriangle property which is not right-of-way, the Town's stormwater performance management standards and buffering and parking landscaping standards apply, as codified on the effective date of this Agreement. (Chapel Hill Land Use Management Ordinance -- Appendix A of the Chapel Hill, North Carolina Code of Ordinances, Section 5.4, Section 5.6, and Section

Commented [BH3]: This language memorializes the stormwater management and buffering and landscaping standards that must be met for parking lots in the design and construction of the project.

~~5.9) for peak runoff control apply. Durham, North Carolina, Municipal Code Art. X, § 70-738 (2012).~~

GoTriangle and the CityTown have already collaborated, and will continue to collaborate, on the development of preliminary design plans for the Project. Upon completion of 90 percent design plans, GoTriangle shall submit the 90 percent design plans to the CityTown for its review and approval, where necessary. The 90 percent design plans shall include drawings, special provisions, supplemental technical specifications, and updated quantity take-offs. The 90 percent design plans shall be essentially complete with only items of insignificance needing detailing or checking. The specifications shall be complete and finalized with all references and standards checked for latest edition and requirements. A separate list of submittals required by contractors during construction shall be included in the individual specification sections. All calculations shall be complete and checked in accordance with established QA/QC procedures and submitted in bound and electronic format. Drawings shall be nearly complete for bidding purposes and shall have incorporated or resolved all comments made during preceding reviews, follow-on progress meetings, Interim Design Reviews, and other informal reviews. All prior review comments and comments from the Interim Design Reviews shall have been responded to, agreed upon, and incorporated into the 90 percent submittal documents. Unresolved comments will be identified and addressed with an action plan for resolution. Reports and studies shall be submitted as draft-final.

CityTown reviews and approvals identified herein represent those that are currently contemplated by the Parties and are subject to the conditions of this Agreement, including adherence to the Project Schedule. Additional CityTown approvals, such as Certificates of Appropriateness, may be required and subject to the standard review process utilized by the CityTown including posting of information on the Town's website and affording opportunities for public review and comment.

During final design, the Parties will evaluate the applicability of the Town's Noise Ordinance to the Project. In addition, GoTriangle will implement any mitigation commitments identified in the final environmental documentation pursuant to the National Environmental Policy Act.

G. Environmental Evaluation

GoTriangle has conducted an evaluation of potential environmental effects resulting from the construction and operation of the Project, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.) ("NEPA") and Section 4(f) the U.S. Department of Transportation Act of 1966 (codified in 23 U.S.C. § 138 and 49 U.S.C. § 303 and its implementing regulations codified at 23 C.F.R. Part 774) ("Section 4(f)"). Measures to minimize and mitigate the potential effects from the Project are detailed in the Amended Record of Decision ("Amended ROD"). In addition, GoTriangle, the FTA, and the State Historic Preservation Office ("SHPO") entered into a Memorandum of Agreement ("MOA"), which addresses the identification, evaluation and treatment of historic and archaeological resources that may be affected by the Project. See *Attachment C* (MOA for Protection of Historic and Archaeological Resources). The MOA also outlines the procedures to follow in the event of an unanticipated discovery during construction. Mitigation commitments included in those documents are incorporated by reference into this

Commented [BH4]: This is one of several provisions added to help make project information available to the public.

Commented [BH5]: This section describes how noise issues will be addressed for the project.

Commented [BH6]: This section describes the environmental and historic preservation review that is part of the project.

Agreement. The Parties' obligations pursuant to this Agreement shall be bound by the mitigation measures for Archaeological Resources as set forth in the MOA.

H. Impacts to CityTown Property and Improvements to be Accepted by the CityTown

I. *Generally.* This Agreement addresses the management of Project impacts to CityTown Property and addresses the Project's construction of improvements to be owned, operated, and maintained by the CityTown after construction is complete and upon formal acceptance by the CityTown ("Improvement(s)"). GoTriangle shall provide the CityTown a complete set of record drawings as required for formal acceptance by Durham CityChapel Hill Town Council. GoTriangle agrees to adhere to other procedures as necessary to ensure timely acceptance by CityTown Council. The CityTown acknowledges that all Improvements or other work to be performed by GoTriangle shall be screened for eligibility under FTA's funding laws, rules, and guidelines. Except as otherwise expressly stated herein, work that is ineligible for FTA funding is outside of the scope of the Project and of this Agreement.

II. *GoTriangle Responsibilities.* GoTriangle shall be responsible for design, engineering and construction of all Improvements related to the Project, subject to provisions below related to Betterments. By way of example, Improvements may include the reconstruction or realignment of streets, pedestrian and bicycle facilities, utilities, drainage conveyances, traffic signals, signs, traffic legends, lane markings, street lighting, and traffic detours. GoTriangle shall ~~identify for the City all Improvements that may impact existing City utilities (water, sewer, and stormwater) for Public Works and Water Management review and approval-identify and submit for review and approval to the Town and the Orange Water and Sewer Authority ("OWASA") all improvements that may impact existing utilities (including but not limited to water, sewer, stormwater, and fiber optic facilities), other infrastructure (including but not limited to transportation facilities), and natural waterways.coordinate with Orange Water and Sewer Authority ("OWASA") to ensure the necessary precautions are taken to ensure the continuity of OWASA's water and sewer services.~~ GoTriangle agrees to consult with the CityTown regarding the inclusion of reasonable indemnity, warranty, and assignment of warranty provisions in the Project's construction contracts for Improvements or Betterments that will be accepted by the CityTown for maintenance.

~~When restoring, reconstructing, replacing, or relocating Town Property, GoTriangle shall be responsible for following adopted design standards in effect at the time of the 90% submittal. GoTriangle shall respond to Town comments in a timely manner between submittals in order to resolve review comments. The Town shall not be responsible for any delay in permit issuance incurred in order to resolve issues related to the aforementioned Improvements. In addition, GoTriangle shall provide reasonable notice to the Town for any issues that it would like to resolve.~~

III. *Betterments.* GoTriangle is not required to provide expansions, upgrades, or enhanced levels of service ("Betterments") in connection with the Project unless mandated by state or federal law, regulations or standards. An Improvement is not a Betterment if the materials or devices are required by the Project, of equivalent standards although not identical, of the next highest grade or size when the existing materials or devices are no longer regularly manufactured, required by federal, state or local law or code, or required by current design practices regularly followed by the CityTown in its own work and there is a direct benefit to the Project.

Commented [BH7]: The Town does not own and maintain its own water and sewer utilities.

The CityTown may request GoTriangle to design and construct Betterments provided that the CityTown reimburses GoTriangle the difference in Total Cost between the base Improvement and the Betterment. "Total Cost" means all costs for the design and construction, including GoTriangle staff effort, design support, construction management, construction, testing, and claims resolution services. The CityTown's timely identification and communication of desired Betterments will promote a more cost effective implementation of the Betterment.

E. Town Review Process

The Town will review and approve construction of the Project through the Town's Engineering Construction Permit ("ECP") process. In addition, the Town will review surface parking on GoTriangle property which is not right of way for compliance with the Town's stormwater and landscaping, screening, buffering, and parking landscaping standards. GoTriangle and the Town have already collaborated, and will continue to collaborate, on development of preliminary construction plans for the Project. Upon completion of final construction plans, GoTriangle shall apply to the Town for an ECP. The Town shall coordinate review of the ECP application through its Public Works Department. The review process for the ECP shall focus on issues raised by the Town during the review of the preliminary construction plans.

The review process shall treat separately those Project components that are located on the campus of the University of North Carolina ("UNC") from those that are not. Project components located on the UNC campus are subject to review by UNC. An ECP for Project components located on the UNC campus shall not be issued until GoTriangle has presented evidence of UNC's approval to the Town.

GoTriangle shall not issue a notice-to-proceed for construction within Town limits until the Town issuance of the ECP, including confirmation of compliance with all applicable stormwater, buffering and parking landscaping standards.

In addition, GoTriangle shall prepare a Communications Plan with input from Town staff that outlines procedures for sharing information about construction with the Town and the community.

Commented [BH8]: This provision memorializes the development of a plan to share project construction information with the Town and the community.

GoTriangle shall be responsible for construction and maintenance of each Improvement built under this Agreement until the Improvement is dedicated to or otherwise accepted by the Town.

GoTriangle is responsible for obtaining all federal, state, or local permits and/or approvals required for the Project. All matters related to security and liability for personnel, equipment, and material are wholly GoTriangle's responsibility. The Town does not and shall not be required to carry insurance to cover GoTriangle's activities or property. GoTriangle shall require all contractors, consultants, or subcontractors to carry commercial general liability insurance.

4V. Testing and Inspections. GoTriangle shall allow for inspections of Improvements to be performed by City of DurhamTown of Chapel Hill inspectors. The CityTown shall be authorized to visit the construction at reasonable times to inspect the work. If upon inspection the CityTown discovers an error in construction or defect in quality, the CityTown shall notify GoTriangle within

forty-eight (48) hours and coordinate with GoTriangle to determine a corrective action, cure or other remedial step.

The Parties agree that a pre-construction conference including the Town's Planning, Public Works, and Building & Development Services Departments~~City's Department of Public Works (Engineering and Stormwater), the City-County Inspection Department~~, GoTriangle, GoTriangle's Construction Management Consultant, and GoTriangle's Contractor shall be required for each of GoTriangle's major construction contracts. The PCM for both Parties shall be responsible for coordinating participation in the pre-construction conference. Prior to finalizing the bid documents for each contract, GoTriangle shall coordinate with the CityTown to confirm the timing requirements for the pre-construction conference (e.g., four weeks prior to commencement of construction activities).

ARTICLE 2- DESIGN PROCESS

This Article outlines the manner in which the Parties will coordinate during the design phase. The CityTown agrees to participate by providing design feedback to GoTriangle in the manner indicated herein.

GoTriangle has contracted with HDR Engineering, Inc. of the Carolinas to provide design services for the Project as the General Engineering Consultant ("GEC"). GoTriangle shall retain responsibility and authority to provide direction to the GEC regarding design plans.

A. Fifty Percent Milestone Design Review

GoTriangle provided 50% milestone design drawings for CityTown review beginning February 23, 2018 through April 9, 2018 ~~and 30% design drawings for Erwin Road in May 2018.~~ The CityTown ~~and its consultants~~ provided comments on these drawings. GoTriangle agrees to resolve those comments in the 90 percent design plans as provided in this Agreement.

B. Interim Design Review

I. *Overview.* The Parties recognize the need for consistent coordination and expeditious decision-making prior to the CityTown's review of 90% design plans. To facilitate this coordination, the Parties have established ~~committees and subcommittees~~ staff working groups, which shall be comprised of appointed members from GoTriangle, its consultants, and the CityTown with expertise in the underlying subject matter. ~~See Attachment D ("Committee Roster").~~ The committees and subcommittees shall hold regular meetings pursuant to an agreed upon meeting schedule. If the members of a committee or sub-committee cannot reach resolution on an issue that falls within its purview, the issue shall be brought to the CityTown Manager/GoTriangle Executive Leadership Meeting as soon as possible for final resolution pursuant to Art. 5.A. of this Agreement.

~~II. *Committees and Subcommittees.* The Parties have established three committees for discipline focused coordination: the Transportation Committee (with subcommittees); the Stormwater Committee; and the Utility Committee.~~

Commented [BH9]: This staff committee structure is unique to Durham.

- ~~a) *Transportation Committee.* The primary focus of the Transportation Committee is to address design issues relating to roadway and typical sections, bicycle and pedestrian facilities, traffic signals, signal controller equipment, traffic operations, emergency vehicle preemption, transit vehicle preemption, bus queue jumpers, maintenance of traffic criteria, maintenance of traffic concepts, road closures, lane closures, detours and other related matters. The Transportation Committee contains the following subcommittees: Roadway, Traffic Operations, Traffic Maintenance, and Transit Integration.~~
- ~~b) *Stormwater.* The primary focus of the Stormwater Committee is to evaluate stormwater outfall locations and stormwater treatment requirements, address comments on hydraulic studies, and address other related design issues.~~
- ~~c) *Utilities.* The primary focus of the Utilities Committee is to evaluate water, sewer and CityTown stormwater conveyance requirements for utility relocations and address other related design issues.~~

While it is GoTriangle’s responsibility to provide coordination, reconciliation, and quality control between ~~each of the identified committees~~ the working groups, the CityTown agrees to provide appropriate subject matter experts (using staff and/or consultants) with the ability to provide direction and availability to be responsive to requests.

C. Grade Crossing Diagnostic Review

Throughout the CityTown, construction of the Project will impact and traverse ~~many~~several existing streets at-grade. Design of these impacts is ongoing and will require the CityTown’s participation due to the effects on surrounding traffic and necessary integration with existing traffic control devices. This coordination between the Parties will be accomplished through a Diagnostic Review Process. “Diagnostic Review Process” refers to the process by which the CityTown (with assistance from its consultants, as needed) will perform site visits and review the plans, standards, and specifications of at-grade crossings proposed by GoTriangle prior to the submittal of 90% design drawings. The CityTown agrees to provide appropriate subject matter experts with the ability to provide direction to each diagnostic review.

The Parties shall cooperate as necessary to amend the Final Design Review Reimbursement Agreement (GoTriangle Contract Number 18-013) to reimburse the Town for expenses related to review of design plans pursuant to this Article 2.

Commented [BH10]: This provision helps ensure the Town will be reimbursed by GoTriangle for any consultant assistance it needs with the grade crossing review process.

D. Corridor Aesthetics and Line-wide Identity Review

Prior to the 90% Submittal Review, GoTriangle will hold meetings with the CityTown of Durham Chapel Hill to obtain feedback on retaining wall aesthetics, fence/railings materials and appearance, required landscaping/streetscaping, and station finishes. The CityTown of DurhamChapel Hill agrees to provide appropriate subject matter experts with the ability to provide feedback to the design team in a timeframe aligned with GoTriangle’s design development schedule.

E. Ninety Percent Design Plan Review

I. *Overview.* GoTriangle shall submit 90% design plans to the CityTown for review and comment. Plan formatting and other elements of the drawings will be to GoTriangle's standards. The CityTown may also request GoTriangle to provide other information in GoTriangle's possession related to aspects of the Project that impact CityTown Property.

II. *Timeframe for Review and Comment.* Prior to submittal of 90% design plans to the CityTown, the PCM for each Party shall confer to determine the timeframe available for CityTown review and comment; GoTriangle shall provide an index of drawings ahead of each submittal to facilitate this determination. All comments will be delivered to GoTriangle within the agreed-upon timeframes. ~~Timeframes for review of plans by the Town shall be reasonable, and afford an opportunity for plans to be available for posting on the Town's website.~~ If the CityTown intends to seek an extension of the timeframe, the PCM for each Party shall confer to determine the feasibility and duration of such extension. To assist the CityTown with the expedited 90% Design Review, GoTriangle will provide a list of comments and responses from the 50% design review and Interim Design Reviews as well as a reference to the 90% design drawing or other document where the comment was addressed. GoTriangle will respond to all comments arising from the 90% design plan review in the 100% design plans. The Parties recognize that to ensure adherence to the Project Schedule substantial modifications may be restricted once design plans reach 90% completion.

III. ECP Issuance: GoTriangle shall submit all documentation required by the ECP for review and approval by the Town's Engineering Department. Upon approval of these items the Town will issue the ECP and the Notice to Proceed. No construction activities may commence prior to the approval of the ECP.

F. Design Changes During Construction

If the need for a design change to an Improvement or Betterment arises during construction that will require deviation from CityTown standards, GoTriangle shall submit the change to the CityTown for review and approval of the change. In order to preserve the construction schedule, the CityTown agrees to provide a response to GoTriangle regarding deviations within ten (10) business days, unless specifically expedited due to urgency. GoTriangle or its designee shall provide final record drawing certifications and required permitting closeout paperwork.

ARTICLE 3- PROJECT ELEMENTS

A. Stormwater Facilities

GoTriangle is responsible for design and construction of systems to collect and discharge stormwater runoff from light-rail facilities. Upon the CityTown's request, GoTriangle shall provide to the CityTown any technical reports, studies, calculations and certifications in GoTriangle's possession that address CityTown facilities or right-of-way.

