

**INTERLOCAL AGREEMENT FOR DESIGN AND NATIONAL ENVIRONMENTAL POLICY
ACT (NEPA) SERVICES - TRIANGLE BIKEWAY, EASTERN SECTION**

COUNTY OF WAKE

and

**CAPITAL AREA METROPOLITAN
PLANNING ORGANIZATION (CAMPO)**

THIS INTERLOCAL AGREEMENT, is made and entered into on the last date executed below by and between the County of Wake, a subdivision and body politic of the State of North Carolina, hereinafter referred to as “Wake”, or the “County”; and the Capital Area Metropolitan Planning Organization, a metropolitan transportation planning organization, (“CAMPO”) (collectively, the “Parties”).

BACKGROUND AND RECITALS:

WHEREAS, the U.S. Congress has mandated the establishment of Metropolitan Planning Organizations (MPOs) to encourage and promote the safe and efficient management and operation of surface transportation systems. 23 U.S.C. § 134 (a) (1), to wit:

“It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through an urbanized area and minimize transportation related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan area, and the Nation. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, comprehensive and cooperative to the degree appropriate, based on the complexity of the transportation system;”

23 U.S.C. § 134 (a) (1)

WHEREAS, CAMPO has been established and exists under the authority and mandate of Article 16 of Chapter 136 of the North Carolina General Statutes; and

WHEREAS, pursuant to the above referenced federal and State laws, CAMPO has the authority and responsibility for development of multi-modal transportation plans (including plans for pedestrian and pedestrian transportation facilities); and

WHEREAS, CAMPO will enter into a contract with a consultant selected through a RFQ equitable selection process to perform a Feasibility and Implementation Study (“Bikeway Study”, or the “Study”) with respect a proposed shared-use pathway, approximately 14 miles in length, from the NC Museum of Art bridge at I-440 and Wade Avenue, to the boundary of Research Triangle Park (RTP) just west of TW Alexander Drive , commonly referred to as the “Triangle Bikeway, Eastern Section, project” (“Bikeway Project”, or the “Project”); and

WHEREAS, the MPO Design and NEPA contract will be entered into for FY 24, FY 25 and FY 26 and submitted in final form to the County and CAMPO; and

WHEREAS, the Preparation of the environmental and/or planning document, including any environmental permits, needed to construct the Triangle Bikeway project, will be complete in accordance with the National Environmental Policy Act (NEPA) and all other appropriate environmental laws and regulation. All work shall be performed in accordance with state and federal procedures and guidelines; and

WHEREAS, Wake County has made a generous funding commitment to the Project, and they, along with CAMPO, desire to formally acknowledge their respective commitments to the Project; provide for further Project planning, coordination, and implementation activities; and assignment of responsibility to CAMPO for such activities.

NOW, THEREFORE, in consideration of the Background Statement and Recitals, the mutual agreements set forth below, and other good and valuable consideration, the Parties agree as follows:

I. BACKGROUND AND PURPOSE.

The Parties acknowledge their unanimous support for continued planning, design, and related work in the planning and implementation of the Triangle Bikeway, Eastern Section, Project. To this end, the parties desire to affirm their respective financial and other commitments to the Project, and to agree upon responsibility for further planning, coordination, and pre-construction activities.

II. PROJECT FEASIBILITY AND IMPLEMENTATION STUDY

The Parties acknowledge and agree that the Project Feasibility and Implementation Study (“Study”) should serve as a guide for additional steps to be taken in furtherance of the Project. The Study, dated December 21, 2022, is hereby incorporated in its entirety by reference into the terms of this Agreement. As set forth and elaborated upon in the Study, the Consultant’s estimate for Project Design and other pre-construction activities and services is in the amount of FIVE MILLION, ONE HUNDRED EIGHTY THOUSAND DOLLARS (\$5,180,000.00). According to the Study, this estimate addresses 100% of design and other studies and pre-construction elements, including the following:

