

AGREEMENT OVERVIEW

NORTH CAROLINA
DURHAM COUNTY

DATE: 2/28/2024

PARTIES TO THE AGREEMENT:

PROJECT NUMBERS:

NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION

WBS ELEMENTS: 36230.34.2.1

AND

DURHAM COUNTY

The purpose of this Agreement is to identify the participation in project costs, project delivery and/or maintenance, by the other party to this Agreement, as further defined in this Agreement.

SCOPE OF PROJECT (“Project”): The primary objectives of this study include creating a vision and brand for multimodal transportation in the Triangle Region and developing an actionable plan, including specific funding/project recommendations for the accelerated implementation of Freeway, Arterial, Street, and Tactical (FAST) transit priority infrastructure along existing roadways and/or in ongoing, upcoming, or potential roadway projects.

ESTIMATED COST OF THE PROJECT: \$855,000

COSTS TO OTHER PARTY: \$110,000

PAYMENT TERMS: Durham County will submit payment upon execution of agreement.

MAINTENANCE: No maintenance responsibilities at this time

EFFECTIVE DATES OF AGREEMENT:

START: Upon Full Execution of this Agreement

END: When work is complete and all terms are met.

This **Agreement** is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the **Department** and the Durham County, hereinafter referred to as the **County**; and collectively referred to as the **Parties**.

The **Parties** to this Agreement, listed above, intend that this Agreement, together with all attachments, schedules, exhibits, and other documents that both are referenced in this Agreement and refer to this Agreement, represents the entire understanding between the **Parties** with respect to its subject matter and supersedes any previous communication or agreements that may exist.

I. WHEREAS STATEMENTS

WHEREAS, this Agreement is made under the authority granted to the **Department** by the North Carolina General Assembly including, but not limited to, the following applicable legislation: General Statutes of North Carolina (NCGS) Section 136-66.2 and 136-66.3, Section 160A-296 and 297, and Section 136-18, to participate in the planning, construction and/or implementation of the Project approved by the Board of Transportation; and,

WHEREAS, the proposed Freeway And Street-based Transit (FAST) network concept has been approved to move forward to the next phase of development with funding from the FAST 2.0 partners; and

WHEREAS, the **Department** has coordinated with participating businesses, counties, and municipalities to leverage funding; and,

WHEREAS, the **County** has agreed to participate in the cost of the project as hereinafter set out; and,

NOW, THEREFORE, the **Parties** hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

II. RESPONSIBILITIES

A. THE DEPARTMENT WILL

- i. Procure a consultant to develop the study and administer the contract and associated funding.
- ii. Convene stakeholders to address challenges of coordination, building consensus, and forming a shared regional vision among multiple partners.

B. THE COUNTY SHALL

- i. Actively participate in critical study decisions, help to build consensus on strategies and recommendations, and provide review of deliverables.
- ii. Participate in funding as shown in the **COSTS AND FUNDING** Provision.

III. PROJECT DELIVERY REQUIREMENTS

A. PROJECT DOCUMENTS / DELIVERABLES

- i. The **Department** anticipates the following Project Deliverables. Said list may be amended at the request of the Project committee:

1. Project Management Plan
 2. Community Engagement
 3. Information Gathering and Review of Existing Conditions
 4. Vision and brand for multimodal transportation in the Triangle Region
 5. Actionable materials for planners and other transit and transportation professionals
 6. Accessible marketing materials for the public to gain understanding and support for FAST transit network, particularly along SMART freeway and arterial corridors
 7. Feasibility analyses and high-level design concepts for certain corridors.
 8. Technical Memo with Project List and Prioritization Comparison
 9. Implementation Plan with Cost Estimates and Funding Plan
- ii. All documents, including digital files, will become the property of the **Department**. Any and all original graphics, technical drawings, photographs, maps, GIS files, and promotional items produced for the plan or for any public meetings shall be available for use by the **Department** in other publications, on the **Department** website and for display purposes. The **Department** shall be credited for its participation in all documents, publicity, announcements, and materials prepared for/by the **County** for public meetings.
- iii. The **County** shall receive digital files and hard copies of the approved Study. The **County** shall be responsible for the distribution of the final documents to the appropriate local agencies and interested parties.

B. TIMEFRAMES

It is important that the **County** provide necessary support and responses to the **Department** in a timely manner. Any delays on the part of the **County** may affect the ability of the **Department** to provide financial support for the Project.

IV. COSTS AND FUNDING

A. PROJECT COSTS

The estimated cost of the Project is \$855,000. The **County** shall participate in project costs up to a maximum of \$110,000. The **Department** is responsible for all costs that exceed \$855,000. If the costs are less than \$855,000, the **Department** will return any overpayment based on the **County's** percentage contribution to the total project cost.

B. DOWNPAYMENT

Based on the estimated cost of \$110,000 the **County** shall submit a payment for \$110,000 to the **Department's** Fiscal Section upon full execution of this Agreement, per the guidance in the attached cover page.