The project will be governed by 15A NCAC 02B .0271 State and Federal Entities. GoTriangle is responsible for coordination with the North Carolina Department of Environmental Quality ("NCDEQ") for review of the project design for compliance with 15A NCAC 02B .0271 which includes stormwater control measures for nutrient treatment. The portion of the project to

Commented [BH11]: There are homeland security concerns with sharing detailed construction drawings of community infrastructure. GoTriangle will share more conceptual information.

include the rail system, bridges, roadways, pedestrian facilities, and development within the footprint of the rail system shall be considered linear portions of the project. Park-and-ride facilities and other large station developments shall be considered non-linear portions of the project. The CityTown will review non-linear portions of the project for compliance with the Town's stormwater management standards as codified on the effective date of this Agreement, including those listed in Section 5.4 of the Town's Land Use Management Ordinance (Appendix A of the Chapel Hill, North Carolina Code of Ordinances). ~~peak runoff control requirements in accordance with Section 70-738 of the City Code.~~ CityTown approval of non-linear portions of the project is contingent upon compliance with these standards, and approval from the NCDEQ. The CityTown agrees to assist GoTriangle in resolving any conflicting State or CityTown stormwater design requirements that may arise.

Commented [BH12]: This section helps memorialize the stormwater management standards that the project must meet.

B. Buchanan Boulevard Station Mural Impacts

~~GoTriangle is aware of the significance of the Pauli Murray mural located on the exterior of the Cary Lumber Warehouse at 117 South Buchanan Boulevard. This mural will be impacted due to construction of the Project. The Parties shall continue to coordinate pursuant to the manner outlined in Art. 1.B. to address this matter through mitigation, preservation or other method to be determined.~~

Commented [BH13]: This provision is inapplicable to the Town.

C. Supply of Electrical Power by Duke Energy

The CityTown acknowledges that Duke Energy will be the supplier of electricity for the Project ("Electrical Service"). Electrical Service includes the installation and maintenance of primary electrical cables for traction power substations, and the installation and maintenance of secondary electrical service for Project facilities.

D. Relocation of CityTown-owned and OWASA-Owned Utilities

I. *Overview.* Relocation of certain CityTown-owned and OWASA-owned utilities ~~may be~~ required to permit the unobstructed construction of the Project, ~~including the ROMF~~. GoTriangle shall use reasonable efforts to identify all ~~City such Town~~ Utilities impacted by the Project. GoTriangle shall notify the CityTown and OWASA in writing of any planned condemnations of private property that contain existing CityTown or OWASA water and sewer utilities or infrastructure at least 14 calendar days prior to filing any condemnation claim on the private property. GoTriangle shall pursue negotiate a separate agreement with OWASA for relocation of OWASA owned and operated utilities work with OWASA independently with respect to any relocation of OWASA facilities.

Relocation and/or replacement of existing utilities found to be in conflict with construction of the Project is an eligible project expense. Requests to upgrade utilities as part of or in addition to a required relocation would constitute a Betterment as defined in Art. 1.H.III. Requests to install utilities in accordance with a modified design standard that results in a significant increase in grade or size will be assessed for project expense eligibility pursuant to Art. 1.H. Construction activity in the CityTown may begin as early as 2020 following receipt of a FFGA and shall be completed in accordance with the Project Schedule.

II. *Design of Relocations.* GoTriangle or its consultants shall be responsible for design of relocations of CityTown-owned utilities, including design development and sealing construction drawings. The CityTown agrees to support GoTriangle in the design of conflicting CityTown-owned utilities to be relocated. GoTriangle shall coordinate with the CityTown to identify suitable locations for the relocation of CityTown-owned utilities. ~~The minimum utility easement shall be 25 feet for all relocated utilities unless approved in writing by the City of Durham, and all new easements outside of rights of way shall be accessible across the entire length of the easement without a crossing of the light rail tracks. The Parties shall assess the identified properties for suitability using standards provided to GoTriangle in writing by the City upon the identification of City-owned utilities to be impacted. If the property identified by GoTriangle is not suitable for relocation, the City may request GoTriangle to acquire adjacent property to satisfy suitability. GoTriangle shall provide to the City an initial design, through the 50% and Interim Design Review process, of relocated utilities consistent (to the extent practicable) with NCDEQ's, the City's, and GoTriangle's design standards and specifications for water and sanitary sewer utilities. GoTriangle shall obtain necessary water and sewer permits from the NCDEQ. GoTriangle shall track variances to the state's minimum design criteria during design. The City Department of Water Management must approve all minimum design criteria variance requests in writing prior to submission to the state for review and approval. Any variances from the City's criteria and standards will be logged and provided as information to the City with each review submittal. The City shall review all shop drawings that contain variances from City standards and specifications. GoTriangle will provide sizing calculations for use by the City in verifying utility sizes against City design criteria. The City, through its review of design drawings and calculations, will provide approval of sizing and location of relocated utilities. The Parties anticipate instances in which there is not an established design standard for certain utilities and installation conditions that are unique to rail projects, such as cathodic protection standards. The Parties will jointly develop design standards and specifications for such utilities and installations.~~

Commented [BH14]: This language is specific to Durham's utility review process.

III. *Construction of Relocations.* GoTriangle's contractors shall be responsible for performing relocations of CityTown-owned utilities. Based on the utility relocation and protection configurations agreed to by GoTriangle and the CityTown at the Interim Design Review workshops, GoTriangle will prepare appropriate construction documents and a schedule for bidding and constructing the work. The CityTown shall review and provide comments on the construction documents and the schedule. The CityTown shall provide any qualification requirements to GoTriangle for the prospective bidders prior to the 90% design submittal. Prequalification requirements that may include a list of preapproved utility contractors and or contractor qualification requirements will be incorporated in the contract documents for work on CityTown-owned ~~water and sewer~~ facilities.

~~GoTriangle acknowledges that only the City's designee (Public Works or Water Management) shall be authorized to put a water or sanitary sewer main or service into service. Likewise, only a City designee is authorized to take a water or sanitary sewer main or service out of service. GoTriangle shall obtain all required permits for relocations.~~

E. Relocation of Private Utilities

The CityTown is not responsible for the review, approval, or permitting of private utility relocations. GoTriangle shall separately coordinate relocations with each private utility. GoTriangle shall obtain required permits for private water and sewer utility relocations from the appropriate state agencies.

F. Reconfiguration of Roadways in the Downtown Corridor

Commented [BH15]: This section is specific to Durham.

~~The City agrees to the reconfiguration of roadways in the downtown area including: one-way West Pettigrew Street eastbound from East Chapel Hill Street to South Dillard Street; two-way Ramseur Street from South Dillard Street to East Chapel Hill Street; the raising of West Pettigrew Street's profile as required to provide safe rail crossings; closing Blackwell Street at the North Carolina Railroad ("NCRR") rail crossing; one-way South Dillard Street southbound at the NCRR rail crossing; the alteration of intersections including Gregson Street, Duke Street, Blackwell Street, South Mangum Street, Vivian Street, South Dillard Street, and Grant Street, as required to allow for safe rail crossings.~~

~~The City agrees to assist GoTriangle in the study of and mitigation of pedestrian impacts in the downtown corridor due to the closure of the Blackwell Street railroad crossing.~~

ARTICLE 4- PROJECT OPERATIONS & MAINTENANCE

A. Future Coordination

Although coordination on matters in this Article are ongoing, the Parties have not yet established committees solely dedicated to certain subject areas. The Parties recognize that specialty committees may need to be established for the successful operations and maintenance of the Project. Such future committees may cover the following topics: safety and security; work force development; transit-oriented development and affordable housing; operations and maintenance; and public engagement and communication.

B. Facility Maintenance Post-Construction

Coordination regarding the maintenance of the facilities described in this Art. 4B is ongoing. The Parties shall continue to coordinate pursuant to the manner outlined in Art. 1.B. Outstanding matters to be addressed include maintenance of areas surrounding grade crossings; maintenance of enhanced pedestrian facilities; maintenance of signage and light poles; maintenance of roadways, curbs, gutters and pavement markings; maintenance of sidewalks, ramps, multi-use-paths and running paths; maintenance of culverts, retaining walls, ditches and other drainage facilities; maintenance of trees, landscaping and hardscaping; maintenance of water supply lines to stations; maintenance of parking facilities; maintenance of fences and gates; and maintenance of utilities; routine station area cleaning and maintenance such as trash pick-up, platform sweeping/cleaning, and vandalism removal at CityTown Stations and weather-related clean-up in station areas such as snow, ice, and storm debris removal. As part of this coordination, the Parties agree to discuss the procedures that will need to be followed in order for some facilities constructed by GoTriangle to be formally accepted by the CityTown.

C. CityTown Emergency Services and Security

I. *Security.* GoTriangle will be responsible for providing security forces to monitor and regulate the CityTown Stations.

II. *Emergency Response.* The CityTown Stations shall be considered part of the CityTown with respect to emergency services. The City of DurhamChapel Hill Fire Department and the City of DurhamTown of Chapel Hill Police Department shall provide fire protection and emergency response services to the CityTown Stations in accordance with the manner in which these services are provided throughout the CityTown.

III. *Emergency Services Management Plan.* The Parties will continue to work together to coordinate additional details of emergency services to include priority intersection crossing of emergency vehicles and the coordination of new emergency communications infrastructure with existing infrastructure. The Parties agree to memorialize these details in an Emergency Services Management Plan to ensure the safety of light rail passengers, GoTriangle staff, CityTown Fire and Police officers, CityTown residents, and the general public.

ARTICLE 5- COORDINATING COMMITTEES

A. Executive Leadership

The CityTown Manager and GoTriangle President and CEO shall convene a regular meeting to maintain high-level coordination on project issues and provide a forum to resolve issues as they may arise through the coordination processes described in this agreement.

This meeting shall include, at a minimum, CityTown Manager’s staff responsible for oversight of Transportation, Planning, and Stormwater Management, and Public Works, and GoTriangle staff responsible for management of the D-O LRT Project. This meeting shall be held bi-weekly at a frequency determined by the Town Manager and GoTriangle President and CEO for the duration of project design. As the project transitions into construction, the Parties may adjust the schedule by mutual agreement.

B. Design Review

Design review coordinating committeescoordination shall be convened as described in Art. 2B.

C. Fire/Life Safety and Security Committee

The Fire/Life Safety and Security Committee is a project-wide committee convened by GoTriangle on an as-needed basis throughout design and construction of the D-O LRT Project (approximately two to four times per year). The committee focuses on the safe operations of GoTriangle-provided services. It is comprised of GoTriangle, other area transit providers, and those entities that are responsible for emergency medical, fire, and police services throughout the D-O LRT Project corridor. The committee reviews standards and safety/security-related designs and tests to verify code and regulation compliance.

The Parties shall designate CityTown staff responsible for these subject matters to participate in committee meetings and provide support as needed for the committee's work.

D. Transit Operations Committee

The Transit Operations Committee is a project-wide committee convened by GoTriangle on a quarterly basis. The committee is focused on matters involving rail operations and bus/rail integration planning, and includes staff from GoTriangle and transit providers within the D-O LRT Project Corridor.

E. Workforce Development

~~GoTriangle will be a resource to City Departments and partners, such as the Office of Economic and Workforce Development, as the City and its partners pursue workforce development partnerships to prepare the local workforce for construction-related jobs and contracting opportunities. GoTriangle will be a resource to Town staff and partners, such as the Office of Economic Development, as the TownCity and its partners pursue workforce development partnerships to prepare the local workforce for construction-related jobs and contracting opportunities.~~

F. Transit-Oriented Development and Affordable Housing

GoTriangle will continue to work with the CityTown and its partners, such as the Durham Orange County Housing Authority, as requested to support the CityTown's and the County's affordable housing and transit-oriented development goals.

G. Construction Inspections

The CityTown will be invited to participate in the monthly progress meetings for all contracts with the intent of coordinating construction activities that will affect CityTown-owned facilities, traffic shifts and phasing, road and lane closures, and utility work. The Contractor will provide a one month look-ahead schedule prior to the meeting for review by the CityTown's attendees and time will be allotted on the agenda to allow discussion of concerns and/or conflicts.

ARTICLE 6- OTHER PROVISIONS

A. Relationship of the Parties

Nothing contained in this Agreement shall be construed 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.

B. Force Majeure

The Parties shall not be liable for any failure to perform as required by this Agreement to the extent such failure to perform is caused by any reason beyond the Party's reasonable control, or by reason of any of the following: acts of God, acts or threats of terrorism, civil disorder, severely inclement weather, disease, accidents, failure of utilities, failure of any required governmental

approval or funding, acts of law or regulation that prohibit or restrict performance, or similar occurrences.

C. Notice

To be effective, any notice or other communication required or allowed by this Agreement must be in writing and must be delivered accordingly: by personal delivery to the address set forth below; by certified mail, return receipt requested, to the address set forth below; or by nationally-recognized overnight delivery service to the address set forth below. Either Party may change its address by giving five (5) calendar days prior notice to the other Party of such change. Notice shall be deemed delivered or received upon the earliest to occur of: (a) upon receipt if delivered personally to the Party; (b) three (3) business days after the postmark if sent by certified mail; or (c) the next day that is not a Saturday, Sunday, or legal holiday if sent by overnight delivery service or if refused.

If to the ~~City~~Town:

~~_____~~ Bergen
Watterson
~~_____~~ Transportation
Planning Manager
~~_____~~ 405 Martin
Luther King Jr. Blvd
~~Durham, NC 27~~ Chapel Hill, NC
27516

If to GoTriangle:

GoTriangle President and CEO
4600 Emperor Blvd., Suite 100
Durham, NC 27703

With copies to:

GoTriangle General Counsel
4600 Emperor Blvd., Suite 100
Durham, NC 27703

With copies to:

~~{Attorney}~~ Ralph D. Karpinos, Town
Attorney
~~_____~~ Town of Chapel
Hill
~~Durham, NC 27~~ Chapel Hill, NC
27514

D. Amendments

This Agreement may be amended only by a written instrument executed by the Parties.

E. Dispute Resolution

I. *Informal Dispute Resolution*. The Parties shall use their best efforts to resolve informally any and all disputes that arise between the Parties under this Agreement in a timely and expeditious manner. The Parties shall first endeavor to resolve any dispute by having staff discuss the dispute. If staff cannot resolve the dispute, their respective senior management shall discuss the dispute. Senior management for purposes of this Section is the President and CEO for GoTriangle and the [CityTown](#) Manager for the [CityTown](#), or other such senior managers as the respective Parties may designate. The Parties shall acknowledge and respond to notices of dispute without undue delay.

II. *Exceptions to Informal Dispute Resolution*. If Project construction and/or operations and/or a Party's act(s) or omission(s) creates an imminent threat of harm to human health or safety, or to the environment, the affected Party shall be entitled to immediately take any and all actions necessary to mitigate the harm without engaging in dispute resolution.

III. *Mediation*. As a condition precedent to filing or pursuing any legal or equitable remedy, the Parties agree to participate in good faith in non-binding mediation through the use of a mutually-acceptable neutral mediator. The Parties to the dispute shall share equally in the cost of the mediator. Each Party shall be responsible for its own costs related to such mediation. If the Parties have not resolved their dispute within 30 calendar days after the mediation, either Party may resort to any available legal remedies.

F. Termination of Agreement

The Parties may terminate this Agreement by subsequent written agreement between the Parties, upon terms and conditions mutually acceptable to the Parties at that time. GoTriangle may also terminate this Agreement, effective immediately upon written notice to the [CityTown](#), upon GoTriangle's determination that there is insufficient funding for the Project.

G. Non-Waiver

The waiver by a Party of any default shall not be a waiver of any preceding or subsequent breach of the same or any other term or condition contained in this Agreement.

H. Merger

This Agreement constitutes the entire agreement of the Parties to the contents herein, all prior discussions, representations, and agreements being merged herein.

I. Governing Law

This Agreement shall be governed by the law of the State of North Carolina, excepting only its conflict of law principles. If either Party commences a lawsuit or other proceeding relating to or arising from this Agreement, the United States District Court for the Middle District of North Carolina shall have sole and exclusive jurisdiction over any such proceeding where a federal court would have subject matter jurisdiction, and the courts of the State of North Carolina in the County of Durham [or Orange](#) shall have sole and exclusive jurisdiction in all other cases. Any such court shall be proper venue for any lawsuit or judicial proceeding, and the Parties waive any objection to such venue.

J. Severability

If for any reason any term or condition of this Agreement shall be declared void or unenforceable by any court of law or equity, it shall only affect such particular term or condition of this Agreement and the balance of this Agreement shall remain in full force and effect and shall be binding upon the Parties.

K. No Third Party Rights

This Agreement shall not be interpreted to create any legally enforceable rights or benefits in any person or entity other than the Parties to this Agreement.