- a) NCDOT Control of Access Committee Approval Process
- b) Public Engagement, including Support of NEPA documentation; Input on connections, materials, access, etc.
- c) Design, including topo and boundary surveys; 30% design, Trenton Road to I-440, Alignment Confirmation; Final Bikeway Design, Final Boardwalk, bridge, and tunnel design, final Sign design, signal modifications, ROW acquisition (negotiation fees and not transaction fees),
- d) Permitting, Construction Cost Estimating
- e) Environmental Documentation (NEPA-CE)
- f) Bidding
- g) Raise Grant Application Development
- h) R&O Agreement(s) with NCDOT. Failure by the MPO to execute such a Supplemental Agreement (if required) shall, at the option of the Department, constitute a breach of this Agreement by the MPO. In the event of such breach by the MPO (and subject to notice of such breach and a reasonable opportunity to cure) all amounts due under this Agreement, as well as the actual costs incurred for the work hereunder, shall be immediately due and payable upon notice by the NC Department of Transportation.
- i)

The Project Study is summarized, and Design Phase costs broken down according to category in Exhibit 1, “TRIANGLE BIKEWAY Funding for Design & NEPA Documentation, December 21, 2022”, attached.

III. CAMPO AS LEAD AGENCY FOR PROJECT PLANNING AND COORDINATION

Wake County acknowledges and agrees that, due to the regional nature of the Project, and in light of CAMPO’s experience in regional transportation planning, CAMPO should be the entity to coordinate and lead further work in planning, coordination, and implementation of the Project. CAMPO acknowledges

and agrees that, subject to approval by the CAMPO Executive Board, it is willing to serve as the lead agency for the planning, coordination, and implementation of the Project, generally in accord with the Project Study.

IV. FINANCIAL PROJECT COMMITMENTS BY WAKE COUNTY AND THE RESEARCH TRIANGLE PARK FOUNDATION.

In recognition of the pre-construction cost estimate of \$5,180,000 contained in the Project, Wake County is willing to make the following funding commitment in support of planning and implementation costs identified in the Study as follows:

1. As approved by formal action of its Board of Commissioners, Wake County agrees to commit the sum of four million, six hundred ninety-five thousand dollars (\$4,695,000.00).
2. As approved by formal action by its Board of Directors, Research Triangle Park agrees to commit the sum of four hundred eighty-five thousand dollars (\$485,000).

IV. INCORPORATION OF THE BIKEWAYS PROJECT INTO THE UPWP

In furtherance of the Project, the Parties acknowledge that the Triangle Bikeway Project has been incorporated into CAMPO's *FY 24/25/26* Unified Planning Work Program ("UPWP"). CAMPO shall accordingly take all steps necessary and appropriate to advance, support, and carry forward the Bikeways Project.

V. COMMUNICATIONS; CONTACTS.

CAMPO will regularly communicate with the County and the Foundation regarding the Bikeway Project, including contracts entered into, progress made, and work performed on the specific project elements enumerated in Article II hereof.

For purposes of such communications, including notices to be given under terms of the Agreement, the parties have designated the following contact persons and/or entities:

FOR CAMPO:

Cara Russell

Senior Transportation Planner

One Main St. Fenton, Suite 201

Cary, NC 27511

FOR WAKE COUNTY:

Christopher Snow

Director, Wake County Government

Community Services / Parks Recreation & Open Space

PO Box 550, Suite 1000

Raleigh, North Carolina 27602

V. SCOPE OF SERVICES AND RESPONSIBILITY OF PARTIES

If CAMPO contracts with a private firm, or firms, for services required to perform services necessary and appropriate to the Project, it is agreed as follows:

A. CAMPO shall ensure that a qualified firm is obtained through an equitable selection process, and that prescribed work is properly accomplished in a timely manner and at a just and reasonable cost.

B. When procuring professional services, CAMPO must adhere to Title 2 Code of Federal Regulations Part 200; Title 23 of the Code of Federal Regulations, Part 172; Title 40 United States Code, Chapter 11, Section 1101-1104; and the Department's Policies and Procedures for Major Professional or Specialized Services Contracts. Said policies and standards are incorporated in this Agreement by reference at www.fhwa.dot.gov/legregs/legislat.html and www.ncleg.net/gascripts/Statutes/Statutes.asp.

C. CAMPO is responsible for the administration of all agreements, contracts, and work orders entered into or issued for this Project.

