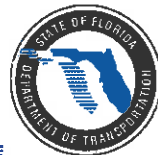

THE WAVE MODERN STREETCAR PARTNERSHIP AGREEMENT

INTERLOCAL PARTNERSHIP
AGREEMENT
among
BROWARD COUNTY
and
BROWARD METROPOLITAN PLANNING ORGANIZATION
and
CITY OF FORT LAUDERDALE
and
DOWNTOWN DEVELOPMENT AUTHORITY
OF THE CITY OF FORT LAUDERDALE
and
SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
IN COORDINATION WITH OUR CAPITAL STAKEHOLDERS, THE FEDERAL
TRANSIT ADMINISTRATION AND THE FLORIDA DEPARTMENT OF
TRANSPORTATION
for
THE WAVE MODERN STREETCAR
PLANNING, FINANCE, DESIGN, IMPLEMENTATION, PROJECT SPONSORSHIP,
OWNERSHIP, OPERATIONS, AND MAINTENANCE



THE WAVE MODERN STREETCAR PARTNERSHIP AGREEMENT

This agreement (the "Agreement") is made and entered into by and between:
BROWARD COUNTY, a political subdivision of the State of Florida,
hereinafter referred to as "COUNTY;"

and

BROWARD METROPOLITAN PLANNING ORGANIZATION, created
pursuant to Section 339.175, Florida Statutes ("F.S."), hereinafter referred to
as "BROWARD MPO;"

and

CITY OF FORT LAUDERDALE, a municipal corporation organized and
existing under the laws of the State of Florida, its successors and assigns,
hereinafter referred to as "CITY;"

and

DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF FORT
LAUDERDALE, a body politic and corporate and an agency of the City of Fort
Lauderdale as established by the laws of the State of Florida, hereinafter
referred to as "DDA;"

and

SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY, a body
politic and corporate and an agency of the State of Florida created pursuant
to Chapter 343, Florida Statutes, herein referred to as "SFRTA;"

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RECITALS

WHEREAS, the parties to this Agreement are collectively referred to herein as the "PARTNERS;" and

WHEREAS, it is the purpose and intent of the PARTNERS to this Agreement, to permit DDA, BROWARD MPO, SFRTA, COUNTY and CITY to make the most efficient use of their respective powers, resources and capabilities by enabling them to cooperate on the basis of mutual advantage and thereby accomplish the objectives provided for herein in the manner that will best accord with the existing resources available to each of them and with the needs and developments within their respective jurisdictions; and

WHEREAS, the Federal Transit Administration ("FTA") of the United States Department of Transportation and the Florida Department of Transportation ("FDOT") are CAPITAL STAKEHOLDERS (as defined herein) in the PROJECT and have allocated CAPITAL FUNDS for Design and Construction contingent upon the PARTNERS entering into this Agreement identifying their roles and responsibilities; and

WHEREAS, FTA and FDOT will enter into additional agreements with the SPONSOR (as defined herein) on the Federal and State requirements; and

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WHEREAS, this Agreement is intended to generally outline the preliminary components and identify the roles and responsibilities of the PARTNERS at this stage of the PROJECT (as defined herein); and

WHEREAS, DDA coordinated the multi-governmental development of a transit and pedestrian master plan for downtown Fort Lauderdale (hereafter "Fort Lauderdale Downtown Transit/Pedestrian Master Plan"); and

WHEREAS, the Fort Lauderdale Downtown Transit/Pedestrian Master Plan identifies the benefits of implementing a downtown transit corridor program; and

WHEREAS, downtown transit corridor programs are included in the Broward County Comprehensive Plan, the City of Fort Lauderdale Comprehensive Plan, and the Broward MPO Long Range Transportation Plan; and

WHEREAS, a component of each downtown transit corridor program is a downtown transit circulator hereinafter referred to as the "WAVE MODERN STREETCAR" (as defined herein); and

WHEREAS, DDA, BROWARD MPO, CITY, COUNTY, FDOT and SFRTA have worked at the federal, state, regional, county and city level to create the WAVE MODERN STREETCAR; and

WHEREAS, the CITY adopted Resolution No. 08-71 which endorsed the WAVE MODERN STREETCAR, recommended route E-1 as the CITY's