L. Survival of Obligations

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

Commented [BH16]: The Town Attorney notes that survival of obligations is common boilerplate for such agreements in order to protect all parties. There may be obligations in the agreement that extend beyond the current expiration date.

M. Successors and Assigns

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.

N. Construction of Terms

This Agreement is entered into after a full investigation into the subject matter and an opportunity to consult legal counsel, neither Party relying upon any statement or representation not contained in this Agreement. Both Parties have participated in drafting and negotiating this Agreement, and no interpretive presumption shall be drawn against either Party by virtue of its role in drafting this Agreement.

O. Captions and Headings

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

P. Further Assurances

Each Party, upon the request of the other Party, shall execute and deliver such further documents and instruments as the 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.

Commented [BH17]: The Town Attorney notes that this language is common boilerplate as the parties continue to work together. The intent is to help make sure that any future agreements would not inadvertently contradict this one.

Q. 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.

R. E-Verify Requirements

I. *N.C.G.S. § 143-129*. If this contract is awarded pursuant to *N.C.G.S. § 143-129* –

- a) the Parties represent and covenant that contractors and subcontractors comply with the requirements of Article 2 of Chapter 64 of the N.C.G.S.;
- b) the words "contractor," "contractor's subcontractors," and "comply" as used in this Art. 6.R.I. shall have the meanings intended by N.C.G.S. § 143-129(j); and
- c) the Parties are relying on this Art. 6.R.I. in entering into this contract.

II. *N.C.G.S. § 143-133.3*. If this contract is subject to *N.C.G.S. § 143-133.3*, the contractor and subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the N.C.G.S.

S. Iran Divestment Act Certification

Parties certify that, if they submitted a successful bid for this contract, then as of the date it submitted the bid, the Parties are not identified on the Iran List. If it did not submit a bid for this contract, the Parties certify that as of the date that this contract is entered into, the Parties are not identified on the Iran List. It is a material breach of contract for the Parties to be identified on the Iran List during the term of this contract or to utilize on this contract any contractor or subcontractor that is identified on the Iran List. In this Iran Divestment Act Certification section -- "Parties" is defined as defined in this Agreement; and "Iran List" means the Final Divestment List – Iran, the Parent and Subsidiary Guidance List – Iran, and all other lists issued from time to time by the N.C. State Treasurer to comply with G.S. § 147-86.58 of the N.C. Iran Divestment Act.

T. 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.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the last date executed below.

THE ~~CITY OF DURHAM~~ TOWN OF CHAPEL HILL, NORTH CAROLINA RESEARCH TRIANGLE
REGIONAL

**PUBLIC TRANSPORTATION
AUTHORITY D/B/A GOTRIANGLE**

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: Jeffrey G. Mann
Title: President and CEO
Date: _____

SIGNATURES CONTINUED ON PAGE FOLLOWING

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act by GoTriangle.

By: _____
Name: Sandra Freeman
Title: Chief Financial Officer and
Director of Administration

Reviewed and approved as to legal form.

By: _____
Name: Shelley Blake
Title: General Counsel

- ~~Attachment A: Project Map~~
- ~~Attachment B: Project Schedule~~
- ~~Attachment C: MOA for Protection of Historic and Archaeological Resources~~
- ~~Attachment D: Committee Roster~~

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act by the Town of Chapel Hill.

By: _____
Name: Amy Oland
Title: Finance Officer

Reviewed and approved as to legal form.

By: _____
Name: Ralph D. Karpinos
Title: Town Attorney

- Attachment A: Project Map
- Attachment B: Project Schedule
- Attachment C: MOA for Protection of Historic and Archaeological Resources

STATE OF NORTH CAROLINA
COUNTY OF ORANGE

GOTRIANGLE CONTRACT NUMBER: 18-031

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

AND

TOWN OF CHAPEL HILL

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT (“Agreement”) is made by and between the TOWN OF CHAPEL HILL (the “Town”), a municipality in Orange County and Durham County, North Carolina, and the RESEARCH TRIANGLE REGIONAL PUBLIC TRANSPORTATION AUTHORITY d/b/a GOTRIANGLE, “a public body and body politic and corporate of the State of North Carolina” (N.C.G.S. § 160A-603), with a principal office located at 4600 Emperor Boulevard, Durham, North Carolina 27703 (“GoTriangle”). The Town and GoTriangle may be referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

A. GoTriangle

GoTriangle, a regional public transportation authority organized under the laws of North Carolina, operates and conducts its activities in Durham, Orange, and Wake counties of North Carolina. GoTriangle’s powers, duties, and purposes are set forth in Article 26 of Chapter 160A of the North Carolina General Statutes (N.C.G.S.), as amended. GoTriangle’s broad purpose is “to finance, provide, operate, and maintain for a safe, clean, reliable, adequate, convenient, energy efficient, economically and environmentally sound public transportation system for the service area of the Authority through the granting of franchises, ownership and leasing of terminals, buses and other transportation facilities and equipment, and otherwise through the exercise of the powers and duties conferred upon it, in order to enhance mobility in the region and encourage sound growth patterns” (N.C.G.S. § 160A-608). GoTriangle is the local sponsor for the Durham-Orange Light Rail Transit Project (“Project”) and is working directly with the Federal Transit Administration (“FTA”) to deliver the Project for the benefit of the general public.

B. The Town

The Town is a municipality in Orange and Durham Counties, North Carolina. Based on preliminary engineering plans, there are six (6) planned Project stations (UNC Hospitals, Mason Farm Road, Hamilton Road, Friday Center Drive, Woodmont, and Gateway) in the Town (collectively “Town Stations”). *See Attachment A* (Project Map). The Town supports the Project and recognizes its value to Chapel Hill residents, the general public, and the State of North Carolina. As proposed, the Project may impact various Town resources, including rights-of-way (both fee simple and easements), other land, facilities, buildings, drainage systems (those accepted and maintained by the Town), and other properties and assets owned by the Town (collectively, “Town Property”).

C. Durham-Orange Light Rail Transit Project

The Project, with a budget of approximately \$2.47 billion, is a major investment in public transportation infrastructure and is eligible for federal funding through FTA’s Capital Investment Grant (“CIG”) program. The Project is a light rail transit service with stations located at major activity centers in Chapel Hill and Durham along a 17.7-mile alignment. The Project also includes a rail operations and maintenance facility (“ROMF”) , to be located outside of the Town limits, and parking facilities. *See Attachment A* (Project Map). The Project is currently in the engineering phase of the CIG program. During the engineering phase, project sponsors must satisfy several requirements, including the completion of all critical third party agreements. This Agreement has been identified by FTA as critical and a precondition to construction funding.

D. Purpose of Agreement: Ongoing Cooperation and Coordination

This Agreement describes major roles and responsibilities applicable to each Party in connection with the successful implementation of the Project. Sustained cooperation and coordination between the Parties is necessary in order to build the Project within established parameters of budget and schedule, while also minimizing impacts to Town Property to the greatest extent practicable. This Agreement memorializes the Parties’ commitment to cooperate in good faith and is a record of their shared interest in advancing the Project to full operation and revenue service in a timely, cost-effective, and efficient manner.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the benefits of which flow to the Town and GoTriangle from each other, and in further consideration of the mutual covenants, terms, conditions, restrictions, and representations contained or incorporated into this Agreement, the Parties agree as follows:

ARTICLE 1- GENERAL AGREEMENTS ON PROJECT DEVELOPMENT

A. Term of the Agreement

This Agreement shall become effective on the last date executed below and shall continue in force until terminated by written agreement between the Parties; terminated pursuant to Art. 6.F. of this Agreement; or on December 31, 2021, if GoTriangle has not obtained a Full Funding Grant Agreement (“FFGA”) from the FTA for the Project by that date (“Term”).

B. Project Cooperation

The Parties shall work efficiently and cooperatively to review and resolve all Project-related matters between the Parties in a cost-effective manner. This cooperation shall encompass engineering and design, construction and inspections, and operations and maintenance. The Parties shall support the schedule for the Project developed by GoTriangle and shall take timely actions on matters for which they are responsible under this Agreement. The Parties shall continue to work together to identify ways to improve bicycle and pedestrian connections to stations, to identify strategies to further minimize the visual effects of the Project, and to minimize impacts to Town Property.

To carry out this Agreement effectively, each Party shall appoint a Project Coordination Manager (“PCM”). The PCM for each Party shall routinely monitor the status of Project-related decision-making and commitments by the Parties; shall routinely confer with the PCM for the other Party; and shall facilitate ongoing and productive coordination between the Parties, including (i) the exchange and flow of information between GoTriangle and the Town specific to the Project, (ii) making non-binding recommendations to resolve any problems or issues concerning the Project, and (iii) ensuring issues are elevated to decision makers and resolved in a timely manner.

C. Future Agreements

The Parties recognize that additional approvals and agreements will be necessary for the implementation of the Project. The Parties shall continue to work together as outlined in Art. 1.B. to resolve outstanding matters referenced throughout Articles 2, 3, and 4 of this Agreement. The mutual understandings of the Parties shall be memorialized in future agreements. Such future agreements may cover the following topics: temporary construction easements; dedications of right-of-way or facilities; parking; utilities; pre-revenue service testing; operations and maintenance, including management of Town traffic signals interconnected with the light rail system; and the GoPass program.

D. Project Schedule

The Town and GoTriangle shall use reasonable efforts to adhere to the Project Schedule, incorporated into this Agreement as Attachment B. Notifications of schedule adjustments affecting the Town will be provided to the Town as soon as such adjustments are made.

E. State and Federal Requirements

GoTriangle and the Town shall comply with all state and federal requirements applicable to the Project, including the requirements of the FTA and its CIG program and other requirements related to the Project's eligibility for state and federal funding. Such state and federal requirements may also include, when applicable, requirements related to contracting, procurement, and worker protections (e.g., the Davis-Bacon Act). In addition, GoTriangle shall continue to implement commitments contained in final environmental documentation pursuant to the National Environmental Policy Act.

F. Applicability of Town Requirements

The Project is a linear public transportation system comprised of component parts, such as tracks, bridges, station platforms (currently planned with canopy architecture), and electrical systems. The siting, design, construction, installation, operation, and maintenance of the component parts of the Project are exempt from regulation under the Town's zoning authority, except where a component part constitutes the "erection, construction, and use of buildings" within the meaning of North Carolina law (N.C.G.S. § 160A-392). To date, the Parties have identified parking decks as components of the Project subject to Town zoning. The Project does not currently include any parking decks within the Town. The Parties have also identified traction power sub-stations ("TPSS") as components that may be subject to Town zoning. The Town retains the right to review any changes to the project design or scope that are not excluded from the Town's zoning purview pursuant to N.C.G.S. § 160A-392.

The Town will review design drawings and approve construction of the Project as outlined in Art. 2 of this Agreement. As part of its review to date, the Town has also identified the following approvals as necessary for various components of the Project:

- I. Where the component includes construction of rail lines, paths or walkways, station platforms, TPSS units, utilities, road crossings or surface parking within right-of-way held by NCDOT, or the Town, , an encroachment agreement or other appropriate agreement must be executed with the corresponding holder of the right-of-way interest.
- II. Where the component includes the construction of road crossings within right-of-way held by NCDOT, or the Town, a Construction Management Plan must be approved by the Town.
- III. Where the component includes construction of surface parking on GoTriangle property which is not right-of-way, the Town's stormwater management standards and buffering and parking landscaping standards apply, as codified on the effective date of this Agreement. (Chapel Hill Land Use Management Ordinance -- Appendix A of the Chapel Hill, North Carolina Code of Ordinances, Section 5.4, Section 5.6, and Section 5.9).

GoTriangle and the Town have already collaborated, and will continue to collaborate, on the development of preliminary design plans for the Project. Upon completion of 90 percent design plans, GoTriangle shall submit the 90 percent design plans to the Town for its review and approval, where necessary. The 90 percent design plans shall include drawings, special provisions, supplemental technical specifications, and updated quantity take-offs. The 90 percent design plans shall be essentially complete with only items of insignificance needing detailing or checking. The specifications shall be complete and finalized with all references and standards

checked for latest edition and requirements. A separate list of submittals required by contractors during construction shall be included in the individual specification sections. All calculations shall be complete and checked in accordance with established QA/QC procedures and submitted in bound and electronic format. Drawings shall be nearly complete for bidding purposes and shall have incorporated or resolved all comments made during preceding reviews, follow-on progress meetings, Interim Design Reviews, and other informal reviews. All prior review comments and comments from the Interim Design Reviews shall have been responded to, agreed upon, and incorporated into the 90 percent submittal documents. Unresolved comments will be identified and addressed with an action plan for resolution. Reports and studies shall be submitted as draft-final.

Town reviews and approvals identified herein represent those that are currently contemplated by the Parties and are subject to the conditions of this Agreement, including adherence to the Project Schedule. Additional Town approvals, such as Certificates of Appropriateness, may be required and subject to the standard review process utilized by the Town including posting of information on the Town's website and affording opportunities for public review and comment.

During final design, the Parties will evaluate the applicability of the Town's Noise Ordinance to the Project. In addition, GoTriangle will implement any mitigation commitments identified in the final environmental documentation pursuant to the National Environmental Policy Act.

G. Environmental Evaluation

GoTriangle has conducted an evaluation of potential environmental effects resulting from the construction and operation of the Project, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.) ("NEPA") and Section 4(f) the U.S. Department of Transportation Act of 1966 (codified in 23 U.S.C. § 138 and 49 U.S.C. § 303 and its implementing regulations codified at 23 C.F.R. Part 774) ("Section 4(f)"). Measures to minimize and mitigate the potential effects from the Project are detailed in the Amended Record of Decision ("Amended ROD"). In addition, GoTriangle, the FTA, and the State Historic Preservation Office ("SHPO") entered into a Memorandum of Agreement ("MOA"), which addresses the identification, evaluation and treatment of historic and archaeological resources that may be affected by the Project. See *Attachment C* (MOA for Protection of Historic and Archaeological Resources). The MOA also outlines the procedures to follow in the event of an unanticipated discovery during construction. Mitigation commitments included in those documents are incorporated by reference into this Agreement. The Parties' obligations pursuant to this Agreement shall be bound by the mitigation measures for Archaeological Resources as set forth in the MOA.

H. Impacts to Town Property and Improvements to be Accepted by the Town

I. *Generally.* This Agreement addresses the management of Project impacts to Town Property and addresses the Project's construction of improvements to be owned, operated, and maintained by the Town after construction is complete and upon formal acceptance by the Town ("Improvement(s)"). GoTriangle shall provide the Town a complete set of record drawings as required for formal acceptance by Chapel Hill Town Council. GoTriangle agrees to adhere to other procedures as necessary to ensure timely acceptance by Town Council. The Town acknowledges

that all Improvements or other work to be performed by GoTriangle shall be screened for eligibility under FTA's funding laws, rules, and guidelines. Except as otherwise expressly stated herein, work that is ineligible for FTA funding is outside of the scope of the Project and of this Agreement.

II. *GoTriangle Responsibilities.* GoTriangle shall be responsible for design, engineering and construction of all Improvements related to the Project, subject to provisions below related to Betterments. By way of example, Improvements may include the reconstruction or realignment of streets, pedestrian and bicycle facilities, utilities, drainage conveyances, traffic signals, signs, traffic legends, lane markings, street lighting, and traffic detours. GoTriangle shall identify and submit for review and approval to the Town all improvements that may impact existing utilities (including but not limited to stormwater, and fiber optic facilities), other infrastructure (including but not limited to transportation facilities), and natural waterways.. GoTriangle agrees to consult with the Town regarding the inclusion of reasonable indemnity, warranty, and assignment of warranty provisions in the Project's construction contracts for Improvements or Betterments that will be accepted by the Town for maintenance.

When restoring, reconstructing, replacing, or relocating Town Property, GoTriangle shall be responsible for following adopted design standards in effect at the time of the 90% submittal. GoTriangle shall respond to Town comments in a timely manner between submittals in order to resolve review comments. The Town shall not be responsible for any delay in permit issuance incurred in order to resolve issues related to the aforementioned Improvements. In addition, GoTriangle shall provide reasonable notice to the Town for any issues that it would like to resolve.

III. *Betterments.* GoTriangle is not required to provide expansions, upgrades, or enhanced levels of service ("Betterments") in connection with the Project unless mandated by state or federal law, regulations or standards. An Improvement is not a Betterment if the materials or devices are required by the Project, of equivalent standards although not identical, of the next highest grade or size when the existing materials or devices are no longer regularly manufactured, required by federal, state or local law or code, or required by current design practices regularly followed by the Town in its own work and there is a direct benefit to the Project.