D. CAMPO and its agents shall maintain all books, documents, papers, accounting records, and such other evidence as may be appropriate to substantiate costs and financial obligations incurred under this AGREEMENT. Further, CAMPO shall make such materials available at its office and shall require its agent to make such materials available at its office at all reasonable times during the contract period, and for three (3) years from the date of payment of the final vouchers for services or other expenses incurred by CAMPO in fulfillment of the Project. All funds received by CAMPO for, and to be applied to costs of, the Project shall be maintained in a designated Project fund balance. All such funds will be held and managed in accordance with the budgeting, fiscal control, and accounting standards applicable to units of local government in the State, including compliance with requirements for annual, or more frequent, audits.

IV. FUNDING PROCEDURES

Following commencement of design, CAMPO shall pay its contractors each month, based upon the Project work completed. CAMPO shall, at agreed upon substantial milestones, but no more frequently than monthly, prepare and submit to the County a reimbursement invoice equal to the CAMPO's payment of design costs for the Project up to the agreed upon County matching contribution, the total for which shall not exceed \$5,180,000. Invoices shall be paid to the CAMPO within 30 days of receipt

by the County, provided they meet the terms, conditions and scope of improvements set forth in this Agreement. Invoices shall also detail the Research Triangle Park's matching fund portion and shall contain the CAMPO's name and federal tax identification number and be signed and dated by an officer of CAMPO. It shall detail all products and services provided in payment requests.

Invoices should be mailed to:

Wake County Community Services
Parks, Recreation and Open Space Division
PO BOX 550
Raleigh, NC 27602

IV. TERM OF AGREEMENT; AMENDMENT; APPOINTMENT OF PERSONNEL

A. Term. This Agreement shall be effective as of the date it is duly executed by all the Parties. Unless terminated sooner, it shall expire on June 30, 2027, or at the conclusion of the Triangle Bikeway Design & NEPA Process, whichever is earlier. This Agreement may be terminated by any party, effective at the beginning of the fiscal year after such notice is given, upon six months' notice given in writing prior to the start of the fiscal year in which termination is effective. Notwithstanding the termination date heretofore established, if the jurisdictions have not indicated their intent to terminate this Agreement, this Agreement shall continue after the termination date indicated above unless any Party indicates in writing, through its respective duly authorized officer, that the Agreement is terminated.

B. Amendments. This AGREEMENT may be amended from time to time upon mutual consent of the respective governing bodies of the Parties expressed in writing.

C. Appointment of Personnel. It is agreed that the duly authorized officer executing this Agreement on behalf of his or her respective Party, shall designate persons to carry out the respective Party's obligations under this Agreement.

VI. MISCELLANEOUS.

A. Available Funds Condition. All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purpose set forth in the Agreement, and the Agreement shall automatically terminate if funds cease to be available.

B. Acknowledgment of Authority. All Parties hereby respectively confirm that the individuals executing the Agreement are authorized to execute this Agreement and to bind the respective entities to the terms contained herein. All Parties confirm they have read this Agreement, conferred with counsel, and fully understand its contents.

C. Merger and Severability. This Agreement supersedes any and all prior agreements or understandings, oral or written, among the Parties, and shall comprise the whole agreement regarding any agreements or undertakings with respect to the subject matters addressed hereunder. In the event any provision hereof shall be adjudicated to be invalid or unenforceable, in whole or in part, the remaining provisions hereof shall remain in full force and effect, and this Agreement is accordingly declared to be Severable.

D. Governing Law. This Agreement shall be interpreted under the laws of the State of North Carolina, with venue in Wake County, resolving any ambiguities and questions regarding the validity of specific provisions, so as to give maximum effect to the values and purposes sought to be set forth herein.

E. E-Verify. The parties herein have complied with E-Verify, the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law and as in accordance with N.C.G.S. §64-25 et seq. In addition, to the best of the parties' knowledge, any subcontractor employed by a contractor as a part of this contract shall be in compliance with the requirements of E-Verify and N.C.G.S. §64-25 et seq.

F. IRAN DIVESTMENT ACT CERTIFICATION. The parties herein certify that, as of the date listed below, it is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 147-86.55, et seq. In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 147-86.59, the parties shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List.

(EXECUTION)

EXHIBIT 1,

(Attachment)

TRIANGLE BIKEWAY

Funding for Design and NEPA Documentation, Month, Day, 2024