

**MEMORANDUM OF UNDERSTANDING
IN SUPPORT OF CONTINUED DEVELOPMENT OF
THE GREATER TRIANGLE COMMUTER RAIL PROJECT**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into as of the date last executed below by and among the following parties (individually, a “Party”, and collectively, the “Parties”):

1. Research Triangle Regional Public Transportation Authority d/b/a GoTriangle (“GoTriangle”), a public body and body politic and corporate of the State of North Carolina; and
2. North Carolina Railroad Company (“NCRR”), a North Carolina private business corporation that owns and controls real property running approximately 317 miles from Charlotte to Morehead City which is used for passenger and freight rail operations (“NCRR Corridor”); and
3. North Carolina Department of Transportation (“NCDOT”), an agency of the State of North Carolina; and
4. Capital Area Metropolitan Planning Organization (“CAMPO”), a metropolitan planning organization (“MPO”) with jurisdiction in Wake and portions of Granville, Franklin, Harnett and Johnston counties; and
5. Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (“DCHC MPO”), a metropolitan planning organization (“MPO”) with jurisdiction in Durham and portions of Orange and Chatham counties; and
6. Wake County (“Wake”), a public body and body politic and corporate of the State of North Carolina; and
7. Durham County (“Durham”), a public body and body politic and corporate of the State of North Carolina; and
8. Subject to Section III.A below, Johnston County (“Johnston”), a public body and body politic and corporate of the State of North Carolina.

I. BACKGROUND

With over 80 new residents daily, the Greater Triangle Region of North Carolina is one of the fastest growing regions in the United States. A robust local and regional transit network is essential to maintaining mobility, economic prosperity, and quality of life.

Recognizing the need for regional mobility, GoTriangle, NCRR, and NCDOT have individually or in partnership conducted multiple studies of potential commuter rail service in the Greater Triangle Region over the past twenty years. Previous studies or development efforts have included regional rail initiatives, ridership studies, capacity assessment, and planning for long-term infrastructure expansion.

The current project being advanced is known as the Greater Triangle Commuter Rail (“GTCR”) project (the “Project”). The Project envisions the introduction of commuter rail service, with GoTriangle

as the Project Sponsor, on a segment of the NCRR Corridor that lies within GoTriangle's territorial jurisdiction and within the planning jurisdictions of CAMPO and DCHC MPO (the "Commuter Rail Segment"). Commuter rail is a public transportation system designed to primarily serve peak travel demand and operate on the same tracks, as improved, used by freight and intercity passenger rail operations. The Project has been identified in the Wake County Transit Plan, the Durham County Transit Plan, and the CAMPO and DCHC MPO 2045 Metropolitan Transportation Plans.

Building upon prior study efforts, GoTriangle, in coordination with the other Parties, has undertaken a feasibility assessment to update ridership estimates, develop planning-level capital and operations and maintenance ("O&M") cost estimates, and position the Project for further evaluation and potential entry into the Federal Transit Administration's ("FTA") Capital Investment Grants ("CIG") Program with GoTriangle as the intended Project Sponsor. This MOU is intended to identify the Parties' mutual goals, objectives, tasks and expectations for the Project and to establish a preliminary framework for mutual cooperation and coordination among the Parties with respect to the same, as further described below.

Given the large scope and complex nature of the Project, many constituencies will play a role in shaping its development and, ultimately, determining its fate. Significant engagement with municipal partners, institutions, business organizations, community organizations, and the general public will be necessary. While the Parties recognize the diverse array of interests touched by the Project, the Parties also recognize that – individually and collectively – they are uniquely positioned to influence and direct the Project's implementation, as follows:

GoTriangle is the Project Sponsor and a regional public transportation authority, organized under state law for the purpose of financing, providing, operating, and maintaining an inter-county public transportation system. GoTriangle is also a Funding Party (as described herein), along with Durham and Wake and the MPOs, as these parties share a collective responsibility for the expenditure of transit revenues pursuant to state law and interlocal agreements. GoTriangle will also lead the facilitation of a cost-sharing negotiation among the Funding Parties for the Project.