The Town may request GoTriangle to design and construct Betterments provided that the Town reimburses GoTriangle the difference in Total Cost between the base Improvement and the Betterment. "Total Cost" means all costs for the design and construction, including GoTriangle staff effort, design support, construction management, construction, testing, and claims resolution services. The Town's timely identification and communication of desired Betterments will promote a more cost effective implementation of the Betterment.

E. Town Review Process

The Town will review and approve construction of the Project through the Town's Engineering Construction Permit ("ECP") process. In addition, the Town will review surface parking on GoTriangle property which is not right of way for compliance with the Town's stormwater and landscaping, screening, buffering, and parking landscaping standards. GoTriangle and the Town have already collaborated, and will continue to collaborate, on development of preliminary construction plans for the Project. Upon completion of final construction plans, GoTriangle shall

apply to the Town for an ECP. The Town shall coordinate review of the ECP application through its Public Works Department. The review process for the ECP shall focus on issues raised by the Town during the review of the preliminary construction plans.

The review process shall treat separately those Project components that are located on the campus of the University of North Carolina ("UNC") from those that are not. Project components located on the UNC campus are subject to review by UNC. An ECP for Project components located on the UNC campus shall not be issued until GoTriangle has presented evidence of UNC's approval to the Town.

GoTriangle shall not issue a notice-to-proceed for construction within Town limits until the Town issuance of the ECP, including confirmation of compliance with all applicable stormwater, buffering and parking landscaping standards.

In addition, GoTriangle shall prepare a Communications Plan with input from Town staff that outlines procedures for sharing information about construction with the Town and the community.

GoTriangle shall be responsible for construction and maintenance of each Improvement built under this Agreement until the Improvement is dedicated to or otherwise accepted by the Town.

GoTriangle is responsible for obtaining all federal, state, or local permits and/or approvals required for the Project. All matters related to security and liability for personnel, equipment, and material are wholly GoTriangle's responsibility. The Town does not and shall not be required to carry insurance to cover GoTriangle's activities or property. GoTriangle shall require all contractors, consultants, or subcontractors to carry commercial general liability insurance.

V. Testing and Inspections. GoTriangle shall allow for inspections of Improvements to be performed by Town of Chapel Hill inspectors. The Town shall be authorized to visit the construction at reasonable times to inspect the work. If upon inspection the Town discovers an error in construction or defect in quality, the Town shall notify GoTriangle within forty-eight (48) hours and coordinate with GoTriangle to determine a corrective action, cure or other remedial step.

The Parties agree that a pre-construction conference including the Town's Planning, Public Works, and Building & Development Services Departments, GoTriangle, GoTriangle's Construction Management Consultant, and GoTriangle's Contractor shall be required for each of GoTriangle's major construction contracts. The PCM for both Parties shall be responsible for coordinating participation in the pre-construction conference. Prior to finalizing the bid documents for each contract, GoTriangle shall coordinate with the Town to confirm the timing requirements for the pre-construction conference (e.g., four weeks prior to commencement of construction activities). **ARTICLE 2- DESIGN PROCESS**

This Article outlines the manner in which the Parties will coordinate during the design phase. The Town agrees to participate by providing design feedback to GoTriangle in the manner indicated herein.

GoTriangle has contracted with HDR Engineering, Inc. of the Carolinas to provide design services for the Project as the General Engineering Consultant (“GEC”). GoTriangle shall retain responsibility and authority to provide direction to the GEC regarding design plans.

A. Fifty Percent Milestone Design Review

GoTriangle provided 50% milestone design drawings for Town review beginning February 23, 2018 through April 9, 2018. The Town provided comments on these drawings. GoTriangle agrees to resolve those comments in the 90 percent design plans as provided in this Agreement.

B. Interim Design Review

I. *Overview.* The Parties recognize the need for consistent coordination and expeditious decision-making prior to the Town’s review of 90% design plans. To facilitate this coordination, the Parties have established staff working groups, which shall be comprised of appointed members from GoTriangle, its consultants, and the Town with expertise in the underlying subject matter. The committees and subcommittees shall hold regular meetings pursuant to an agreed upon meeting schedule. If the members of a committee or sub-committee cannot reach resolution on an issue that falls within its purview, the issue shall be brought to the Town Manager/GoTriangle Executive Leadership Meeting as soon as possible for final resolution pursuant to Art. 5.A. of this Agreement.

While it is GoTriangle’s responsibility to provide coordination, reconciliation, and quality control between the working groups, the Town agrees to provide appropriate subject matter experts (using staff and/or consultants) with the ability to provide direction and availability to be responsive to requests.

C. Grade Crossing Diagnostic Review

Throughout the Town, construction of the Project will impact and traverse several existing streets at-grade. Design of these impacts is ongoing and will require the Town’s participation due to the effects on surrounding traffic and necessary integration with existing traffic control devices. This coordination between the Parties will be accomplished through a Diagnostic Review Process. “Diagnostic Review Process” refers to the process by which the Town (with assistance from its consultants, as needed) will perform site visits and review the plans, standards, and specifications of at-grade crossings proposed by GoTriangle prior to the submittal of 90% design drawings. The Town agrees to provide appropriate subject matter experts with the ability to provide direction to each diagnostic review.

The Parties shall cooperate as necessary to amend the Final Design Review Reimbursement Agreement (GoTriangle Contract Number 18-013) to reimburse the Town for expenses related to review of design plans pursuant to this Article 2.

D. Corridor Aesthetics and Line-wide Identity Review

Prior to the 90% Submittal Review, GoTriangle will hold meetings with the Town of Chapel Hill to obtain feedback on retaining wall aesthetics, fence/railings materials and appearance, required landscaping/streetscaping, and station finishes. The Town of Chapel Hill agrees to provide

appropriate subject matter experts with the ability to provide feedback to the design team in a timeframe aligned with GoTriangle's design development schedule.

E. Ninety Percent Design Plan Review

I. *Overview.* GoTriangle shall submit 90% design plans to the Town for review and comment. Plan formatting and other elements of the drawings will be to GoTriangle's standards. The Town may also request GoTriangle to provide other information in GoTriangle's possession related to aspects of the Project that impact Town Property.

II. *Timeframe for Review and Comment.* Prior to submittal of 90% design plans to the Town, the PCM for each Party shall confer to determine the timeframe available for Town review and comment; GoTriangle shall provide an index of drawings ahead of each submittal to facilitate this determination. All comments will be delivered to GoTriangle within the agreed-upon timeframes. Timeframes for review of plans by the Town shall be reasonable. If the Town intends to seek an extension of the timeframe, the PCM for each Party shall confer to determine the feasibility and duration of such extension. To assist the Town with the expedited 90% Design Review, GoTriangle will provide a list of comments and responses from the 50% design review and Interim Design Reviews as well as a reference to the 90% design drawing or other document where the comment was addressed. GoTriangle will respond to all comments arising from the 90% design plan review in the 100% design plans. The Parties recognize that to ensure adherence to the Project Schedule substantial modifications may be restricted once design plans reach 90% completion.

III. *ECP Issuance:* GoTriangle shall submit all documentation required by the ECP for review and approval by the Town's Engineering Department. Upon approval of these items the Town will issue the ECP and the Notice to Proceed. No construction activities may commence prior to the approval of the ECP.

F. Design Changes During Construction

If the need for a design change to an Improvement or Betterment arises during construction that will require deviation from Town standards, GoTriangle shall submit the change to the Town for review and approval of the change. In order to preserve the construction schedule, the Town agrees to provide a response to GoTriangle regarding deviations within ten (10) business days, unless specifically expedited due to urgency. GoTriangle or its designee shall provide final record drawing certifications and required permitting closeout paperwork.

ARTICLE 3- PROJECT ELEMENTS

A. Stormwater Facilities

GoTriangle is responsible for design and construction of systems to collect and discharge stormwater runoff from light-rail facilities. Upon the Town's request, GoTriangle shall provide to the Town any technical reports, studies, calculations and certifications in GoTriangle's possession that address Town facilities or right-of-way.

The project will be governed by 15A NCAC 02B .0271 State and Federal Entities. GoTriangle is responsible for coordination with the North Carolina Department of Environmental Quality

("NCDEQ") for review of the project design for compliance with 15A NCAC 02B .0271 which includes stormwater control measures for nutrient treatment. The portion of the project to include the rail system, bridges, roadways, pedestrian facilities, and development within the footprint of the rail system shall be considered linear portions of the project. Park-and-ride facilities and other large station developments shall be considered non-linear portions of the project. The Town will review non-linear portions of the project for compliance with the Town's stormwater management standards as codified on the effective date of this Agreement, including those listed in Section 5.4 of the Town's Land Use Management Ordinance (Appendix A of the Chapel Hill, North Carolina Code of Ordinances). . Town approval of non-linear portions of the project is contingent upon compliance with these standards, and approval from the NCDEQ. The Town agrees to assist GoTriangle in resolving any conflicting State or Town stormwater design requirements that may arise.

B. Buchanan Boulevard Station Mural Impacts

C. Supply of Electrical Power by Duke Energy

The Town acknowledges that Duke Energy will be the supplier of electricity for the Project ("Electrical Service"). Electrical Service includes the installation and maintenance of primary electrical cables for traction power substations, and the installation and maintenance of secondary electrical service for Project facilities.

D. Relocation of Town-owned Utilities

I. *Overview.* Relocation of certain Town-owned utilities may be required to permit the unobstructed construction of the Project. GoTriangle shall use reasonable efforts to identify all Town utilities impacted by the Project. GoTriangle shall notify the Town in writing of any planned condemnations of private property that contain existing Town utilities or infrastructure at least 14 calendar days prior to filing any condemnation claim on the private property. GoTriangle shall negotiate a separate agreement with OWASA for relocation of OWASA owned and operated utilities.

Relocation and/or replacement of existing utilities found to be in conflict with construction of the Project is an eligible project expense. Requests to upgrade utilities as part of or in addition to a required relocation would constitute a Betterment as defined in Art. 1.H.III. Requests to install utilities in accordance with a modified design standard that results in a significant increase in grade or size will be assessed for project expense eligibility pursuant to Art. 1.H. Construction activity in the Town may begin as early as 2020 following receipt of a FFGA and shall be completed in accordance with the Project Schedule.

II. *Design of Relocations.* GoTriangle or its consultants shall be responsible for design of relocations of Town-owned utilities, including design development and sealing construction drawings. The Town agrees to support GoTriangle in the design of conflicting Town-owned utilities to be relocated. GoTriangle shall coordinate with the Town to identify suitable locations for the relocation of Town-owned utilities.

III. *Construction of Relocations.* GoTriangle’s contractors shall be responsible for performing relocations of Town-owned utilities. Based on the utility relocation and protection configurations agreed to by GoTriangle and the Town at the Interim Design Review workshops, GoTriangle will prepare appropriate construction documents and a schedule for bidding and constructing the work. The Town shall review and provide comments on the construction documents and the schedule. The Town shall provide any qualification requirements to GoTriangle for the prospective bidders prior to the 90% design submittal. Prequalification requirements that may include a list of preapproved utility contractors and or contractor qualification requirements will be incorporated in the contract documents for work on Town-owned facilities.

GoTriangle shall obtain all required permits for relocations.

E. Relocation of Private Utilities

The Town is not responsible for the review, approval, or permitting of private utility relocations. GoTriangle shall separately coordinate relocations with each private utility. GoTriangle shall obtain required permits for private water and sewer utility relocations from the appropriate state agencies.

F. Reconfiguration of Roadways in the Downtown Corridor

ARTICLE 4- PROJECT OPERATIONS & MAINTENANCE

A. Future Coordination

Although coordination on matters in this Article are ongoing, the Parties have not yet established committees solely dedicated to certain subject areas. The Parties recognize that specialty committees may need to be established for the successful operations and maintenance of the Project. Such future committees may cover the following topics: safety and security; work force development; transit-oriented development and affordable housing; operations and maintenance; and public engagement and communication.

B. Facility Maintenance Post-Construction

Coordination regarding the maintenance of the facilities described in this Art. 4B is ongoing. The Parties shall continue to coordinate pursuant to the manner outlined in Art. 1.B. Outstanding matters to be addressed include maintenance of areas surrounding grade crossings; maintenance of enhanced pedestrian facilities; maintenance of signage and light poles; maintenance of roadways, curbs, gutters and pavement markings; maintenance of sidewalks, ramps, multi-use-paths and running paths; maintenance of culverts, retaining walls, ditches and other drainage facilities; maintenance of trees, landscaping and hardscaping; maintenance of water supply lines to stations; maintenance of parking facilities; maintenance of fences and gates; and maintenance of utilities; routine station area cleaning and maintenance such as trash pick-up, platform sweeping/cleaning, and vandalism removal at Town Stations and weather-related clean-up in station areas such as snow, ice, and storm debris removal. As part of this coordination, the Parties agree to discuss the procedures that will need to be followed in order for some facilities constructed by GoTriangle to be formally accepted by the Town.

C. Town Emergency Services and Security

I. *Security*. GoTriangle will be responsible for providing security forces to monitor and regulate the Town Stations.

II. *Emergency Response*. The Town Stations shall be considered part of the Town with respect to emergency services. The Chapel Hill Fire Department and the Town of Chapel Hill Police Department shall provide fire protection and emergency response services to the Town Stations in accordance with the manner in which these services are provided throughout the Town.

III. *Emergency Services Management Plan*. The Parties will continue to work together to coordinate additional details of emergency services to include priority intersection crossing of emergency vehicles and the coordination of new emergency communications infrastructure with existing infrastructure. The Parties agree to memorialize these details in an Emergency Services Management Plan to ensure the safety of light rail passengers, GoTriangle staff, Town Fire and Police officers, Town residents, and the general public.

ARTICLE 5- COORDINATING COMMITTEES

A. Executive Leadership

The Town Manager and GoTriangle President and CEO shall convene a regular meeting to maintain high-level coordination on project issues and provide a forum to resolve issues as they may arise through the coordination processes described in this agreement.

This meeting shall include, at a minimum, Town Manager's staff responsible for oversight of Transportation, Planning, and Stormwater Management, and Public Works, and GoTriangle staff responsible for management of the D-O LRT Project. This meeting shall be held at a frequency determined by the Town Manager and GoTriangle President and CEO for the duration of project design. As the project transitions into construction, the Parties may adjust the schedule by mutual agreement.

B. Design Review

Design review coordination shall be convened as described in Art. 2B.

C. Fire/Life Safety and Security Committee

The Fire/Life Safety and Security Committee is a project-wide committee convened by GoTriangle on an as-needed basis throughout design and construction of the D-O LRT Project (approximately two to four times per year). The committee focuses on the safe operations of GoTriangle-provided services. It is comprised of GoTriangle, other area transit providers, and those entities that are responsible for emergency medical, fire, and police services throughout the D-O LRT Project corridor. The committee reviews standards and safety/security-related designs and tests to verify code and regulation compliance.

The Parties shall designate Town staff responsible for these subject matters to participate in committee meetings and provide support as needed for the committee's work.

D. Transit Operations Committee

The Transit Operations Committee is a project-wide committee convened by GoTriangle on a quarterly basis. The committee is focused on matters involving rail operations and bus/rail integration planning, and includes staff from GoTriangle and transit providers within the D-O LRT Project Corridor.

E. Workforce Development

GoTriangle will be a resource to Town staff and partners, such as the Office of Economic Development, as the Town and its partners pursue workforce development partnerships to prepare the local workforce for construction-related jobs and contracting opportunities.

F. Transit-Oriented Development and Affordable Housing

GoTriangle will continue to work with the Town and its partners, such as the Orange County Housing Authority, as requested to support the Town's and the County's affordable housing and transit-oriented development goals.

G. Construction Inspections

The Town will be invited to participate in the monthly progress meetings for all contracts with the intent of coordinating construction activities that will affect Town-owned facilities, traffic shifts and phasing, road and lane closures, and utility work. The Contractor will provide a one month look-ahead schedule prior to the meeting for review by the Town's attendees and time will be allotted on the agenda to allow discussion of concerns and/or conflicts.

ARTICLE 6- OTHER PROVISIONS

A. Relationship of the Parties

Nothing contained in this Agreement shall be construed 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.

B. Force Majeure

The Parties shall not be liable for any failure to perform as required by this Agreement to the extent such failure to perform is caused by any reason beyond the Party's reasonable control, or by reason of any of the following: acts of God, acts or threats of terrorism, civil disorder, severely inclement weather, disease, accidents, failure of utilities, failure of any required governmental approval or funding, acts of law or regulation that prohibit or restrict performance, or similar occurrences.

