

ATTACHMENT A

RQCT 14419

CT 20170314...10098

STATE OF NORTH CAROLINA

COUNTY OF WAKE

INTERLOCAL AGREEMENT FOR THE ADMINISTRATIVE

DISTRIBUTION OF THE WAKE COUNTY \$7 VEHICLE

REGISTRATION TAX

BETWEEN

WAKE COUNTY, CITY OF RALEIGH, TOWN OF CARY, TOWN

OF WAKE FOREST, CITY OF DURHAM, AND THE RESEARCH

TRIANGLE REGIONAL PUBLIC TRANSPORTATION

AUTHORITY

This Interlocal Agreement (the "Agreement"), entered into upon the last execution date set forth below, by and between **WAKE COUNTY, NORTH CAROLINA**, a public body politic and corporate of the State of North Carolina (hereinafter "Wake County"), the **CITY OF RALEIGH**, a municipal government under North Carolina law ("Raleigh"); the **TOWN OF CARY**, a municipal government under North Carolina law ("Cary"); the **TOWN OF WAKE FOREST** ("Wake Forest"), a municipal government under North Carolina law; the **CITY OF DURHAM**, a municipal government under North Carolina law ("Durham"); **RESEARCH TRIANGLE REGIONAL PUBLIC TRANSPORTATION AUTHORITY** d/b/a GoTriangle, a public body politic and corporate of the State of North Carolina (hereinafter "GoTriangle"), individually referred to as "Party" and collectively referred to herein as "the Parties";

WITNESSETH:

WHEREAS, Wake County, in collaboration with Wake County municipalities, local partners and stakeholders, developed a strategic transit vision document commonly named and referred to as the "*Wake County Transit Plan*" ("Wake Transit Plan") which was unveiled on or about December 8, 2015 and adopted by the GoTriangle Board of Trustees on May 25, 2016, adopted by the Capital Area Metropolitan Planning Organization's Executive Board on May 18, 2016, and adopted by the Wake County Board of Commissioners on June 6, 2016; and

WHEREAS, Wake County, in collaboration with Wake County municipalities, local partners and stakeholders also developed the Wake County Transit Financial Plan ("Wake Transit Financial Plan") to guide funding and implementation of Wake Transit Plan, which was concurrently unveiled on or about December 8, 2015 and adopted by the GoTriangle Board of Trustees on May 25, 2016, adopted by the Capital Area Metropolitan Planning Organization's Executive Board on May 18, 2016, and adopted by the Wake County Board of Commissioners on June 6, 2016; and

WHEREAS, on or about May 25, 2016, Wake County was added to the renamed and expanded special tax district, "Triangle Tax District," by GoTriangle, as administrator of the tax district, in accordance with N.C.G.S. 105-509 for the purpose of holding an advisory referendum on the levy of an additional one-half percent (½%) sales and use tax for transit, the primary source of funding for the implementation of the Wake Transit Plan; and

WHEREAS, Wake County, GoTriangle, and the Capital Area Metropolitan Planning Organization ("CAMPO") have adopted the *Wake Transit Governance Interlocal Agreement* ("Governance ILA") that specifically details the procedures for all Wake County municipalities to be involved and engaged in Wake Transit Plan implementation decisions; and

WHEREAS, the Governance ILA also specifically details that funds collected in Wake County from all available revenue sources identified as Wake Transit Plan

Revenues shall be distributed directly to Triangle Tax District and be reported in the Wake Transit Major Operating Fund that is separate and distinct from other funds, and

WHEREAS, an *Agreement Setting Forth the Mutual Understanding of the Parties as to the Scope and Content of the Financial Plan* (“Financial Plan Agreement”) was also approved in accordance with N.C.G.S. § 105-508.1 by GoTriangle, CAMPO, Wake County, Durham County, Orange County, the Chapel-Hill Carrboro Metropolitan Planning Organization, and the Burlington-Graham Metropolitan Planning Organization, for which the parties of this agreement are either parties to or represented by these organizations, signifying their approval of the Wake Transit Financial Plan and the financial terms and conditions governing the expenditure of Wake County Tax Revenues in accordance with the Wake Transit Plan; and

WHEREAS, the Wake County Board of Commissioners authorized an advisory referendum on November 8, 2016 before the voters of Wake County for the purpose of levying an additional one-half percent (½%) sales and use tax for transit, the results of which have been certified, whereby the Wake County voters approved the levy of said tax; and