NCRR, as owner of the NCRR Corridor, has agreements for access to and use of its corridor by passenger and freight rail operators. Introduction of commuter rail service in the NCRR Corridor is not possible without NCRR's consent, cooperation with current users of the corridor, and compliance with NCRR's agreements. Additionally, NCDOT and the freight rail operators have their own agreements with Amtrak. NCRR, although not a Funding Party, agrees to contribute one-third (1/3), up to [\$250,000] (not to exceed), of the cost of the rail freight and passenger Rail Traffic Controller ("RTC") modeling costs relating to study of scenarios for additional rail infrastructure, facilities, and systems within the NCRR Corridor in order to accommodate commuter rail.

NCDOT has a principal role in the Project because it sponsors intercity passenger rail operated by Amtrak on some segments of the NCRR Corridor; has standing powers and responsibilities under existing agreements with NCRR and freight rail operators related to the Amtrak-operated passenger service; has special statutory responsibilities related to safety and oversight of rail fixed guideway public transportation systems; has responsibility for level and grade-separated crossings on the State highway system; and administers state funding that may be available for non-highway modes, including commuter rail.

The MPO Parties – CAMPO and DCHC MPO – are vital to the Project’s implementation because they are responsible under federal and state requirements to execute the Triangle region’s core transportation planning functions, including development of the region’s federally required metropolitan transportation plans and transportation improvement programs and the consideration and adoption of locally preferred alternatives for regionally significant transportation projects. The MPOs are also Funding Parties (as described herein), along with Durham and Wake and GoTriangle, as these parties share a collective responsibility for the expenditure of transit revenues pursuant to state law and interlocal agreements. The MPOs will also support the facilitation of a cost-sharing negotiation among the Funding Parties for the Project.

The primary county Parties – Durham and Wake – are integral to the Project’s development. Durham and Wake have authorized advisory referenda for local option sales taxes supporting implementation of their transit plans, adopted financial plans, and entered into interlocal agreements that outline planning, funding, expansion, construction, and operations of the county transit plans. Durham and Wake are also Funding Parties (as described herein), along with GoTriangle and the MPOs, as these parties share a collective responsibility for the expenditure of transit revenues pursuant to state law and interlocal agreements. The counties will also support the facilitation of a cost-sharing negotiation among the Funding Parties for the Project. If Johnston County becomes a Party to this MOU, Johnston’s role will be similar to Durham’s and Wake’s.

The “Funding Parties” are defined as GoTriangle, DCHC MPO, CAMPO, Wake County, and Durham County, as these parties share a collective responsibility for the expenditure of transit revenues pursuant to state law and interlocal agreements. Johnston County may be determined as an additional Funding Party pursuant to other provisions herein.

II. PURPOSES OF MOU

The purposes of this MOU are the following:

1. Express the Parties’ mutual understanding regarding roles and responsibilities during Early Project Development (“EPD”) as described in Section III.C below and **Exhibit A** attached hereto.
2. Express the Parties’ mutual understanding regarding priority activities, tasks, and decisions to be achieved during EPD in order to identify a commuter rail service system on the Commuter Rail Segment that will be technically, financially, legally, and politically achievable.
3. Express the Parties’ mutual intention to work in good faith to further the EPD phase of the Project in a manner that is timely, representative, collaborative, responsive, open and transparent, fiscally responsible, and informed by objective and measurable success factors.
4. Express the Parties’ mutual intention to lay a strong foundation for potential future implementation of the Project, if the Project enters the CIG phase, including future agreements for project development, construction, operations, and maintenance.

III. AGREEMENTS

A. Effective Date

This MOU will become effective as of the last date indicated on the signature pages below, when executed by all of the following parties: GoTriangle, NCRR, NCDOT, CAMPO, DCHC MPO, Wake, and Durham. This MOU will not be effective with respect to Johnston, nor will Johnston be considered a Party to this MOU, until (i) Johnston has executed this MOU and (ii) all of the other Parties have also executed this MOU. The deadline for Johnston's approval and execution of this MOU, which must be supported by a vote of its Board of County Commissioners, is April 15, 2020.