C. Notice

To be effective, any notice or other communication required or allowed by this Agreement must be in writing and must be delivered accordingly: by personal delivery to the address set forth below; by certified mail, return receipt requested, to the address set forth below; or by nationally-recognized overnight delivery service to the address set forth below. Either Party may change its address by giving five (5) calendar days prior notice to the other Party of such change. Notice shall be deemed delivered or received upon the earliest to occur of: (a) upon receipt if delivered personally to the Party; (b) three (3) business days after the postmark if sent by certified mail; or (c) the next day that is not a Saturday, Sunday, or legal holiday if sent by overnight delivery service or if refused.

If to the Town:

Bergen Watterson
Transportation Planning Manager
405 Martin Luther King Jr. Blvd
Chapel Hill, NC 27516

If to GoTriangle:

GoTriangle President and CEO
4600 Emperor Blvd., Suite 100
Durham, NC 27703

With copies to:

Ralph D. Karpinos, Town Attorney
Town of Chapel Hill
Chapel Hill, NC 27514

With copies to:

GoTriangle General Counsel
4600 Emperor Blvd., Suite 100
Durham, NC 27703

D. Amendments

This Agreement may be amended only by a written instrument executed by the Parties.

E. Dispute Resolution

I. *Informal Dispute Resolution.* The Parties shall use their best efforts to resolve informally any and all disputes that arise between the Parties under this Agreement in a timely and expeditious manner. The Parties shall first endeavor to resolve any dispute by having staff discuss the dispute. If staff cannot resolve the dispute, their respective senior management shall discuss the dispute. Senior management for purposes of this Section is the President and CEO for GoTriangle and the Town Manager for the Town, or other such senior managers as the respective Parties may designate. The Parties shall acknowledge and respond to notices of dispute without undue delay.

II. *Exceptions to Informal Dispute Resolution.* If Project construction and/or operations and/or a Party's act(s) or omission(s) creates an imminent threat of harm to human health or safety, or to the environment, the affected Party shall be entitled to immediately take any and all actions necessary to mitigate the harm without engaging in dispute resolution.

III. *Mediation*. As a condition precedent to filing or pursuing any legal or equitable remedy, the Parties agree to participate in good faith in non-binding mediation through the use of a mutually-acceptable neutral mediator. The Parties to the dispute shall share equally in the cost of the mediator. Each Party shall be responsible for its own costs related to such mediation. If the Parties have not resolved their dispute within 30 calendar days after the mediation, either Party may resort to any available legal remedies.

F. Termination of Agreement

The Parties may terminate this Agreement by subsequent written agreement between the Parties, upon terms and conditions mutually acceptable to the Parties at that time. GoTriangle may also terminate this Agreement, effective immediately upon written notice to the Town, upon GoTriangle's determination that there is insufficient funding for the Project.

G. Non-Waiver

The waiver by a Party of any default shall not be a waiver of any preceding or subsequent breach of the same or any other term or condition contained in this Agreement.

H. Merger

This Agreement constitutes the entire agreement of the Parties to the contents herein, all prior discussions, representations, and agreements being merged herein.

I. Governing Law

This Agreement shall be governed by the law of the State of North Carolina, excepting only its conflict of law principles. If either Party commences a lawsuit or other proceeding relating to or arising from this Agreement, the United States District Court for the Middle District of North Carolina shall have sole and exclusive jurisdiction over any such proceeding where a federal court would have subject matter jurisdiction, and the courts of the State of North Carolina in the County of Durham or Orange shall have sole and exclusive jurisdiction in all other cases. Any such court shall be proper venue for any lawsuit or judicial proceeding, and the Parties waive any objection to such venue.

J. Severability

If for any reason any term or condition of this Agreement shall be declared void or unenforceable by any court of law or equity, it shall only affect such particular term or condition of this Agreement and the balance of this Agreement shall remain in full force and effect and shall be binding upon the Parties.

K. No Third Party Rights

This Agreement shall not be interpreted to create any legally enforceable rights or benefits in any person or entity other than the Parties to this Agreement.

L. Survival of Obligations

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

M. Successors and Assigns

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.

N. Construction of Terms

This Agreement is entered into after a full investigation into the subject matter and an opportunity to consult legal counsel, neither Party relying upon any statement or representation not contained in this Agreement. Both Parties have participated in drafting and negotiating this Agreement, and no interpretive presumption shall be drawn against either Party by virtue of its role in drafting this Agreement.

O. Captions and Headings

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

P. Further Assurances

Each Party, upon the request of the other Party, shall execute and deliver such further documents and instruments as the 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.

Q. 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.

R. E-Verify Requirements

I. *N.C.G.S. § 143-129*. If this contract is awarded pursuant to *N.C.G.S. § 143-129* –

- a) the Parties represent and covenant that contractors and subcontractors comply with the requirements of Article 2 of Chapter 64 of the *N.C.G.S.*;
- b) the words "contractor," "contractor's subcontractors," and "comply" as used in this Art. 6.R.I. shall have the meanings intended by *N.C.G.S. § 143-129(j)*; and
- c) the Parties are relying on this Art. 6.R.I. in entering into this contract.

II. *N.C.G.S. § 143-133.3*. If this contract is subject to *N.C.G.S. § 143-133.3*, the contractor and subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the *N.C.G.S.*

S. Iran Divestment Act Certification

Parties certify that, if they submitted a successful bid for this contract, then as of the date it submitted the bid, the Parties are not identified on the Iran List. If it did not submit a bid for this contract, the Parties certify that as of the date that this contract is entered into, the Parties are not identified on the Iran List. It is a material breach of contract for the Parties to be identified on the Iran List during the term of this contract or to utilize on this contract any contractor or subcontractor that is identified on the Iran List. In this Iran Divestment Act Certification section -- "Parties" is defined as defined in this Agreement; and "Iran List" means the Final Divestment List – Iran, the Parent and Subsidiary Guidance List – Iran, and all other lists issued from time to time by the N.C. State Treasurer to comply with G.S. § 147-86.58 of the N.C. Iran Divestment Act.

T. 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.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the last date executed below.

THE TOWN OF CHAPEL HILL, NORTH CAROLINA

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

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: Jeffrey G. Mann
Title: President and CEO
Date: _____

SIGNATURES CONTINUED ON PAGE FOLLOWING

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act by GoTriangle.

By: _____
Name: Sandra Freeman
Title: Chief Financial Officer and
Director of Administration

Reviewed and approved as to legal form.

By: _____
Name: Shelley Blake
Title: General Counsel

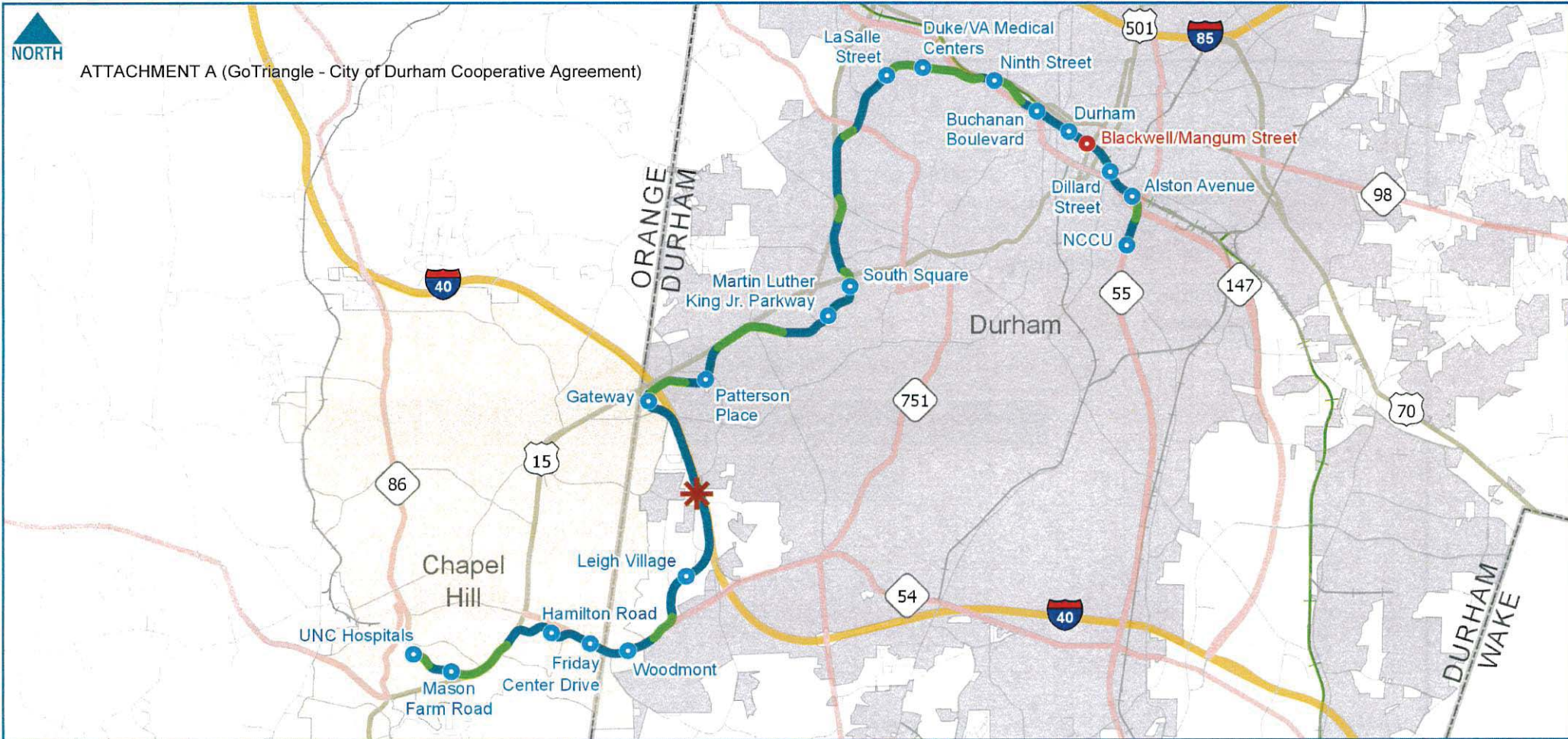
This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act by the Town of Chapel Hill.

By: _____
Name: Amy Oland
Title: Finance Officer

Reviewed and approved as to legal form.

By: _____
Name: Ralph D. Karpinos
Title: Town Attorney

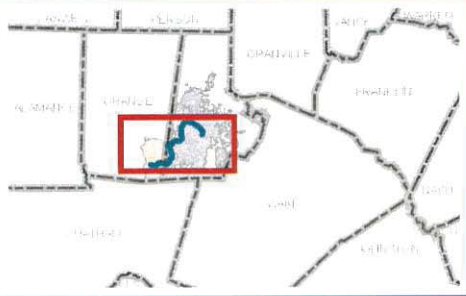
- Attachment A: Project Map
- Attachment B: Project Schedule
- Attachment C: MOA for Protection of Historic and Archaeological Resources



**DURHAM-ORANGE
LIGHT RAIL TRANSIT PROJECT**
Durham and Orange Counties, North Carolina



Sources: ESRI, CGIA, NCDOT, and HDR

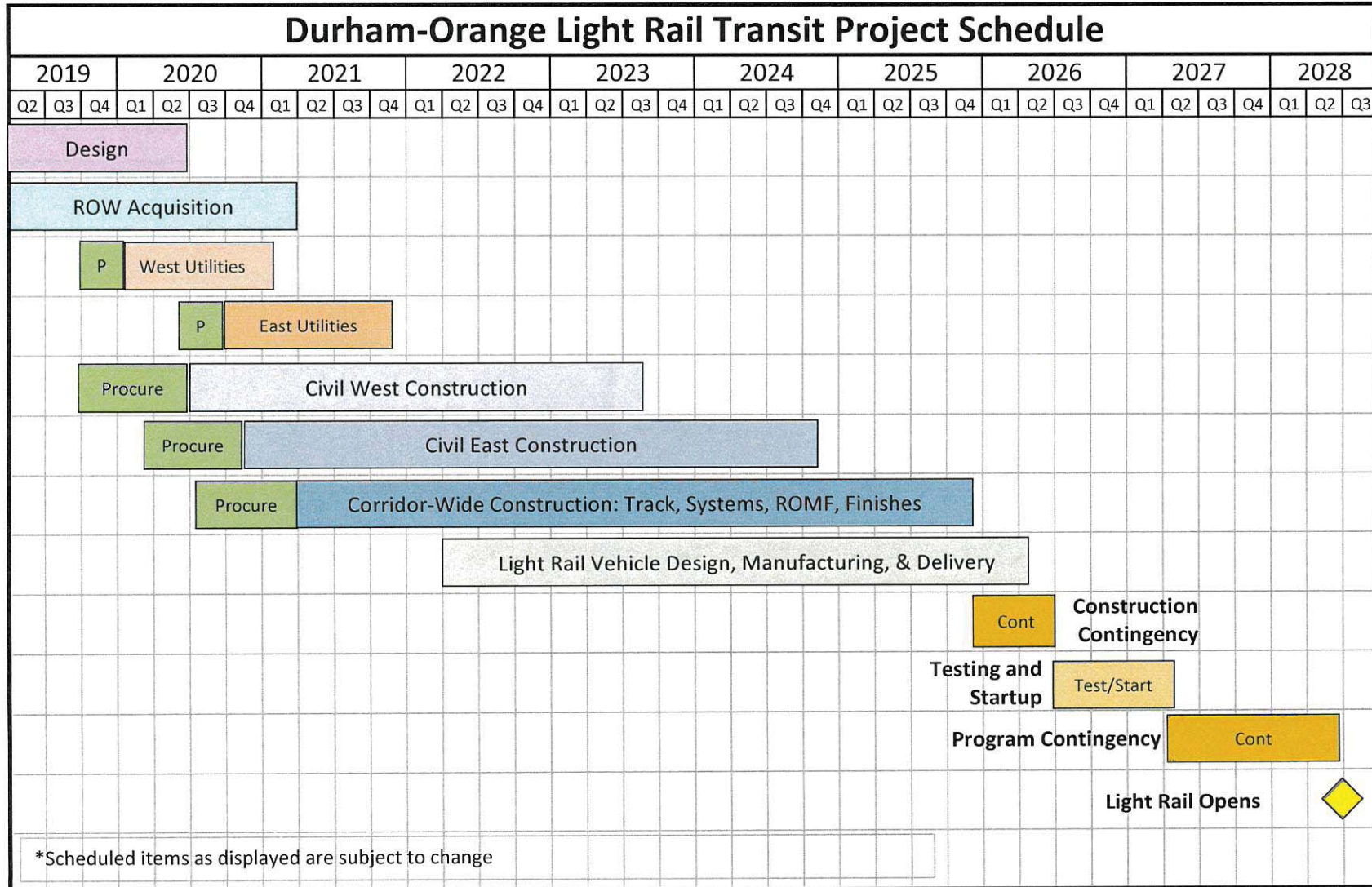


- D-O LRT Stations
- Proposed D-O LRT Station
- ✱ Rail Operations and Maintenance Facility
- D-O LRT Aerial Sections
- D-O LRT At-Grade Sections
- Railroad
- NCCR Corridor
- Chapel Hill
- Durham
- County Boundary

gotriangle.org/



Durham-Orange Light Rail Transit Project





Connecting all points of the Triangle

January 21, 2016

JAN 25 2016

CIN 160032

Yvette G. Taylor, Ph.D.
Regional Administrator
Federal Transit Administration, Region IV
230 Peachtree St., NW, Suite 1400
Atlanta, GA 30303

RE: MOA for Durham-Orange Light Rail Transit Project, Durham and Orange Counties, ER 12-0738

Dear Dr. Taylor:

Enclosed for your review and signature, please find the Memorandum of Agreement (MOA) for protection of Historic and Archaeological resources for the proposed Durham-Orange Light Rail Transit Project. Pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations codified in *36 CFR Part 800*, the MOA addresses the identification, evaluation, and treatment of archaeological resources that may be affected by the undertaking and cannot be avoided.

The GoTriangle General Manager and the State Historic Preservation Officer have signed the agreement and are returning the MOA for your signature. GoTriangle understands that once the MOA is signed, a copy of the MOA will be provided for our files.

If there is any additional information that you may need, please contact me at 919-485-7558, or dcharters@gotriangle.org.

Regards,

A handwritten signature in black ink, appearing to read "David A. Charters, Jr." with a stylized flourish at the end.