V. STANDARD PROVISIONS

A. AGREEMENT MODIFICATIONS

Any modification to scope, funding, responsibilities, or time frame will be agreed upon by all **Parties** by means of a written Supplemental Agreement.

B. ASSIGNMENT OF RESPONSIBILITIES

The **Department** must approve any assignment or transfer of the responsibilities of the **County** set forth in this Agreement to other parties or entities.

C. AGREEMENT FOR IDENTIFIED PARTIES ONLY

This Agreement is solely for the benefit of the identified **Parties** to the Agreement and is not intended to give any rights, claims, or benefits to third parties or to the public at large.

D. OTHER AGREEMENTS

The **County** is solely responsible for all agreements, contracts, and work orders entered into or issued by the **County** to meet the terms of this Agreement. The **Department** is not responsible for any expenses or obligations incurred for the terms of this Agreement except those specifically eligible for the funds and obligations as approved by the **Department** under the terms of this Agreement.

E. TITLE VI

The other party to this Agreement shall comply with Title VI of the Civil Rights Act of 1964 (Title 49 CFR, Subtitle A, Part 21) and related nondiscrimination authorities. Title VI and related authorities prohibit discrimination on the basis of race, color, national origin, disability, gender, and age in all programs or activities of any recipient of Federal assistance.

F. FACSIMILE

A copy or facsimile copy of the signature of any party shall be deemed an original with each fully executed copy of the Agreement as binding as an original, and the **Parties** agree that this Agreement can be executed in counterparts, as duplicate originals, with facsimile signatures sufficient to evidence an agreement to be bound by the terms of the Agreement.

G. AUTHORIZATION TO EXECUTE

The **Parties** hereby acknowledge that the individual executing this Agreement has read this Agreement, conferred with legal counsel, fully understands its contents, and is authorized to execute this Agreement and to bind the respective **Parties** to the terms contained herein.

H. DEBARMENT POLICY

It is the policy of the **Department** not to enter into any agreement with parties that have been debarred by any government agency (Federal or State). By execution of this agreement, the **County** certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Agency or Department and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

I. INDEMNIFICATION

To the extent authorized by state and federal claims statutes, the **County** shall be responsible for its actions under the terms of this agreement and save harmless the FHWA (if applicable), the **Department**, and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns from and against any and all claim for payment, damages and/or liabilities of any nature, asserted against the **Department** in connection with this Agreement. The **Department** shall not be liable and shall be held harmless from any and all third-party claims that might arise on account of the **County's** negligence and/or responsibilities under the terms of this agreement.

J. AVAILABILITY OF FUNDS

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.

K. DOCUSIGN

The **Department** and the **County** acknowledge and agree that the electronic signature application DocuSign may be used, at the sole election of the **Department** or the **County**, to execute this Agreement. By selecting "I Agree", "I Accept", or other similar item, button, or icon via use of a keypad, mouse, or other device, as part of the DocuSign application, the **Department** and the **County** consent to be legally bound by the terms and conditions of Agreement and that such act constitutes the **Department's** signature as if actually signed by the **Department** in writing or the **County's** signature as if actually signed by the **County** in writing. The **Department** and the **County** also agree that no certification authority or other third-party verification is necessary to validate its electronic signature and that the lack of such certification or third-party verification will not in any way affect the enforceability of its electronic signature. The **Department** and the **County** acknowledge and agree that delivery

of a copy of this Agreement or any other document contemplated hereby through the DocuSign application, will have the same effect as physical delivery of the paper document bearing an original written signature.

L. GIFT BAN

By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Adult Corrections, Commerce, Environmental Quality, Health and Human Services, Information Technology, Military and Veterans Affairs, Natural and Cultural Resources, Public Safety, Revenue, Transportation, and the Office of the Governor).

SIGNATURE PAGE

IN WITNESS WHEREOF, this Agreement has been executed the day and year heretofore set out, on the part of the **Department** and the **County** by authority duly given.

(DOCUSIGN ONLY)

Authorized Signer: _____

Print Name: _____

Title: _____

Date Signed: _____

If applicable, this Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act:

DURHAM COUNTY

FED TAX ID NO: _____

Finance Officer: _____

REMITTANCE ADDRESS:

Print Name: _____

Date Signed: _____

DEPARTMENT OF TRANSPORTATION

BY: _____

TITLE: Deputy Secretary for Multimodal Transportation

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (DATE)

SIGNATURE PAGE

IN WITNESS WHEREOF, this Agreement has been executed the day and year heretofore set out, on the part of the **Department** and the **County** by authority duly given.

(INK SIGNATURES ONLY)

ATTEST: _____ Authorized Signer: _____

BY: _____ Print Name: _____

TITLE: _____ Title: _____

Date Signed: _____

If applicable, this Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act:

DURHAM COUNTY

FED TAX ID NO: _____ Finance Officer: _____

REMITTANCE ADDRESS: _____ Print Name: _____

_____ Date Signed: _____

DEPARTMENT OF TRANSPORTATION (DocuSign)

BY: _____

TITLE: _____

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (DATE)