B. Project Sponsor and Other Parties' Roles

This MOU describes roles and responsibilities that, in some cases, belong to one Party alone and, in others, are shared among multiple Parties. The Parties intend for their roles and responsibilities under this MOU to be construed consistently with their respective innate powers, purposes, and functions.

GoTriangle is the Project Sponsor and is the anticipated applicant for purposes of the CIG Program if the Project advances into the federal program. As Project Sponsor, GoTriangle is responsible for general management of the Project in accordance with this MOU. The remaining Parties are responsible for facilitating in good faith GoTriangle's management of the Project in accordance with this MOU.

Neither GoTriangle's designation as Project Sponsor, nor any other provision of this MOU, is intended to restrain or diminish any Party's otherwise lawful powers or prerogatives.

C. Early Project Development

Early Project Development, or EPD, means a range of tasks, as described and assigned in **Exhibit A** attached hereto, to be undertaken upon the effective date of this MOU and projected to require approximately 18 months of work. This 18-month estimate depends on timely cooperation from third parties such as the freight operators (Norfolk Southern and CSX) that currently use the NCRR Corridor. While there is no set date for concluding EPD, the Parties agree that the conclusion of EPD will be marked by either (i) FTA's decision on whether to admit the Project into the CIG Program or (ii) the termination or indefinite suspension of the Project without achieving entry into the CIG Program.

The purposes of EPD are to determine whether a commuter rail service system on the Commuter Rail Segment is likely to be technically, financially, legally, and politically achievable, and also to identify the characteristics of such a system.

D. Scenarios for Early Project Development

In order to begin EPD with a set of common understandings about the Project, the Parties acknowledge the need to identify and define scenarios to be evaluated. As EPD progresses, these scenarios may evolve in response to testing and new information. A priority task in EPD is to further refine these scenarios and achieve consensus among the Parties on a "Project Concept" that reflects information about termini, station number and location, grade separations, street closures, number and

location of additional tracks and improvements (e.g., bridges, signals, other infrastructure), frequency of trains, fleet size and composition, and train storage and maintenance requirements. For purposes of initiating the necessary RTC modeling and other EPD tasks, the following scenario(s) will be tested:

- Scenario 1: West Durham to Auburn, 14 stations, 20 daily round trips (8 each in the morning and evening peak periods, and 2 each in the mid-day and late evening off-peak periods), one additional track.
- Scenario 2: Scenario 1 with seven of the 20 daily round trips (3 each in the morning and evening peak periods, and 1 in the mid-day) serving an additional proposed station in Clayton.
- Other scenarios: in response to data and findings obtained through testing of Scenarios 1 and 2, the Parties may identify and evaluate other scenarios to inform a "Project Concept."

If Johnston does not approve and execute this MOU, also committing its funding share described in Section III.F, by April 15, 2020, Scenario #2 may be discarded from further evaluation during EPD without amendment or modification of this MOU.

E. Priority Tasks for Early Project Development

The Parties agree that the priority tasks, as described and assigned in **Exhibit A** attached hereto, will need to be accomplished to support a decision to apply for entry into the CIG Program. The Parties, individually and collectively, agree to use their best efforts to facilitate completion of these priority tasks. If any Party discovers reason to believe that completion of a priority task may be either infeasible or likely delayed beyond the 18-month period described above in Section III.C, then the Party will promptly inform all other Parties in writing, explaining the basis for the Party's belief.

F. Budget and Cost Sharing for Early Project Development

The Funding Parties' existing approvals for the development of the GTCR Project are not adequate to accomplish the EPD tasks described and assigned in **Exhibit A**. Accordingly, the governing boards managing the requisite appropriation of funding for EPD will consider, in accordance with regular processes, the following funding commitments and any applicable work plan or budgetary amendments by April 15, 2020:

Wake Transit Plan:	\$6 million
Durham Transit Plan:	\$2.7 million
Johnston County:	\$250,000

The total, aggregate not-to-exceed amount for EPD is \$9.2 million, including the cost of RTC rail infrastructure modeling as described in Section I. Each amount represented above is a not-to-exceed amount for the respective Party indicated. Actual expenses incurred will be billed to the respective Parties by the same percentage proportion as shown above.