David A. Charters, Jr., PE
Manager, Design & Engineering
GoTriangle (formerly Triangle Transit)

Enclosure: Memorandum of Agreement for the proposed Durham-Orange Light Rail Transit Project
Cc: Julia Carrie Walker, Environmental Protection Specialist, FTA Region IV
Stanley A. Mitchell, Environmental Protection Specialist, FTA Region IV

**MEMORANDUM OF AGREEMENT
BETWEEN THE
FEDERAL TRANSIT ADMINISTRATION,
RESEARCH TRIANGLE REGIONAL PUBLIC TRANSPORTATION AUTHORITY, AND
NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICE FOR THE
DURHAM-ORANGE LIGHT RAIL TRANSIT PROJECT**

THIS MEMORANDUM OF AGREEMENT (MOA) is made and entered into on the last date executed below, by and between the FEDERAL TRANSIT ADMINISTRATION (FTA), RESEARCH TRIANGLE REGIONAL PUBLIC TRANSPORTATION AUTHORITY d/b/a Triangle Transit d/b/a GoTriangle (Triangle Transit), and the NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICE (SHPO) for the proposed Durham-Orange Light Rail Transit (D-O LRT) Project to establish the procedures by which FTA, Triangle Transit, and SHPO (collectively, the Parties) will work together to ensure the effective protection of historic and/or archaeological resources during the implementation and construction of the proposed D-O LRT Project.

WHEREAS, Triangle Transit is seeking grant funding from FTA for the construction of light rail, related rail stations, and a rail operations and maintenance facility, and FTA has determined that this proposed project is an undertaking pursuant to 36 C.F.R. Part 800; and

WHEREAS, the proposed D-O LRT Project consists of an approximately 17.1 mile double-track light rail transit line with seventeen (17) proposed stations and one (1) rail operations and maintenance facility that will greatly expand transit service in Durham and Orange counties within the State of North Carolina; and

WHEREAS, Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the effects on historic properties of projects they carry out, approve, or fund. See 36 C.F.R. Part 800. While Section 106 does not mandate preservation, consultation takes place to ensure that preservation values are considered in federal agency planning and decisions; and

WHEREAS, FTA, in consultation with Triangle Transit and SHPO has defined the D-O LRT Project's area of potential effects (APE) for the purposes of the Section 106 analysis, as defined at 36 C.F.R. § 800.16(d), to encompass the geographic areas within which the D-O LRT Project may directly or indirectly cause alterations in the character or use of historic or archaeological resources, recognizing that the APE may require modification as more detailed engineering for the D-O LRT Project is developed; and

WHEREAS, FTA, in consultation with Triangle Transit and SHPO has identified certain archaeologically sensitive areas that may be affected by the D-O LRT Project primarily due to the proximity of the areas to the proposed construction activities, and therefore, may be subject to protection or ongoing evaluation pursuant to Section 106; and

WHEREAS, as FTA's grantee, Triangle Transit must comply with all Section 106 requirements for the D-O LRT Project pursuant to 36 C.F.R. Part 800. Therefore, implementation of all stipulations will be the responsibility of Triangle Transit with FTA providing oversight and approval of stipulation

completion. FTA will request that SHPO review all implementation plans and projects and FTA will coordinate with Triangle Transit to provide all necessary documentation to SHPO for its respective files; and

WHEREAS, FTA has made a reasonable and good faith effort to identify and contact by letter the appropriate Native American tribes and groups, including the Eastern Band of the Cherokee and the Catawba Indian Nation; and

WHEREAS, the Catawba Indian Nation responded to the FTA's request and will be notified in the event of the discovery of Native American artifacts and/or human remains but no consulted tribes named above have responded affirmatively to the FTA's request to be a consulting party;

NOW, THEREFORE, FTA, Triangle Transit, and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

A. ARCHAEOLOGICAL RESOURCES

1. The Draft Environmental Impact Statement (DEIS) prepared pursuant to the National Environmental Policy Act, 42 U.S.C. §§ 4321, et seq., (NEPA) based in part on the document *Archaeological Background Information, Durham-Orange Light Rail Transit Project* produced by Triangle Transit in November 2014 (Report), identified five (5) areas that should be subjected to archaeological field investigations through a Phase I survey. These five (5) areas include: (i) Mason Farm Road (corridor between UNC and US 15/501 parallel to Mason Farm Road); (ii) Leigh Village park and ride and corridor between George King Road and Interstate 40; (iii) Farrington Road Rail Operations and Maintenance Facility; Gateway park and ride; and (v) the corridor between US 15/501 and the intersection of Erwin Road and NC Highway 751.

2. FTA will ensure that the following measures are carried out in connection with implementation of the D-O LRT Project for these five (5) archaeologically sensitive areas:

a. Identification of Archaeologically Sensitive Areas and Assessment of Potential Project Effects

1. A Phase I terrestrial archaeological survey (Survey) will be performed for the five (5) archaeologically sensitive areas defined above by either Triangle Transit or their contractor. All Surveys will be performed pursuant to accepted standards of SHPO. A report of the findings from the Survey will be produced pursuant to the 1988 *Guidelines for Preparation of Archaeological Survey Reports in North Carolina* (Survey Guidelines) as promulgated by the North Carolina Office of State Archaeology (OSA).
2. Should the Survey outlined in Stipulation I.A.1 identify historical and/or archaeological resources evaluated as potentially eligible for the National Register of Historic Places (NRHP), the FTA, in consultation with Triangle Transit

and SHPO, will devise and implement an appropriate testing work plan to determine the of NRHP-eligibility of any potentially eligible sites.

3. FTA will also consult with Triangle Transit and SHPO to determine an appropriate plan of action, if any, for addressing one (1) archaeological resource and two (2) potential archaeological resources previously identified as warranting Phase II testing to determine NRHP eligibility. These three (3) actual and/or potential resources, detailed in the Report, include: archaeological site 31DH655**, Potential Site 1, and Potential Site 3. Initial consultation between FTA, Triangle Transit, and SHPO in 2014 determined that these three (3) sites were identified and evaluated over ten (10) years ago, and therefore, the original recommendations may not be accurate for the resources' current conditions. Further, if it is determined no adverse effects will occur, testing of the resources may not be required. Therefore, FTA, Triangle Transit, and SHPO will need to consider the location, type, and extent of disturbances for the D-O LRT Project in conjunction with the reported locations and current conditions of the three (3) resources in order to evaluate any testing needs for them.

b. Adverse Effects Determination, Mitigation, and Data Recovery

1. If NRHP-eligible historic and/or archaeological resources are identified during the Survey and/or Phase II study outlined above, FTA will determine if there are any adverse effects to the resources. FTA will determine if preservation in place is possible for any affected eligible resources. If it is determined that preservation in place is deemed unlikely for the D-O LRT Project as track alignment and structure have no tolerance for movement, then FTA, in consultation with Triangle Transit and SHPO, will develop and implement a data recovery plan that is consistent with the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 Fed. Reg. 44716) and the Advisory Council on Historic Preservation's (ACHP) handbook *Treatment of Archaeological Properties* (1980).
2. Any data recovery plan developed under this MOA will consist of: (1) the development of significant research issues to be investigated; (2) the phased recovery of resources; (3) the scientific investigation of the resources recovered in sufficient detail to address the identified research issues and test assumptions; (4) allowances for addressing unanticipated resources or site conditions; (5) a process for consultation with Triangle Transit and SHPO; and (6) a schedule of these proposed data recovery activities for each site.

c. Curation and Reporting

Within eighteen (18) months after the archaeological field work is complete, FTA, in consultation with Triangle Transit and SHPO, and in accordance with 36 C.F.R. Part 79,

will plan for the analysis and curation of material and records from any archaeological excavations associated with the D-O LRT Project. Triangle Transit will be responsible for the implementation of such a plan, and ensure that all final archaeological reports are responsive to the Survey Guidelines and any archaeological assemblages are prepared and curated pursuant to Archaeological Curation Standards and Guidelines as set forth by the OSA.

d. Unanticipated Discovery During Construction

An unanticipated discovery is one that occurs outside the five (5) archaeologically sensitive areas or outside the boundaries of archaeological resources identified within the five (5) archaeologically sensitive areas described in Paragraph A1. The procedures for the unanticipated discovery plan are set forth below.

1. Initiate Unanticipated Discovery Plan. Cultural Resources to be considered as an unanticipated discovery and that require reporting include, but are not limited to: a) any human remains, b) any features (pits, foundations), and c) any artifacts (individual objects, specimens or physical evidence of prehistoric or historic human activity).
2. Procedures to Follow in the Event of an Unanticipated Discovery.
 - (i) Triangle Transit will notify the Parties of an unanticipated discovery within forty-eight (48) hours of the discovery.
 - (ii) Triangle Transit will flag or fence off the archaeological discovery location and take measures to ensure site security. Any discovery made on a weekend will be protected until all appropriate Parties are notified of the discovery. Triangle Transit will not restart work in the area of the find until clearance has been granted by FTA, in consultation with the SHPO. Triangle Transit will indicate the location and date of the discovery on the D-O LRT Project plans. Triangle Transit will have an archaeologist undertake a site visit or otherwise coordinate an on-site archaeological consultation.
 - (iii) Triangle Transit will direct the archaeologist to begin a more detailed assessment of the find's significance and the potential effects of the D-O LRT Project to the find(s).
 - (iv) Triangle Transit will notify FTA and the SHPO of the find within 48 hours of discovery. The notification to FTA and SHPO will either: (i) explain why the archaeologist for Triangle Transit recommends that the find is not significant, or (ii) describe a proposed scope of work for evaluating the significance of the find and evaluating project effects. All work to evaluate significance of the find would be confined to the D-O LRT Project's area of effect. Prior to the

implementation of any scope of work, FTA will consult with Triangle Transit and SHPO.

3. If the find is determined to be significant, and continuing construction may damage more of the site, then Triangle Transit will work with FTA to determine appropriate recommendations regarding the proper measures for site treatment. These measures may include:
 - (i) Formal archaeological evaluation of the site;
 - (ii) Visits to the site by FTA, Triangle Transit, SHPO and/or other entities;
 - (iii) Preparation of a mitigation plan by the archaeologist for Triangle Transit for FTA approval and consultation with Triangle Transit and SHPO;
 - (iv) Implementation of the mitigation plan; and
 - (v) FTA, in consultation with the SHPO, will provide approval to resume construction following completion of the fieldwork component of the mitigation plan.

4. If the find is determined to be isolated or completely disturbed by prior construction activities, then Triangle Transit will consult with FTA, SHPO, and/or other entities as appropriate, and will request approval from FTA to resume construction, subject to any further mitigation that may be determined necessary.

e. Procedures to Follow In the Event of an Unanticipated Discovery of Human Remains

The Unmarked Human Burial and Human Skeletal Remains Protection Act, N.C.G.S. §§ 70-26 – 70-40, (Act) addresses discovery of unmarked human remains. Triangle Transit will adhere to all provisions of the Act as the D-O LRT Project moves forward. Should human remains be discovered as a result of construction related activities associated with the D-O LRT Project, “disturbance of the remains shall cease immediately and shall not resume without authorization for either the county medical examiner or the State Archaeologist,” under the provisions of N.C.G.S. §§ 70-30(c) or 70-30(d).

Within 48 hours, Triangle Transit will notify the Parties, local law enforcement, the medical examiner of the county in which the remains are encountered, and other appropriate entities of the find and cooperate with all agencies and/or entities as required.

If it is determined that intact internments are present and may be disturbed by continuing construction, Triangle Transit will consult with the next of kin or descendent community (if known). Triangle Transit will receive direction from FTA regarding additional measures to avoid or mitigate further damage. FTA will consult with Triangle Transit, SHPO, and other entities as appropriate. The avoidance or measures may include:

1. Formal archaeological evaluation of the site;
2. Visits to the site by FTA, SHPO, and other entities, as appropriate;
3. Preparation of a mitigation plan by the archaeologist for Triangle Transit, including procedures for avoidance or disinterment and reinterment, to be approved by FTA and in consultation with Triangle Transit, SHPO, and others as appropriate;
4. Implementation of the mitigation plan by Triangle Transit; and
5. Approval to resume construction following completion of the fieldwork component of the mitigation plan.

B. GENERAL TERMS

1. This MOA will expire if its terms are not carried out within ten (10) years from the last date executed below.
2. All terms and conditions of this MOA are dependent upon and subject to the allocation and availability of funds for the purposes set forth in this MOA. The MOA will immediately terminate if funds cease to be available, and Triangle Transit will immediately notify all Parties if funding becomes unavailable.
3. Each year following the execution of this MOA until it expires or is terminated, Triangle Transit will provide all Parties with a summary report detailing work undertaken pursuant to its terms. Such reports will include any scheduling changes proposed, any problems encountered, and any disputes and objections received in Triangle Transit's efforts to carry out the terms of this MOA.
4. Should any Party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the FTA shall consult with such Party to resolve the objection. If the FTA determines that such objection cannot be resolved, the FTA will:
 - A. Forward all documentation relevant to the dispute, including the FTA's proposed resolution, to the ACHP. The ACHP shall provide the FTA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FTA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and the Parties to the MOA, and provide them and the AHCP with a copy of such written response. The FTA will then proceed according to its final decision.
 - B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the FTA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FTA shall prepare a written response that takes into

account any timely comments regarding the dispute from the Parties to the MOA, and provide them and the ACHP with a copy of such written response.

- C. The Parties' responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.
5. If any Party determines that its terms will not or cannot be carried out, that Party shall immediately consult with the other Parties to attempt to develop an amendment to this MOA. If within sixty (60) days an amendment cannot be reached, any Party may terminate the MOA upon written notification. Once the MOA is terminated, and prior to work continuing on the D-O LRT Project, the FTA will either (i) execute an MOA pursuant to 36 C.F.R. § 800.6 or (ii) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. The FTA will notify the Parties as to the course of action it will pursue. The execution of this MOA and the implementation of its terms evidence that the FTA has taken into account the effects of the D-O LRT Project on historic properties and afforded the ACHP an opportunity to comment.
 6. Any changes, amendments, corrections, or additions to this MOA shall be in writing; shall be executed and approved by the same officials or their respective designee of the Parties who execute and approve the original MOA; shall be in accordance with applicable law; and shall become effective upon complete approval by all Parties.
 7. The Parties agree to resolve any disputes arising hereunder through good faith discussions and negotiations.
 8. Any notices, correspondence, or other submissions required by this MOA shall be in writing and shall be sent by electronic mail or by United States mail, First Class postage pre-paid to ensure delivery to the Parties, respectively, at the following addresses or email addresses, unless a Party has been notified in writing by the other of a change of address or preferred methodology of delivery and receipt:

To FTA:

Yvette G. Taylor, Ph.D.
Administrator, Region IV
Federal Transit Administration
230 Peachtree NW, Suite 1400
Atlanta, Georgia 30303
Telephone: 404.865.5600
Facsimile: 404.865.5606
Email: Yvette.Taylor@dot.gov

To Triangle Transit:

Jeffrey G. Mann
General Manager, Triangle Transit
P.O. Box 13787
Research Triangle Park, NC 27709
Telephone: 919.485.7510

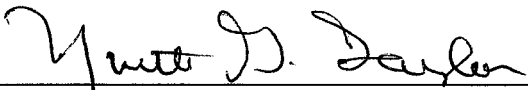
Facsimile: 919.485.7441
Email: jmann@gotriangle.org

To SHPO:

Kevin Cherry, Ph.D.
State Historic Preservation Officer
Attn: SHPO-ER
4610 Mail Service Center
Raleigh, NC 27699-4610
Telephone: 919-807-7279
Email: kevin.cherry@ncdcr.gov

9. This MOA shall be construed to promote the purposes of the statutes and regulations of the United States and the State of North Carolina, and the objectives of this MOA, resolving any ambiguities and questions of the validity of the of specific provisions so as to give maximum effect to the values and other objectives sought to be protected herein.
10. Each Party acknowledges that the individual executing the MOA on behalf of the respective Party is authorized to execute the document and to bind the Party to the terms contained herein.
11. A copy, email copy, or facsimile copy of the signature of any Party shall be deemed an original with each fully executed copy of this MOA as binding as an original, and the Parties agree that this MOA can be executed in counterparts, as duplicate originals, with email or facsimile signatures sufficient to evidence an agreement to be bound by the terms of this MOA.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Agreement as of the last written date below:



Yvette G. Taylor, Ph.D.
Administrator, Region IV
Federal Transit Administration

2-2-16
Date



Jeffrey G. Mann
General Manager
Triangle Transit

1/21/2016
Date



Kevin Cherry, Ph.D.
State Historic Preservation Office

1/11/2016
Date

December 3, 2018

Revised Chapel Hill GoTriangle Cooperative Agreement

Durham-Orange Light Rail Transit Project

Revision Process

1. Chapel Hill and GoTriangle took a fresh look at the Agreement by using the City of Durham Cooperative Agreement “Durham Agreement” as a template. The Durham City Council is scheduled to vote on the Durham Agreement on Monday, December 3.
2. Chapel Hill and GoTriangle adjusted sections of the Durham Agreement to reflect differences between the Town and City, including relevant ordinance sections, internal staffing organization, ownership of certain utilities, such as stormwater and fiber optic lines, and the presence of sections that were specific to project elements in Durham.
3. Chapel Hill identified additional provisions to include in the Chapel Hill Agreement. These included provisions from the old version of the Chapel Hill Agreement that were unique to Chapel Hill, as well as additional provisions added at the request of Chapel Hill. Key revisions are described below.
4. A redline version of the Agreement is available in the agenda packet to more clearly demonstrate the changes, as well as to provide a clear and complete comparison between the Chapel Hill and Durham Cooperative Agreements.