WHEREAS, contingent on the outcome of the advisory referendum before the voters of Wake County, the Wake County Board of Commissioners indicated it would consider levying additional taxes that were detailed in the Wake Transit Plan and presented in the Wake Transit Financial Plan, such as a seven dollar (\$7.00) county vehicle registration tax (“Wake County \$7.00 Vehicle Registration Tax”) in accordance with N.C.G.S. § 105-570; and

WHEREAS, revenues derived from the new Wake County \$7.00 Vehicle Registration Tax are identified within the Wake Transit Plan, Governance ILA, and Financial Plan Agreement as an additional funding source that will be dedicated to support the implementation of the Wake Transit Plan and spent only in accordance with the financial covenants contained in the Governance ILA; and

WHEREAS, the transit sales tax dollars, upon collection, will be remitted directly from the North Carolina Department of Revenue to the Triangle Tax District administered by GoTriangle in accordance with N.C.G.S. 105-508, *et seq.* for implementation of the Wake Transit Plan; and

WHEREAS, pursuant to N.C.G.S. §105-570(c), unlike the sales tax dollars remitted by the North Carolina Department of Revenue directly to the Triangle Tax District, the funds derived from the Wake County \$7.00 Vehicle Registration Tax will be collected by the North Carolina Department of Motor Vehicles (DMV) for remittance to Wake County to determine the allocation among the county and municipalities within its jurisdiction that are providing public transportation services; and

WHEREAS, the City of Raleigh, the Town of Cary, the Town of Wake Forest, and a portion of the City of Durham with overlapping jurisdiction in Wake County, are the only municipalities within Wake County that are providing public transportation systems as of

the date of this Agreement that would be entitled to an allocation of the Wake County \$7.00 Vehicle Registration Tax; and

WHEREAS, on or about December 5, 2016, the Wake County Board of Commissioners approved the levy of the Wake County \$7.00 Vehicle Registration Tax in accordance with N.C.G.S. §105-570; and

WHEREAS, N.C.G.S. Chapter 105 Article 52 allows for Wake County and its member municipalities providing public transportation systems to enter into an interlocal agreement for the allocation of revenue derived from the new Wake County \$7.00 Vehicle Registration Tax; and

WHEREAS, the Parties to this Agreement have indicated their desire for the funds collected by DMV in association with the new Wake County \$7.00 Vehicle Registration Tax to be distributed directly to Triangle Tax District, to be reported in the Wake Transit Major Operating Fund, and to be included with all other Wake Transit Plan Revenues flowing to the Triangle Tax District on behalf of Wake County, to be used and expended only in strict adherence to the financial terms and conditions outlined in the Governance ILA for implementation of the Wake Transit Plan; and

WHEREAS, the Parties pursuant to the authority of N.C.G.S. 160A-461 *et seq.* are authorized to enter into this Agreement and joint planning and implementation efforts in order to pursue the above stated goals.

NOW THEREFORE, for and in consideration of the promises and covenants contained in this Agreement and the mutual benefits derived therefrom, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I PURPOSE and SCOPE

1.01 Recitals; Purpose. The Recitals are incorporated into this Agreement. The purpose of this Agreement is to establish the administrative distribution of all funds derived from the Wake County \$7.00 Vehicle Registration Tax as they are collected by the North Carolina Division of Motor Vehicles.

1.02 Scope. The scope of this Agreement shall be solely for the administrative distribution and allocation of all revenues derived from the Wake County \$7.00 Vehicle Registration Tax. The expenditure of funds derived from said tax shall be directed exclusively by decisions made in accordance with the Governance ILA entered into between Wake County, GoTriangle, and Capital Area Metropolitan Planning Organization (CAMPO).

ARTICLE II

TERM, AMENDMENT, and TERMINATION

2.01 Term. This Agreement shall become effective upon the properly authorized execution of the Agreement by all Parties and shall continue (i) until November 30, 2041 (“Initial Term”) a date which coincides with the term outlined in Section 4.01 of the Wake County Transit Governance Interlocal Agreement dated May 18, 2016, which Initial Term shall be automatically extended through the final maturity dates of any debt issued and payable from Wake County Transit Tax Revenues, unless terminated in accordance with Section 2.03.

2.02 Amendment. This agreement may be amended to add parties or to change content. An amendment to add a party, specifically a Wake County municipality eligible to receive a pro rata share of the funds collected pursuant to G.S. 105-570(c), shall not require the agreement of all Parties and shall only require a written amendment among CAMPO, Wake County, GoTriangle, and the municipality to be added, provided the municipality must enter subject to the same terms as all other Parties. If any Party desires to amend the content of the Agreement, then the proposed amendment and the reasons for the proposed amendment shall be communicated in writing to the other Parties per the Notice provisions contained herein. If the Parties agree to the proposed amendment, then the amendment shall be effected by entering a written amendment to the Agreement.