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preferred route and technology (the “Locally Preferred Alternative” or “LPA”), identified the CITY's funding level and endorsed using the special assessment process to provide additional capital financial support for the WAVE MODERN STREETCAR; and

WHEREAS, the COUNTY adopted Resolution 2008-579, which supported the WAVE MODERN STREETCAR, adopted route E-1 as the COUNTY's preferred route and technology (the LPA), approved a finance plan (not the same as the FINANCE PLAN defined herein), and committed to funding the operation and maintenance needs of the WAVE MODERN STREETCAR for 20 years, subject to the conditions stated herein; and

WHEREAS, the FTA in June 2012 awarded a Transportation Investment Generating Economic Recovery (“TIGER”) grant in the amount of Eighteen Million Dollars (\$18,000,000) to SFRTA for PHASE 1A (as defined herein), and FDOT has allocated funds as described and defined in the TIGER GRANT APPLICATION (as defined herein); and

WHEREAS, the TIGER GRANT does not provide sufficient funding for implementation of PHASE 1 (as defined herein) and so the work to be done pursuant to the TIGER GRANT has been defined herein as PHASE 1A (as defined herein); and

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WHEREAS, the CITY, DDA and BROWARD MPO have agreed to participate in the capital funding for the WAVE MODERN STREETCAR, as addressed herein; and

WHEREAS, the DDA has committed to support all PARTNER efforts to fund capital and operating costs of the WAVE MODERN STREETCAR (as more particularly described herein) with the public, business community, and local, regional, state, and federal levels of government; and

WHEREAS, the PARTNERS agree the COUNTY should be the OWNER and OPERATOR of the WAVE MODERN STREETCAR; and

WHEREAS, COUNTY has agreed to become the OWNER and OPERATOR of the WAVE MODERN STREETCAR subject to the conditions stated herein; and

WHEREAS, SFRTA has previous experience planning transit projects following FTA requirements and has successfully completed and obtained FTA approval for the WAVE MODERN STREETCAR Alternative Analysis and Environmental Assessment and received a Finding of No Significant Impact from the FTA, as well as prepared a successful TIGER GRANT APPLICATION for the PROJECT; and

WHEREAS, SFRTA has previous experience as a SPONSOR (as defined herein) has entered into a previous Full Funding Grant Agreement

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with the FTA, has successfully completed the design and construction of a major FTA steel-wheel transit project in South Florida, is a regional operator of Tri-Rail Commuter Rail Passenger Service, and is a FTA Designated Recipient ("DR") for FEDERAL GRANTS; and

WHEREAS, the PARTNERS agree SFRTA should be the SPONSOR and IMPLEMENTOR (as both terms are defined herein) for the WAVE MODERN STREETCAR and SFRTA has agreed to act as both, subject to the conditions stated herein.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the PARTNERS agree as follows:

1. **RECITALS.** The truth and accuracy of each of the Recitals set forth above are acknowledged by the PARTNERS and, along with the exhibits attached to this Agreement, are incorporated herein by reference.
2. **DEFINITIONS**
 - 2.1. **ASSESSMENT** shall mean a properly apportioned amount of a special assessment levied upon real property deemed to have received a special benefit from the Construction of the WAVE MODERN STREETCAR.
 - 2.2. **CAPITAL FUNDS** shall mean the respective Federal, State and Local shares of the capital costs (both "hard" and "soft" costs) that will be committed by the

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PARTNERS, excluding COUNTY and SFRTA, to the PROJECT, as provided for in this Agreement.

- 2.3. CAPITAL COST OVERRUN shall mean any and all capital costs (both “hard” and “soft” costs) that exceed those anticipated in the FINANCE PLAN and ultimately agreed to in the FEDERAL GRANT AGREEMENTS.
- 2.4. CAPITAL STAKEHOLDERS shall collectively mean FTA and FDOT, both of which have allocated CAPITAL FUNDS for the PROJECT.
- 2.5. CONSTRUCTION shall mean to employ and or contract with all persons or entities necessary to complete construction activities associated with the PROJECT.
- 2.6. DESIGN shall mean professional services, including, but not limited to, architectural; civil, electrical, traffic operations, railroad, mechanical, and electrical engineering, environmental and geotechnical, necessary to complete the design activities associated with the PROJECT.
- 2.7. FEDERAL GRANTS shall mean any federal grants awarded by FTA for the PROJECT, including, but not limited to, the TIGER and the SMALL STARTS GRANTS.
- 2.8. FEDERAL GRANT AGREEMENTS shall mean any agreements between SFRTA and the federal government for CAPITAL FUNDS for the PROJECT.