Key Revisions to the Agreement

5. GoTriangle agrees to comply with the applicable stormwater standards of the Town, notwithstanding North Carolina General Statute (NCGS) 160A-392, which would otherwise exempt GoTriangle from these standards.
6. GoTriangle agrees, with specific regard to parking lots, to comply with stormwater management, buffering, and parking lot landscape standards in sections 5.4, 5.6, and 5.9 of the Town’s Land Use Management Ordinance, notwithstanding NCGS 160A-392.
7. GoTriangle agrees to reconstruct, replace, or relocate any Town-owned infrastructure impacted by the Project according to the Town’s adopted design standards.
8. GoTriangle agrees to coordinate with OWASA to pursue a separate agreement to take the necessary steps to relocate any impacted utility lines owned by OWASA and ensure that water and sewer services are not interrupted.
9. GoTriangle agrees to implement all committed noise mitigation measures identified in the final environmental documentation in accord with the National Environmental Policy Act.
10. GoTriangle agrees to prepare a construction communications plan with input from Town staff.
11. GoTriangle agrees to conduct a pre-construction conference with the applicable Town departments.
12. GoTriangle agrees to cooperate as necessary to amend the existing Reimbursement Agreement with Chapel Hill to reimburse the Town for expenses related to its review of the Project design, pursuant to the manner outlined in section 2 of the Chapel Hill Agreement.
13. GoTriangle agrees to be a resource to the Town and partners as they pursue workforce development partnerships to prepare the local workforce for construction-related jobs and contracting opportunities.
14. GoTriangle agrees that any lawsuit or other proceeding relating to or arising from the Agreement may be filed in a court of the State of North Carolina in either Orange or Durham County should the United States District Court for the Middle District of North Carolina not have jurisdiction.

December 3, 2018

Other New Information:

15. This agreement is one of eleven between GoTriangle and other agencies, including municipalities, universities, and utility companies to coordinate final engineering and construction work.
16. These eleven agreements do not change the authority or roles of the Boards of County Commissioners of Orange County and Durham County as the final decision makers regarding changes to the Orange County and Durham County Transit Plans and associated funding agreements.

What does the Chapel Hill Cooperative Agreement do?

1. The Chapel Hill Cooperative Agreement describes how GoTriangle and Chapel Hill will work together to maintain a healthy partnership and resolve issues that may arise during the remainder of design and construction.
2. The Cooperative Agreement describes roles, responsibilities, and procedures that will be established to ensure that the Light Rail gets built on time and within the budget.
3. The Cooperative Agreement outlines how GoTriangle will continue its collaboration with Chapel Hill to minimize impacts to the Town and maximize benefits like bike and pedestrian connectivity.

Highlights of the Cooperative Agreement

4. GoTriangle and Chapel Hill will work together to cooperatively review and resolve matters related to engineering and design, construction, mitigation, bike and pedestrian improvements, operations, and maintenance.
5. The Town will review and approve construction of the Project through its Engineering Construction Permit process.
6. GoTriangle will work with the Town to avoid unreasonable disruption during construction.
7. GoTriangle will work with the Town to receive information about regulations, constraints, design standards, potential impacts, maintenance, operations, technical reports, and bike/pedestrian facilities.
8. To make sure Chapel Hill can complete a comprehensive review and GoTriangle can effectively address Town concerns, GoTriangle will meet with the Town at least once every three months, and all relevant Town departments will be represented in the meeting.
9. GoTriangle will submit 90% design plans to the Town for review, and we will help the Town complete the review by answering questions and responding to comments.
10. GoTriangle will be responsible for construction of all improvements needed for the Project, which includes things like sidewalks, multi-use paths, utilities, drainage, traffic signals, signs, traffic lanes, and street lights.
11. GoTriangle will not green-light construction in Chapel Hill until Chapel Hill issues its Engineering Construction Permit.
12. GoTriangle is responsible for obtaining all required federal, state, or local permits and approvals related to the Project.
13. Chapel Hill is not required to carry insurance to cover GoTriangle's work or property.
14. All of GoTriangle's contractors, consultants, and subcontractors will be required to carry commercial general liability insurance.
15. All of GoTriangle's contractors, consultants, and subcontractors will abide by all applicable laws, including labor wage laws, such as the Davis-Bacon Act.
16. GoTriangle will continue to work with the Town to gather input from community stakeholders on station design.

December 1, 2018

Project Next Steps

- **December 3, 2018** – Durham City Council vote to authorize City Manager to execute needed agreements and votes to amend the land use plan, rezone, and annex the Rail Operations and Maintenance Facility site.
- **December 5, 2018** – Chapel Hill Town Council vote to authorize Town Manager to execute cooperative agreement.
- **January 2019** – Anticipated final signatures on all remaining cooperative agreements required for the Full Funding Grant Agreement (FFGA) application. *Note that votes by governing boards to authorize the agreements must precede final signatures by third parties and GoTriangle.*
- **February 2019** – Anticipated commitment of all remaining funding in the financial plan that does not come from the Full Funding Grant Agreement.
- **April 2019** – Anticipated Full Funding Grant Agreement application to the Federal Transit Administration. Submittal of this application is the last of three steps in the Capital Investment Grant program.
- **April 30, 2019** – All non-state, non-federal funding must be committed, according to state law.
- **Spring-Winter 2019** – Third party reviews of 90% design drawings.
 - *Chapel Hill's 90% reviews are anticipated to occur in Spring-Summer of 2019*
 - *100% design drawings would accompany GoTriangle's application for an Engineering Construction Permit to Chapel Hill.*
- **September 2019** – Anticipated federal grant agreement (FFGA) execution.
- **November 30, 2019** – All federal funding must be committed, according to state law.
- **2020** – Construction begins
- **2028** – Light Rail opens

Project Timeline Highlights

Scoping, Alternatives Analysis, County Transit Plans, and Transit Sales Tax Votes

- **2011- 2012** – GoTriangle completed Durham-Orange Corridor Project Scoping and Alternatives Analysis studies, which included multiple public engagement sessions. These studies result in the identification of Light Rail as the Locally Preferred Alternative.
 - *These studies are pre-requisites to enter the Federal Transit Administration's Capital Improvement Grant (CIG) Program. Successful completion of this three-step program will result in federal Full Funding Grant Agreement for 50% of the project cost, or \$1.238 Billion.*

December 1, 2018

- **2011** – Durham County Board of County Commissioners approved the Durham Bus and Rail Investment Plan and voters approved ½ percent sales tax to fund the plan.
- **2012** – Orange County Board of County Commissioners approved the Orange Bus and Rail Investment Plan and voters approved ½ percent sales tax to fund the plan.
- **2013** – The Durham-Chapel Hill-Carrboro Metropolitan Planning Organization, which oversees and coordinates regional transportation planning, approved the Locally Preferred Alternative for Light Rail Project as a part of the 2040 Metropolitan Transportation Plan, which is the regional long-range transportation plan.

Project Development (Step 1 of 3 in FTA Capital Investment Grant program)

- **2014** – The Federal Transit Administration (FTA) authorized the Project to move forward into Project Development.
- **2012-2015** – GoTriangle completed 30% design drawings, prepared a Draft Environmental Impact Statement, and held a formal public comment period in addition to multiple public engagement sessions.
- **February 2016** – Federal Transit Administration approved Final Environmental Impact Statement and issued a Record of Decision.
 - *This action approved the location of the light rail line and station locations between UNC Hospitals and Alston Avenue in Durham.*
- **2016** – GoTriangle prepared a Supplemental Environmental Assessment and held formal public comment period, in addition to multiple public engagement sessions, for the extension to North Carolina Central University.
- **December 2016** – Federal Transit Administration approved a Supplemental Environmental Assessment and issued an Amended Record of Decision.
 - *This action approved an adjustment to the Alston Avenue station and an extension of the light rail line to North Carolina Central University in Durham.*

Project Engineering (Step 2 of 3 in FTA Capital Investment Grant Program)

- **2017** – Federal Transit Administration (FTA) authorized the Project to move forward into Project Engineering to allow GoTriangle to proceed with completion of 100% plans.
- **2017-2018** – GoTriangle held multiple public engagement sessions.
- **April-June 2018** – Third-Parties, including Chapel Hill, completed review of 50% design drawings.
- **October 2018** – GoTriangle completed a Supplemental Environmental Assessment that describes proposed refinements that resulted from additional engineering work. The following proposed refinements are within Chapel Hill:
 - Adjustment of the track location and station platform at Gateway station.

Commented [GG1]: Also change of UNC Hospitals station location, access around Mason Farm Roads

December 1, 2018

- Refinement of the UNC Hospitals station location to be located on the east side of East Drive, it was formerly on the west side of East Drive.
- Inclusion of additional bike and pedestrian facilities, including a multi-use path along the light rail line from Hamilton Road to Old Mason Farm Road near the North Carolina Botanical Garden.
- **November 2018** – GoTriangle held formal public comment period for the Supplemental Environmental Assessment.
- **Early 2019 (Anticipated)** – Federal Transit Administration decision on Supplemental Environmental Assessment and Amended Record of Decision.
 - *These actions would approve the proposed project refinements identified in the project engineering phase.*
 - *These actions would allow GoTriangle to submit a Full Funding Grant Agreement Application to the FTA (the third and final step in the Capital Investment Grant program)*

Comments provided by Town of Chapel Hill staff to GoTriangle (Spring 2018)

For Review of Durham-Orange Light Rail Transit

50% Plan Submittal

Chapel Hill staff provided the following comments (organized here by department) to GoTriangle after reviewing the 50% design for light rail construction within Chapel Hill's jurisdiction. The components of light rail construction reviewed in this plan set include light rail tracks; crossings of streets, paths, and streams; light rail station amenities; and connections to each station from the surrounding network of streets and sidewalks.

PLANNING

1. For Gateway Park-and-ride: parking lot landscaping standards require 1 parking lot landscape island per 10 spaces. LUMO 5.9.6
2. For Gateway Park-and-ride: standard dimensions for 90 degree parking spaces are 8.5' x 18.5'. Up to 20% of spaces may be compact; 8' x 15.5'. Please revise and/or discuss whether alternative parking space dimensions are needed.

STORMWATER

3. Noted for applicant to be aware of potential layout conflicts with roadway alignment.
4. Noted for applicant to be aware of potential layout conflicts with proposed parking.
5. Labeling the different stream types allows for easier review of breakpoints (when there is a change in stream type along a channel) and for review of buffer widths applicable to the different types.
6. Noted for applicant to be aware of additional stream buffer requirements.
7. Missing stream feature per ToCH GIS reference.
8. Stream buffers are measured horizontally from the top of the streambank. Having the top of bank shown on the plan set is helpful for this reason.
9. Requested updated infrastructure as-builts to be incorporated to ensure accuracy of subsequent plan set submittal.

(Comments continue on next page)

| ToCH Review Comment (Submitted to DOLRT) | ToCH Staff Comment |
|---|--|
| (Stormwater) Impacts in the Jordan Buffer for this use requires a no practical alternatives analysis. Change road alignment to minimize impacts. ToCH LUMO - 5.18 - Jordan watershed riparian buffer protection | Noted for applicant to be aware of potential layout conflicts with roadway alignment. |
| (Stormwater) Two roadway crossings of the creek at such close proximity seems excessive. Eliminate one entrance or provide justification sufficient for no practical alternatives analysis. ToCH LUMO - 5.18 - Jordan watershed riparian buffer protection. | |
| (Stormwater) Parking is not an allowed use within the Resource Conservation District (RCD) buffer. Remove parking from RCD buffer or prepare a request for modification. ToCH LUMO - 3.6 Overlay Districts | Noted for applicant to be aware of potential layout conflicts with proposed parking. |
| (Stormwater) For subsequent plan sets, it may be helpful to distinguish between ephemeral, intermittent and perennial stream types. | Labeling the different stream types allows for easier review of breakpoints (when there is a change in stream type along a channel) and for review of buffer widths applicable to the different types. |
| (Stormwater) In addition to showing the Jordan Lake buffers, ToCH sections will also need to show the RCD buffers along streams/waterbodies. | Noted for applicant to be aware of additional stream buffer requirements. |
| (Stormwater) Show intermittent channel per ToCH GIS | Missing stream feature per ToCH GIS reference. |
| (Stormwater) Show existing pond and ephemeral channel per ToCH GIS | |
| (Stormwater) Show ephemeral channel per ToCH GIS | |
| (Stormwater) "TB" should be along this line type to distinguish top of bank | Stream buffers are measured horizontally from the top of the streambank. Having the top of bank shown on the plan set is helpful for this reason. |
| (Stormwater) Please update with as-builts of the Meadowmont Stancell Drive Car Wash (greenway on south side of Stancell Dr, changes in connectivity to NCDOT drainage, etc). | Requested updated infrastructure as-builts to be incorporated to ensure accuracy of subsequent plan set submittal. |

TRANSPORTATION

- 10. Consider a raised intersection for traffic calming at East Dr and Mason Farm Rd - given this is a focus of pedestrian activity.
- 11. The Mobility Plan calls for bike lanes on Mason Farm Rd. What opportunity is there to provide bike lanes or equivalent treatment to accommodate bikes?
- 12. Add sharrows to East Dr, as shown on the Mobility Plan.
- 13. Are the bench and canopy sizes at UNC Hospitals station sufficient to handle peak ridership? Could be a lot of people waiting on platform at end of shift.
- 14. The Mobility Plan calls for a multiuse path connecting Oteys Rd to the Kenan-Flagler business school. Reserve an easement for future path crossing of the light rail tracks.

15. Look at opportunities to tighten the curves on intersection corners that are being modified – this provides a traffic calming effect and shortens crossing distances for pedestrians.
16. Looks like there is a missing link in sidewalk connection from Mason Farm station to the Smith Center.
17. Ensure space is available (and feasible based on grades) for future multiuse path along Mason Farm Rd, as shown in Chapel Hill Mobility Plan. Not requiring light rail project to build it, but also not preventing it from being built in the future.
18. For new multiuse path along Highland Woods Dr: Extend the 10' path to the corner of Fordham Blvd and Old Mason Farm Rd, to allow bikes to transition onto roadways.
19. Show the existing trail connection from the Finley Golf Course trail to Prestwick Rd.
20. Are any of the trails and paths near Hamilton Rd and Finley Golf Course intended to support pedestrian access to the station? It would be helpful (given the range of improvements that go along with the light rail project) to note the primary function of new paths: station access, recreation facility, and/or extension of Town-wide network (ie facilities shown on the Mobility Plan).
21. Will ped/bike wayfinding be provided around Hamilton Rd/Finley Golf Course? Staff recommends signage to illustrate where trail leads/trail connections.
22. Show boundary between concrete and gravel portions of the Finley Golf Course trail to demonstrate through movement of bikes (bikes have access to concrete portions).
23. Curb ramp center portion should be wider wherever used at a multiuse path crossing, to accommodate 2-way multimodal traffic.
24. Show typical safety measures for sidewalk and multiuse path crossing of light rail tracks - a standard detail with signage locations, stop bars, paving materials, etc.
25. Where light rail tracks run along NC 54, indicate what traffic control measures are used at intersections. Will cars stop behind tracks or be able to pull to between the tracks and NC 54? Are there crossing arms or other safety measures?
26. Where multiuse paths have tighter curves, provide warning signage for bike safety.
27. At the NC 54 and Friday Center Dr intersection, what safety measures are proposed to alert drivers to the multiuse path crossing? The path here is located farther back from the intersection. Show the crosswalk at this intersection – recommend a wider one to accommodate bike and pedestrian traffic.
28. Make sure different plan sheets are consistent in showing how the existing multiuse path will be reconfigured/replaced near the Friday Center (to accommodate the new station).
29. The Town has an upcoming project to install bike lanes on Friday Center Dr. Show how road work associated with the light rail maintains these bike lanes.
30. Along Stancell Dr, the multiuse path needs 2' clear shoulder on each side to function safely for bikes and pedestrians. Current design shows path built at back-of-curb.
31. Update Old Durham Rd design to reflect the NCDOT project for continuous sidewalks and bike lanes (upcoming construction).
32. Gaps are shown between many of the light rail stations and surrounding sidewalk. Extend sidewalks to platforms for full pedestrian connectivity.
33. The 'Stations Basis of Design' calculates how many bike parking spaces are needed to serve each station, based on expected ridership. Ensure that plan sheets show the location of bike parking for each station, and show an amount of spaces consistent with the Stations Basis of Design.