2.03 Termination. This Agreement will terminate upon any of the following:

- a) Repeal of the Wake County \$7.00 Vehicle Registration Tax, in which case the Agreement shall terminate upon the effective date of the repeal; or
- b) Modification to the statutory authority of GoTriangle in Article 26 of Chapter 160A of the North Carolina General Statutes or any other limitation, such as bankruptcy or insolvency, on the ability of GoTriangle to collect, manage, or receive tax revenues on behalf of Wake County, in which case the Agreement shall terminate on the effective date of said modification or limitation; or
- c) By agreement of a majority vote of the parties to this Agreement following identification of significant concerns with the Wake County Financial Plan and/or the processes and procedures required by the Governance ILA for implementation of the Wake Transit Plan, provided that a party to this Agreement has notified all parties in writing of the concern(s) and provided eighteen (18) months from the notification of the concern(s) to allow potential resolution; or
- d) By agreement of a majority vote of the parties to this Agreement, upon breach of this Agreement by GoTriangle, provided that a party to this Agreement has notified GoTriangle in writing and provided eighteen (18) months from the notification to allow potential resolution in accordance with the procedures set forth in section 2.03(c), above ;
- e) At the end of the Initial Term, if any party to this Agreement has notified all parties in writing of its intent to terminate the Agreement on or before May 31, 2041. Upon that party entering a new agreement for the pro-rata distribution of these funds pursuant to N.C.G.S. 105-570(c)(1), that party shall be removed from the successive terms of this Agreement. This Agreement shall continue in full force and effect as to the other non-withdrawing parties; or

- f) Upon execution of a separate written agreement, approved by all parties, intended to replace this Agreement, such as that contemplated in Section 5.01, to accomplish the same goals as outlined herein.

2.04 Notice. Any written or electronic notice required by this section shall be delivered to the Parties at the following addresses:

For Wake County: Wake County Manager
Wake County Justice Center
301 S. McDowell St.
Raleigh, NC 27601

With a copy to Wake County Attorney
Wake County Justice Center
301 S. McDowell St.
Raleigh, NC 27601

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

With a copy, which shall not constitute notice, to:

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

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

For Town of Wake Forest: Town Manager
Town of Wake Forest, NC
301 S. Brooks St.
Wake Forest, NC 27587-2932

For City of Durham: City Manager
City of Durham
101 City Hall Plaza
Durham, NC 27701

For GoTriangle: GoTriangle
General Manager
PO Box 13787
Research Triangle Park, NC 27709

With a copy to GoTriangle
General Counsel
P.O. Box 13787
Research Triangle Park, NC 27709

ARTICLE III
ADMINISTRATIVE DISTRIBUTION OF THE NEW WAKE COUNTY SEVEN
DOLLAR VEHICLE REGISTRATION TAX BY THE NORTH CAROLINA
DIVISION OF MOTOR VEHICLES; EXPENDITURE OF FUNDS

3.01 Role of the Division of Motor Vehicles (DMV). In accordance with G.S. 105-570, all funds derived from the Wake County \$7.00 Vehicle Registration Tax levied on an annual basis among all qualifying vehicles registered in Wake County are to be collected by DMV and remitted on a quarterly basis.

3.02 Allocation of Funds. In lieu of the allocation of funds prescribed on a per capita, pro rata basis per G.S. 105-570, the Parties desire for DMV to remit all funds derived from the Wake County \$7.00 Vehicle Registration Tax directly to the Triangle Tax District, administered by GoTriangle, for the collective management of the funds and all other "Wake County Tax Revenue" as defined by the Governance ILA and identified within the Wake Transit Plan and Wake Transit Financial Plan. As such, it is not necessary for the Parties to calculate the allocation of funds on a per capita basis as all funds collected from the Wake County \$7.00 Vehicle Registration Tax will be combined with all other Wake County Tax Revenue sources identified in the Governance ILA and Wake County Financial Plan.

3.03 Remittance of Tax Funds to the Wake County Transit Plan. The parties to this Agreement note that all municipalities with jurisdiction in Wake County and which provide public transportation services would receive a pro rata share of the funds collected from the Wake County \$7.00 Vehicle Registration Tax pursuant to G.S. 105-570(c). By execution of this Agreement, all parties and any other parties added to the Agreement by future amendment, hereby signify their consent to forego the direct receipt of any said funds. Upon execution of this Agreement, DMV is authorized to distribute all funds collected from the Wake County \$7.00 Vehicle Registration Tax directly to Triangle Tax District in accordance with Section 3.02, above.