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- 2.9. FINANCE PLAN shall mean the finance plan contained within the SMALL STARTS GRANT APPLICATION (see Exhibit 1), if the SMALL STARTS GRANT (or other equally valued FEDERAL GRANT(S)) is awarded, or, if the SMALL STARTS GRANT (or other equally valued FEDERAL GRANT(S)) is not awarded, it shall be the finance plan contained in the TIGER GRANT APPLICATION (see Exhibit 2). In this context, FINANCE PLAN, is not intended to mean the finance plan contained within COUNTY Resolution 2008-579.
- 2.10. FLORIDA NEW STARTS TRANSIT PROGRAM ("NSTP") shall mean the State of Florida's primary financial resource for supporting locally planned, implemented, and operated transit "guide way" capital investments implemented in the State of Florida, as specified in Section 341.051, F.S.
- 2.11. IMPLEMENTOR shall mean SFRTA, which is the PARTNER designated by all of the PARTNERS to carry out the PROJECT.
- 2.12. OPERATOR shall mean the COUNTY, which will be responsible for day-to-day operations and maintenance of the WAVE MODERN STREETCAR in accordance with all applicable agreements, including but not limited to the FEDERAL GRANTS, and local, COUNTY, State and Federal laws, for twenty (20) years following PROJECT HANDOVER.
- 2.13. OWNER shall mean the COUNTY, upon PROJECT HANDOVER.

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- 2.14. **PARTNERS** shall mean, collectively, the DDA, the CITY, the COUNTY, the BROWARD MPO and SFRTA whose roles and responsibilities are addressed herein and may be further defined in future agreements between the **PARTNERS**.
- 2.15. **PHASE I** shall mean the **PROJECT** as described and defined in the **SMALL STARTS GRANT APPLICATION**, which includes **PLANNING, DESIGN** and **CONSTRUCTION** of the **PROJECT** through and including **PROJECT HANDOVER**.
- 2.16. **PHASE 1A** shall mean the work as described and defined in the **TIGER GRANT APPLICATION**, which includes **PLANNING, DESIGN** and **CONSTRUCTION** of the **PROJECT** through and including **PROJECT HANDOVER**.
- 2.17. **SMALL STARTS GRANT** shall mean the grant, if awarded by FTA to the **IMPLEMENTOR**, that provides for the **PLANNING, DESIGN** and **CONSTRUCTION** of **PHASE 1**.
- 2.18. **SMALL STARTS GRANT AGREEMENT** shall mean the agreement entered into between FTA and the **IMPLEMENTOR**, that provides the terms and conditions for **PHASE I** of the **PROJECT**.

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- 2.19. **SMALL STARTS GRANT APPLICATION** shall mean the application dated June 2012 transmitted to FTA on behalf of the PARTNERS by SFRTA for PHASE 1.
- 2.20. **TIGER GRANT** shall mean the grant awarded by FTA, under the Transportation Investment Generating Economic Recovery supplementary discretionary grant program included in the American Recovery and Reinvestment Act of 2009, to SFRTA in June 2012 in the amount of Eighteen Million Dollars (\$18,000,000).
- 2.21. **TIGER GRANT AGREEMENT** shall mean the agreement between SFRTA and FTA for the TIGER GRANT.
- 2.22. **TIGER GRANT APPLICATION** shall mean the application dated March 2012, transmitted to FTA on behalf of the PARTNERS by SFRTA which requested capital funding for PHASE 1A.
- 2.23. **PLANNING** shall mean the development of the Alternative Analysis/Environment Assessment (AA/EA), applications for FEDERAL GRANTS, public involvement, grant preparation, conceptual design (commonly referred to as 30% design), and real property acquisition, leases and/or easements, and development of necessary agreements for the PROJECT.