By approval of this MOU, the Funding Parties acknowledge the cost share for EPD. The cost share for EPD is not intended to be indicative of a final cost share agreement for the design, financing, construction, insurance, operations, and maintenance of the Project in a state of good repair.

Notwithstanding anything to the contrary herein, this MOU will not be effective unless the funding commitments from the Wake and Durham Transit Plans are approved by the relevant governing boards by April 15, 2020. This MOU will not be effective as to Johnston unless Johnston's funding commitment is approved by its Board of County Commissioners by April 15, 2020.

G. General Responsibilities during Early Project Development

1. Further Refinement of Commuter Rail Project

Each Party will cooperate with each other in the formation of the commuter rail project, based on consensus among the parties, that can effectively function with appropriate infrastructure in a shared corridor with existing and future freight and passenger trains and is cost-beneficial to the residents of the region.

2. Local Government Engagement

Local government engagement is a priority task identified in **Exhibit A**, and will be managed as provided in **Exhibit A**. Parties not assigned lead or support responsibilities will participate in such engagement to the extent necessary to be responsive to local government interests. As part of EPD, GoTriangle will seek support from each local government potentially impacted by construction of the Project, with regard to the Project's anticipated physical and operational characteristics.

3. Stakeholder Engagement

Community and institutional engagement are priority tasks identified in **Exhibit A**, and will be managed as provided in **Exhibit A**. Parties not assigned lead or support responsibilities will participate in such engagement to the extent necessary to be responsive to stakeholders' interests. As part of EPD, GoTriangle will seek support from major institutional property owners whose lands are potentially impacted by construction of the Project, with regard to the Project's anticipated physical and operational characteristics.

4. Official Meetings

As necessary to facilitate information-sharing and decision-making, any Party may request another Party to attend official meetings of the requesting Party's governing board when Project-related approval items are on the agenda. The invited Party, through staff or other representatives, will use best efforts to attend the appointed meeting and communicate the Party's positions on, and interests in, the Project. GoTriangle will be responsible for identifying such meetings and for coordinating advance notice, preparation and plans among the relevant Parties to fulfill the stated goals of information-sharing and decision-making.

H. Party-specific Responsibilities during Early Project Development

The Parties agree to the following assignment of responsibilities, in addition to or in further elaboration of the responsibilities set forth in **Exhibit A**:

1. Funding Parties

During EPD, the Funding Parties of the proposed “Project Concept” will jointly develop a cost-sharing agreement that authorizes GoTriangle to allocate and disburse the transit plans’ respective shares of the estimated cost (after EPD) to plan, design, finance, construct, insure, operate, and maintain the Project in a state of good repair. GoTriangle will lead the facilitation of negotiations and drafting related to the proposed cost-sharing agreement. The purpose of such an agreement is to demonstrate the local financial commitment needed to secure “matching” potential future federal funding under the requirements of the CIG Program and to document a methodology (or methodologies) for sharing of construction and operating costs of a regional project. In addition, the Funding Parties will collaborate to seek state funding to complement local and federal funding.

2. GoTriangle

GoTriangle will be considered the Project Sponsor and lead coordinator for all pre-CIG activity. With input and collaboration from the other Parties, GoTriangle will continually monitor the status of the EPD priority tasks. Upon agreement among all MOU Parties that readiness for CIG Project Development has been achieved, GoTriangle will submit the Project to FTA for entry into the federal program.

3. MPOs

The MPOs will work collaboratively with all MOU Parties to identify and consider for adoption a Locally Preferred Alternative (including mode, alignment, and termini) for the CIG Program phase using a mutually-acceptable concurrence process. The MPOs will work collaboratively with all MOU Parties to facilitate consideration of adoption of the Project in all applicable Metropolitan Transportation Plans, Transportation Improvement Programs, State Transportation Improvement Program, and county transit plans.