3.04 Consistency with the Wake County Transit Plan. The Wake Transit Plan, together with the Governance ILA, and the Financial Plan Agreement jointly contemplate the dedication of 100% of all funds derived from the Wake County \$7.00 Vehicle Registration Tax to be combined with all other Wake County transit revenue sources defined in Section 2.37 of the Governance ILA as "Wake County Tax Revenue" and for

the expenditure of said funds in accordance with the Wake County Transit Work Plan. The terms of this Section are consistent with the provisions of these Plans.

3.05 Expenditure of Funds. All funds derived from the Wake County \$7.00 Vehicle Registration Tax shall be expended by the Triangle Tax District, of which GoTriangle is the administrator, solely in accordance with the Wake County Transit Work Plan as defined in Section 2.41 of the Governance ILA. GoTriangle shall exercise its functions (receiving and expending all funds derived from the Wake County \$7.00 Vehicle Registration Tax) with all the powers, duties, and obligations that each of the Parties would have.

ARTICLE IV SPECIAL PROVISIONS

4.01 Overlap of Jurisdiction of City of Raleigh in Durham County. A portion of the City of Raleigh lies within the jurisdictional boundaries of Durham County. Pursuant to an Interlocal Agreement ("City of Raleigh ILA") dated May 20, 2015, the City of Raleigh has already agreed to forego any claim, pursuant to G.S. 105-570, to the \$7 vehicle registration tax collected in the portion of its jurisdiction that overlaps with Durham County.

4.02 Overlap of Jurisdiction of the City of Durham in Wake County. A portion of the City of Durham lies within the jurisdictional boundaries of Wake County. By execution of this Agreement, the City of Durham agrees to forego any claim pursuant to G.S. 105-570 to the Wake County \$7.00 Vehicle Registration Tax collected in the portion of its jurisdiction that overlaps with Wake County.

4.03 Segregation of Wake County \$7.00 Vehicle Registration Tax. Consistent with the financial provisions contained throughout the Governance ILA, GoTriangle, as party to this Agreement, hereby agrees to segregate and maintain complete separation of all Wake County \$7.00 Vehicle Registration Tax funds from any other funds received from DMV. Specifically, the Wake County \$7.00 Vehicle Registration Tax revenue shall not be comingled with any Non-Wake County Revenue distributed to the Triangle Tax District or GoTriangle as administrator of the Triangle Tax District.

ARTICLE V OTHER PARTIES

5.01 Non-Transit Providing Municipalities. It is acknowledged that as of the date of this Agreement, the municipalities with jurisdiction in Wake County that are not a party to this Agreement, do not provide public transportation services. Per the provisions of G.S. 105-570, it is understood that if these municipalities provide transit services in the future, they would be eligible to receive a pro rata share of the funds collected from the Wake County \$7.00 Vehicle Registration Tax. It is anticipated that said municipalities will either enter into a separate agreement, to be provided at a future date, whereby they

will agree to the same terms contained within this Agreement for the administrative distribution of Wake County \$7.00 Vehicle Registration Tax revenue in accordance with Article III above, or that the municipalities will join this Agreement. The exact documentation used will not impact the terms or validity of this Agreement.

ARTICLE VI OTHER PROVISIONS

6.01 No Third Party Beneficiaries. This Agreement is not intended for the benefit of any third party. The rights and obligations contained herein belong exclusively to the Parties hereto, and shall not confer any rights or remedies upon any person or entity other than the Parties hereto.

6.02 Ethics Provision. The Parties acknowledge and shall adhere to the requirements of N.C.G.S. 133-32, which prohibits the offer to, or acceptance by any state or local employee of any gift from anyone with a contract with the governmental entity or from a person seeking to do business with the governmental entity.

6.03 Governing Law, Venue. The Parties acknowledge that this Agreement shall be governed by the laws of the State of North Carolina. Venue for any disputes arising under this Agreement shall be in the courts of Wake County, North Carolina.

6.04 Entire Agreement. The terms and provisions herein contained constitute the entire agreement by and between the Parties hereto and shall supersede all previous communications, representations or agreements, either oral or written between the Parties hereto with respect to the subject matter hereof.

6.05 Severability. If any provision of this Agreement shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement.

6.06 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original.

6.07 Real Property. This Agreement does not involve the acquisition or ownership of real property.

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

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

(b) Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Agreement, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either Party is now a party or by which either is bound, or constitutes a default under any of the foregoing.

(c) To the knowledge of each Party, there is no litigation or other court or administrative proceeding pending or threatened against such Party (or against any other person) affecting such Party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. Neither such Party's execution and delivery of this Agreement, nor its compliance with its obligations under this Agreement, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.