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2.24. PROJECT shall mean either (a) the PLANNING, DESIGN and CONSTRUCTION of the entire approximately 2.7 mile WAVE MODERN STREETCAR system, its stations and other related ancillary facilities and the purchase of rolling stock, as more fully described in the SMALL STARTS GRANT APPLICATION, if the SMALL STARTS GRANT, or other equally valued FEDERAL GRANT(S), is awarded, and also referred to herein as PHASE 1; or (b) shall mean the PLANNING, DESIGN and CONSTRUCTION of the approximately 1.42 mile segment of the WAVE MODERN STREETCAR system, its stations and other related ancillary facilities and the purchase of rolling stock, as more fully described in the TIGER GRANT APPLICATION, if the SMALL STARTS GRANT, or other equally valued FEDERAL GRANT(S), is not awarded to fund PHASE 1, and is also referred to herein as PHASE 1A.

2.25.

PROJECT HANDOVER is defined to mean the point in time at which the COUNTY assumes responsibility for the operations and maintenance of the WAVE MODERN STREETCAR, pursuant to the terms of this Agreement.

2.26. SPONSOR shall mean SFRTA, the PARTNER that shall be the grantee under all FEDERAL GRANTS and any other Federal funding agreements for the PROJECT. The SPONSOR will also be the recipient of all CAPITAL FUNDS

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committed by the PARTNERS and CAPITAL STAKEHOLDERS and is responsible for PLANNING.

- 2.27. YEAR OF EXPEDITURE DOLLARS shall mean the method of expressing the estimated total cost of completion of the PROJECT, as required by FTA.
- 2.28. CAPITAL COST OVERRUN shall mean any and all capital costs beyond those anticipated in the FINANCE PLAN.
- 2.29. CAPITAL COST INCREASES shall mean change orders, additional, incremental or desired features or improvements, which may include BETTERMENTS, that may exceed the PROJECT's capital budget and are caused by a PARTNER request.
- 2.30. BETTERMENTS shall mean improvements that SFRTA, in its sole discretion, determines to be beyond those required to implement the PROJECT.
- 2.31. WAVE MODERN STREETCAR shall mean the approximately 2.7 mile streetcar system approved by the CITY in Resolution No. 08-71, which endorsed the WAVE MODERN STREETCAR, recommended route E-1 as the CITY's preferred route and technology; and approved by the COUNTY in Resolution 2008-579, which supported the WAVE MODERN STREETCAR, adopted route E-1 as the COUNTY's preferred route and technology or the LPA; which is more particularly described in the SMALL STARTS GRANT APPLICATION, or, if Phase 1A is constructed and implemented, it shall mean the system as defined in the TIGER GRANT APPLICATION.

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Failure to capitalize a defined term herein shall not change its meaning, as defined in this Agreement. There are also additional defined terms in this Agreement that are not contained within Section 2.

3. PURPOSE OF AGREEMENT

The purpose and intent of this Agreement is to outline the roles, responsibilities, and allocated funding for development and operation of the WAVE MODERN STREETCAR and to provide a means by which PARTNERS may express their opinions and/or concerns regarding the development of the PROJECT.

4. WAVE MODERN STREETCAR DESCRIPTION

The WAVE MODERN STREETCAR is a modern streetcar system proposed for the urban core of the City of Fort Lauderdale, the "downtown" of Broward County as more fully described in the SMALL STARTS GRANT APPLICATION. Starting from Northwest 6th Street, with the northern anchor at the Broward County Downtown Transfer Facility, the streetcars will connect the major employment centers and primary activity centers and terminate near Broward General Medical Center to the south at Southeast 17th Street. The system is approximately 2.7 miles in length, will be served by 10 stations and use four street cars, unless only Phase 1A is constructed and implemented, and then it will be the system described in the TIGER GRANT APPLICATION.

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5. INTERGOVERNMENTAL COORDINATION AND COOPERATION

The PARTNERS recognize the need for cooperation to expedite development of the PROJECT. The PARTNERS agree to coordinate their participation in the PROJECT Implementation through a designated representative appointed by each PARTNER.

5.1. DESIGNATED PARTNER REPRESENTATIVES

The PARTNERS shall each designate a representative ("Designated Partner Representative") authorized to:

- 5.1.1. Coordinate the use of the PARTNER staff assigned, and the resources allocated to, the PROJECT.
- 5.1.2. Communicate on behalf of their respective PARTNER with other Designated Partner Representatives.
- 5.1.3. Serve as the central point of contact for their respective PARTNER with regards to the PROJECT.