4. NCRR

NCRR will contribute and work with the other Parties to assist in the determination of the feasibility of the Project within the Commuter Rail Segment, including but not limited to:

- i. providing information about existing conditions
- ii. review and comment related to capacity expansion requirements and required and related capital investments
- iii. review and comment related to designs and plans
- iv. identification of legal parameters and issues within NCRR’s purview and strategies for addressing these
- v. encouraging and facilitating discussions with freight operators on the NCRR Corridor when needed by the Project Sponsor

5. NCDOT

With consideration for passenger and freight needs, including but not limited to its obligations and responsibilities incurred pursuant to the Definitive Service Outcomes Agreement dated March 21, 2011, NCDOT will be responsible for working with the other Parties to contribute to determining a feasible project on the NCRR-owned railroad line to be improved, including but not limited to:

- i. supporting identification of existing conditions
- ii. review, comment, and make a determination related to operating plans for RTC modeling
- iii. review and comment related to safety plans
- iv. review and comment related to roadway crossing plans
- v. review and comment related to capacity expansion requirements and plans
- vi. identification of legal parameters and issues within NCDOT's purview and strategies for addressing these
- vii. encouraging and facilitating discussions with Amtrak and freight operators when needed by the Project Sponsor
- viii. working with MOU Parties to facilitate the Project's adoption in the Statewide Transportation Improvement Program

IV. TERMINATION

A. Conference of the Parties

If mutual agreement among the MOU Parties on readiness for CIG Project Development is not achieved and GoTriangle does not apply to FTA within 24 months of the effective date of this MOU, the Parties agree to confer and use best efforts to determine by mutual agreement a response to the circumstances. The Parties agree to negotiate, as necessary and in good faith, for a period of up to 6 months. If the Parties are unable to negotiate an extension of the MOU or if the MOU is no longer needed, the MOU will terminate at the end of the 6-month period, and in any event the MOU will terminate no later than December 31, 2022.

B. CIG Project Development

If the CIG Project Development application is submitted to and approved by FTA, it is contemplated that the Parties will enter into other agreements for the Parties' roles and responsibilities regarding project development, construction, operations and maintenance.

IN WITNESS WHEREOF, the Parties have caused this Memorandum of Understanding to be executed by their duly authorized representatives on the dates indicated below.

[SIGNATURES ON PAGES FOLLOWING]

Goal	Activity	Lead*	Support**
A. Build a foundation for sustained regional cooperation and meaningful stakeholder engagement necessary for development of a successful Project Concept	1. Prepare and begin implementing a community engagement plan, defining roles and responsibilities of each Party and how stakeholders will be invited to participate meaningfully in the activities outlined in this exhibit.	GoTriangle	MPO Parties, County Parties
	2. Prepare and begin implementing an agency coordination plan, defining roles and responsibilities of each Party. GoTriangle and the MPO Parties will seek to develop and obtain concurrence for the plan with each affected local government and major institution within 60 days of execution of this MOU.	GoTriangle	MPO Parties
	3. Initiate necessary consultation with federal regulatory agencies to confirm anticipated requirements for approvals, identify the National Environmental Policy Act (NEPA) lead and cooperating agencies, obtain a class of action determination, and initiate environmental scoping.	GoTriangle	MPO Parties
	4. Prepare an agreement work plan, including exhibit of draft matrix of critical agreements, permits, and approvals, including purpose, proposed parties, and timeline for approval for each item.	GoTriangle	NCRR, MPO Parties
	5. Secure resolutions of support for moving forward with the Project Concept from boards of all affected local governments and major institutions.	GoTriangle	MPO Parties
	6. Facilitate consideration of the Project in all applicable metropolitan transportation plans, Transportation Improvement Programs, State Transportation Improvement Program, and county transit plans.	MPO Parties	GoTriangle
	7. Facilitate consideration of rail corridor setback standards by local land use authorities.	GoTriangle	MPO Parties, NCRR
B. Further refine and achieve consensus among Parties on Project Concept [project definition for purposes of initiating CIG Project Development (termini, station number and locations, grade separations, street	8. Perform detailed corridor screening to confirm key engineering and constructability risk areas, including geographic areas with complex roadway interface, topography, encroachments, adjacent structures, critical utilities, and other environmental features.	GoTriangle	NCRR, NCDOT
	9. Evaluate rolling stock and station design considerations to develop conceptual approach to address applicable federal performance standards for rolling stock accessibility.	GoTriangle	NCRR, NCDOT
	10. Obtain field survey and perform preliminary engineering design for key engineering and constructability risk areas to determine viable design	GoTriangle	NCRR, NCDOT