6.09 Dispute Resolution. In the event of conflict or default that might arise for matters associated with this Agreement, the Parties agree to informally communicate to resolve the conflict. If any such dispute cannot be informally resolved, then such dispute, or any other matter arising under this Agreement, shall be subject to resolution in a court of competent jurisdiction.

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

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

6.12 Liability of Officers and Agents. No officer, agent or employee of any Party will be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents or employees will be deemed to execute such documents in their official capacities only, and not in their individual capacities. This section will not relieve any such officer, agent or employee from the performance of any official duty provided by law.

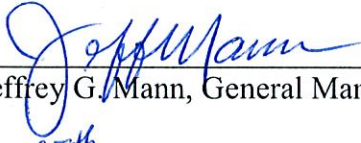

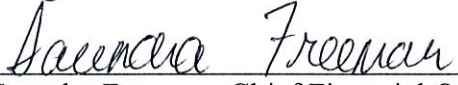
6.13 Execution in Counterparts/Electronic Version of Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Any Party may convert a signed original of the Agreement to an electronic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

electronic record of the Agreement shall be deemed for all purposes to be an original signed Agreement.

6.14 Iran Divestment Act. The Parties hereby certify that they, and all permitted subcontractors, if any, are not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58.

[Signature pages follow this page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their corporate names by their duly authorized officers, evidenced by Resolution or Certification of Minutes, as of the date written in the signature blocks below.

RESEARCH TRIANGLE REGIONAL PUBLIC TRANSPORTATION AUTHORITY (d/b/a GoTriangle) By: <u></u> Jeffrey G. Mann, General Manager This, the <u>25th</u> day of January, 2017. [Seal] ATTEST: By: <u></u> Clerk	This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act. <u></u> Saundra Freeman, Chief Financial Officer for GoTriangle This, the <u>25th</u> day of January, 2017.
--	---




<p>WAKE COUNTY, NORTH CAROLINA</p> <p>By: <u><i>[Signature]</i></u> Deputy County Manager</p> <p>This, the <u>20</u> day of <u>March</u>, 2017.</p>	<p>This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act.</p> <p><u>N/A</u></p> <p>Finance Director Wake County, North Carolina</p> <p>This, the ___ day of January, 2017.</p>
<p>[Seal]</p> <p>ATTEST:</p> <p>By <u><i>Denise Hagan</i></u> Clerk</p>	<p><u><i>[Signature]</i></u></p> <p>Frank Cope, Community Services Director</p>



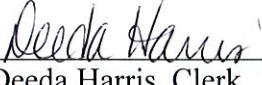


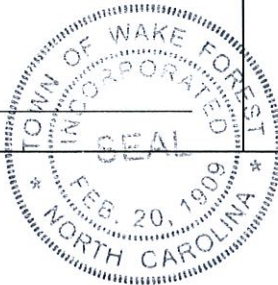
<p>CITY OF RALEIGH</p> <p>By: <u><i>Ruffin L. Hall</i></u> Ruffin L. Hall, City Manager</p> <p>This, the <u>20th</u> day of <u>February</u>, 2017.</p>	<p>This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act.</p> <p><u><i>Perry James</i></u> Perry James, Chief Financial Officer</p> <p>This, the <u>20</u> day of <u>February</u>, 2017.</p>
<p>ATTEST:</p> <p>By: <u><i>Gail C. Smith</i></u> Gail C. Smith, City Clerk</p>	



TOWN OF CARY By: <u><i>Sean R. Stegall</i></u> Sean R. Stegall, Town Manager This, the <u>30</u> day of January, 2017.	This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act. <u><i>Michelle Brook</i></u> Finance Director Town of Cary, North Carolina This, the <u>27</u> day of January, 2017.
ATTEST: By: <u><i>Virginia H. Johnson</i></u> Virginia Johnson, Town Clerk	

FEB - 6 2017

<p>TOWN OF WAKE FOREST</p> <p>By: <u></u> Kip Padgett, Town Manager</p> <p>This, the <u>1st</u> day of ^{February} January, 2017.</p>	<p>This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act.</p> <p><u></u> Finance Director</p> <p>Town of Wake Forest, North Carolina</p> <p>This, the <u>3rd</u> day of ^{February} January, 2017.</p>
<p>ATTEST:</p> <p>By: <u></u> Deeda Harris, Clerk</p>	



CITY OF DURHAM

By: 
City Manager


This, the 14th day of February, 2017.

[Seal]

ATTEST:

By: 
Clerk

This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act.


Finance Director

City of Durham, North Carolina

This, the 14th day of January, 2017.

February