34. Provide a bike parking detail - showing product type (rack or locker) and dimensions. Staff recommends that most parking be Long-term (covered and secured). Please indicate amount of Short-term vs Long-term spaces at each station.

LANDSCAPE/URBAN FORESTRY

35. Provide tree survey and limits of disturbance for segment of tracks near I-40 within Chapel Hill's jurisdiction.
36. Trees larger than 24" DBH may need to be surveyed and shown on plans in the areas adjacent to limits of disturbance.
37. Explain criteria for labeling some trees according to size and species

FIRE

38. General comment from Fire Department for all sections: Adequate emergency (Fire and Police) access must be illustrated for both at grade and elevated track sections. Please show where and how access will be provided.

ENGINEERING

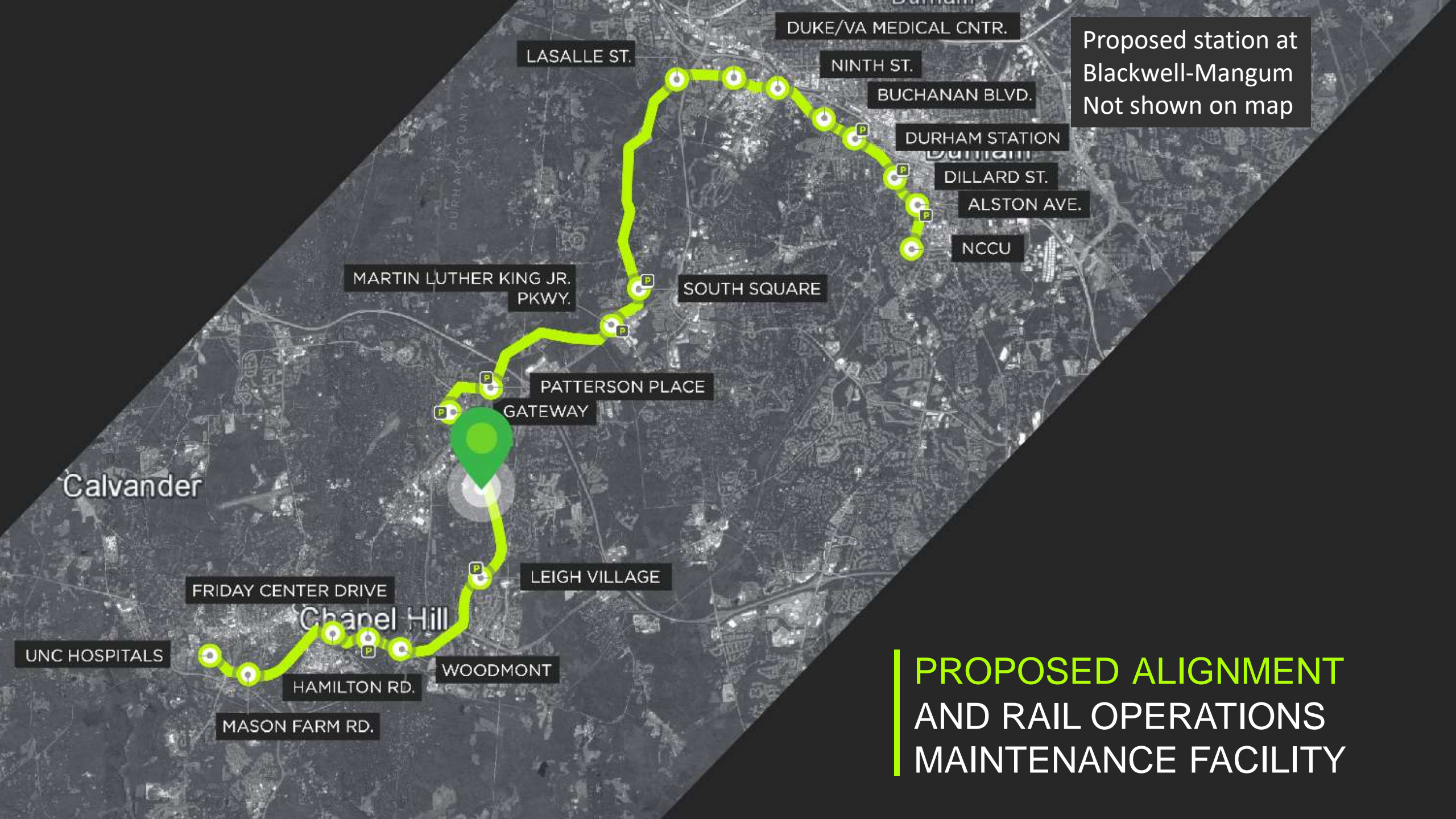
39. Please provide details of fence separating light rail tracks from multiuse paths.
40. Railings shown must be at least 42 inches high and recommend move back away from tracks another foot or two so pedestrians can't reach train passing.

GoTriangle Rail Operations and Maintenance Facility

GO FORWARD
A COMMUNITY INVESTMENT IN TRANSIT

Creekside Elementary School PTA

December 1, 2018



Proposed station at Blackwell-Mangum
Not shown on map

DUKE/VA MEDICAL CNTR.

LASALLE ST.

NINTH ST.

BUCHANAN BLVD.

DURHAM STATION

DILLARD ST.

ALSTON AVE.

NCCU

MARTIN LUTHER KING JR.
PKWY.

SOUTH SQUARE

PATTERSON PLACE
GATEWAY

LEIGH VILLAGE

FRIDAY CENTER DRIVE

UNC HOSPITALS

Chapel Hill

HAMILTON RD.

WOODMONT

MASON FARM RD.

Calvander

PROPOSED ALIGNMENT
AND RAIL OPERATIONS
MAINTENANCE FACILITY

WHAT IS A RAIL OPERATIONS MAINTENANCE FACILITY?

01



Administrative offices, conference rooms, and training rooms

02



Rail operations control center

03



Vehicle shop to store, service, and maintain vehicles

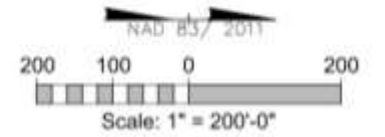


Farrington Road

Ephesus Church Road

Interstate 40

NOT FOR CONSTRUCTION
SUBJECT TO CHANGE



GoTriangle's applications

- Supports use of the site as a **Rail Operations and Maintenance Facility (ROMF)**
- Three applications before the Durham City Council:
 - Future Land Use Map amendment: **Industrial**, from Commercial and Office
 - Zoning Map Change: **IL (Industrial Light) with a development plan** (only allowing use as a ROMF), from RS-20 (Residential)
 - Annexation of the site into City limits

History of ROMF site selection

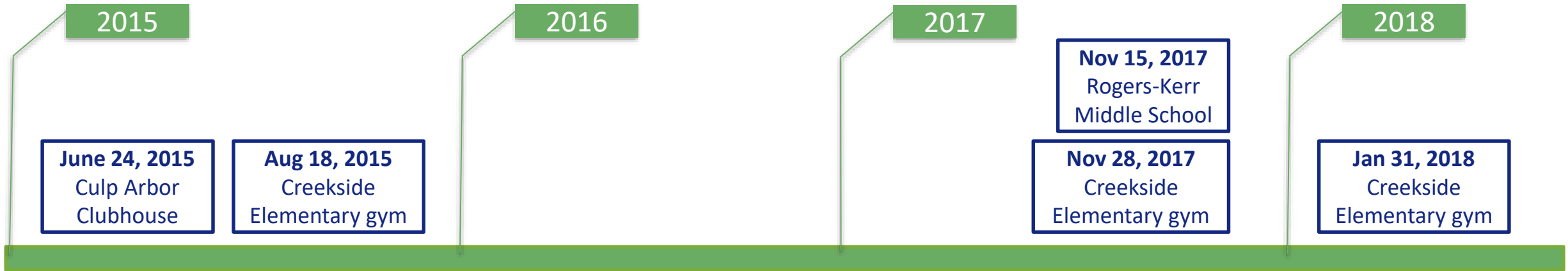
- 2012: Alternatives Analysis
 - Identified four potential sites for a ROMF
- 2013: “Project scoping”
 - Fifth site added, at site of Brentag facility on Pettigrew St. east of Alston Avenue
- 2014-15: Preparation of Draft Environmental Impact Statement
 - Recommended Farrington Road ROMF site

History of ROMF site selection

- 2016: Final Environmental Impact Statement/Record of Decision
 - Ratified selection of Farrington Road ROMF site
- 2017: Initiation of land entitlement process
 - November: Neighborhood meetings
 - January 2018: Meeting regarding site design
 - March: Property acquired/applications filed
 - October: Planning Commission hearing
 - December: City Council hearing

Outreach during plan development

General public meetings during Farrington Road site-specific outreach



Selected light-rail project outreach



Key concerns heard by GoTriangle

Noise

Traffic

Safety/Security

Noise

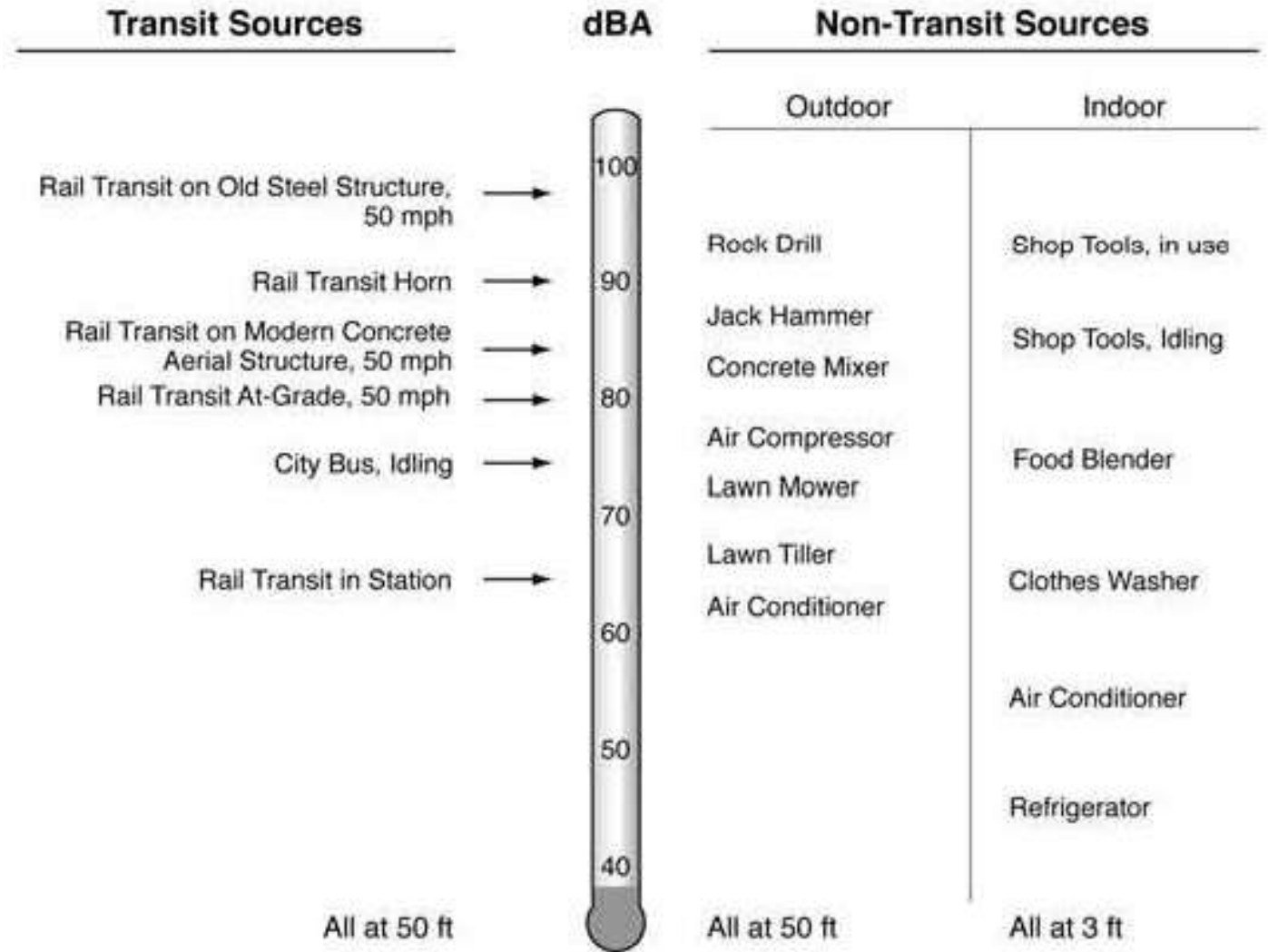
- We recognize the concerns about the metrics included in the Noise and Vibration Technical Report
- The FTA requires use of these conservative assumptions in noise analyses
- Noise and Vibration Technical Report shows no impacts at Creekside Elementary

Noise

- Wheel squeal – sound rail vehicle makes going around sharp turn
- Noise is no greater than what is produced by a normal city transit bus

Noise

Comparison of maximum sounds of different noise sources (from FTA)



Additional noise mitigation

- Berm along project border (part of development plan)
- Vegetative buffer (part of development plan)
- Use of resilient wheels + lubrication
- Ongoing monitoring of noise impacts

Noise impacts

- Distance between the site and the school
 - > 1,000 feet from site to school parking lot
 - Per FTA guidance, for “point noises,” sound decreases about 6 decibels each time distance doubles (e.g. 50 feet to 100 feet to 200 feet).



Traffic impacts

- Concerns about project's traffic impacts
- GoTriangle prepared a Traffic Impact Analysis to evaluate (though not required by Durham planning)
- With improvements, no changes to Level of Service

Rail Operations and Maintenance Facility
(ROMF) Traffic Impact Analysis

Version 0

Durham-Orange Light Rail Transit Project

GO  Triangle
July 25, 2018

GO FORWARD
A COMMUNITY INVESTMENT IN TRANSIT

Traffic

- Projected to have a total of 132 employees on a normal weekday, working multiple shifts
- ROMF would generate **292** additional trips per day, fewer than project using existing zoning (560 trips per day)
- **Morning peak (7-9 AM):**
 - **48** trips to the site
 - **5** trips leaving the site
- **Afternoon peak (2-4 PM):**
 - **19** trips to the site
 - **19** trips leaving the site
- Will schedule delivery trucks, etc. to arrive outside of school drop-off and pick-up hours
- Coordinate with City to minimize traffic impacts during construction

Transportation commitments

- Dedicated left-turn lane on southbound Farrington Road
- Modify existing signaling
- Widening to permit bicycle lane on northbound Farrington Road
- Pedestrian amenities at Ephesus Church Road/Farrington Road intersection

Safety/security

- Security fence around the perimeter of the site
- Gated entrance
 - Will be left open during shift changes to minimize traffic impacts, but will be closed at other times
- Safety and Security Plan
- Coordination with Durham and Chapel Hill fire safety/EMS personnel

Additional commitments

- Site can be used only as rail maintenance facility (with existing wireless facility)
- No vehicle body repair or paint shop
- Exterior lighting aimed inwards with “source shielding”
- Building height capped at 50’
- Work with federal and state agencies to obtain all necessary permits and mitigate wetland/riparian buffer impacts as part of entire light-rail project

GoTriangle Rail Operations and Maintenance Facility

GO FORWARD
A COMMUNITY INVESTMENT IN TRANSIT

Creekside Elementary School PTA

December 1, 2018