Goal	Activity	Lead*	Support**
closures, number and location of additional tracks and improvements, frequency of trains, fleet size and composition, train storage and maintenance requirements)]	concepts in consultation with authorities having jurisdiction including NSR and CSX.		
	11. In consultation with local governments, assess land availability for park-and-rides, and reach determination on whether sufficient park-and-ride spaces can be established to support adequate ridership.	GoTriangle	NCRR, NCDOT
	12. In consultation with local governments, identify site(s) for maintenance and layover facilities, and reach determination on whether sufficient available land exists for an affordable facility.	GoTriangle	NCRR, NCDOT
	13. Develop and begin implementing a project concurrence plan progressing to a recommendation of a locally preferred mode, alignment and termini.	GoTriangle	MPO Parties
C. Provide a basis for evaluation of monetary costs, non-monetary costs, and benefits	14. Prepare updated schedule and cost estimates (timeline and costs to plan, design, build, finance, operate, and maintain the project in a state of good repair) in consultation with NSR.	GoTriangle	NCRR, NCDOT
	15. Define and evaluate project metrics including equity measures informed by community engagement.	GoTriangle	MPO Parties
D. Obtain buy-in for the Project Concept from the operating railroads and agree on the requirements and design criteria	16. Engage with NSR and CSX to perform RTC modeling and determine alternate operating plans and associated infrastructure improvements that will be approved by the railroad owners and operators and GoTriangle.	GoTriangle	NCRR, NCDOT
	17. Determine the necessary requirements of the railroad owners and operators, including capacity, infrastructure, operating, and legal and financial requirements (such as fees, indemnification, and insurance) to the mutual satisfaction of GoTriangle and the railroad owners and operators.	GoTriangle	NCRR, NCDOT
E. Build adequate management capacity and capability to advance the project	18. Develop a preliminary Project Management Plan with well-developed sponsor management capacity and capability documents and project delivery and procurement plan.	GoTriangle	All Other MOU Parties
	19. Procure consultant support necessary to manage and perform Project Development activities.	GoTriangle	All Other MOU Parties
F. Monitor risks related to likelihood of federal funding eligibility	20. Continue to perform ridership modeling as the project definition is refined to mitigate risk of unforeseen drop in projected Project Justification ratings.	GoTriangle	MPO Parties

Goal	Activity	Lead*	Support**
	21. Engage with local land use authorities, affected major institutions and agency partners to evaluate and consider strategies to bolster Land Use and Economic Development ratings and increase project benefits.	GoTriangle	MPO Parties, County Parties
G. Obtain commitment of 100% of non-CIG funds to codify local funding partner commitment and mitigate a range of project risks, in particular risks that are exacerbated by uncertainty of project viability	22. Facilitate cost-sharing negotiation and secure a local government commitment of funds for 100% of the non-federal share of estimated costs for project design, management, financing, construction, and operation and maintenance in a state of good repair.	GoTriangle	MPO Parties, County Parties

* The Lead agency or organization will take necessary steps to plan and execute each activity.

**The support agency(s) or organization(s) will facilitate the lead agency's or organization's actions.

Wendy Jacobs, MPO Board Chair

Durham County, North Carolina

I certify that Wendy Jacobs personally appeared before me this day acknowledging to me that she signed the forgoing document

Date: March 11, 2020

Frederick Brian Rhodes, Notary Public
My commission expires: May 10, 2020