Designated Partner Representatives are not authorized to amend this Agreement and cannot bind their respective PARTNER to terms not specifically agreed to by the PARTNERS pursuant to this Agreement or other agreements, as may be required by the PROJECT.

5.2. CHANGES IN DESIGNATED REPRESENTATIVE

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PARTNERS reserve the right to change their respective Designated Partner Representatives, with written notice to the other PARTNERS, at any time. An updated list of Designated Partner Representatives shall be created by the IMPLEMENTOR whenever any Designated Partner Representative is changed.

5.3. PROJECT HANDOVER

PROJECT HANDOVER is defined to mean the procedure by which the PROJECT is tested, inspected, and evaluated by the Independent Expert (as defined herein) and, if determined to meet the Acceptance Criteria (as defined herein), transferred to the COUNTY who shall then assume the responsibility for the operations and maintenance in compliance with the terms of this Agreement and the FEDERAL GRANTS, as the OWNER and OPERATOR. The process for PROJECT HANDOVER shall be as follows:

- 5.3.1. The COUNTY and SFRTA shall jointly and in good faith, select and hire an independent expert which shall be either (i) a firm who shall provide licensed professional engineers to perform the work described in this Section each with at least ten (10) years of previous experience working on federally-funded transit projects or (ii) a person(s) who is a licensed professional engineer with at least ten (10) years of previous experience working on federally-funded transit projects, and shall be qualified to test, inspect, and evaluate the

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PROJECT for the purposes of making a determination as to whether the PROJECT meets the Acceptance Criteria (as defined herein) (the "Independent Expert"). The COUNTY and SFRTA shall each bear one half of the expenses and costs of the Independent Expert. The procurement shall be conducted by SFRTA with COUNTY input in the solicitation documents, pursuant to SFRTA's Procurement Policy, but the SFRTA and COUNTY shall each have the same number of representatives on the evaluation and selection committee, each entity shall participate in contract negotiations and each entity shall be required to approve and execute the resulting contract with the Independent Expert.

5.3.2. The COUNTY and SFRTA agree to initiate procurement of the Independent Expert no later than nine (9) to twelve (12) months prior to PROJECT Substantial Completion (as defined in the applicable PROJECT CONSTRUCTION contract) so that the notice to proceed can be issued to the Independent Expert (the "Notice to Proceed") no later than three (3) months prior to the then-anticipated PROJECT Substantial Completion.

5.3.3. The COUNTY and SFRTA shall jointly prepare and issue the Notice to Proceed to the Independent Expert instructing the Independent Expert to become familiar with the PROJECT and, once PROJECT

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Substantial Completion has been obtained, to commence the testing, evaluation, and inspection of the PROJECT to determine whether Final Acceptance (as defined in the applicable PROJECT CONSTRUCTION contract) should be issued. The Notice to Proceed shall include reasonable timeframes for the Independent Expert to perform such testing, evaluation and inspection and to prepare a written report. The Independent Expert's written report shall summarize its conclusions as to whether the Acceptance Criteria have been satisfied and if Final Acceptance should be issued and if not, what needs to be accomplished in order for the Independent Expert to recommend that Final Acceptance be issued (the "Report"). The determination of whether Final Acceptance should be issued requires a determination by the Independent Engineer that the PROJECT: (i) has been constructed in accordance with the approved PROJECT Plans and Specifications; (ii) is free from material defects; and (iii) has received all of the required federal and state permits necessary for operation of the WAVE MODERN STREETCAR, if applicable. A determination by the Independent Expert that the criteria in (i), (ii), and (iii) above (the "Acceptance Criteria") have not been satisfied, shall warrant a recommendation that Final Acceptance for the PROJECT should not be issued and conversely, a

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determination that the Acceptance Criteria have been satisfied shall warrant a recommendation that Final Acceptance for the PROJECT shall be issued.

5.3.4. The findings of the Independent Expert shall be binding on the COUNTY and SFRTA.

5.3.5. Beginning no later than PROJECT Substantial Completion, the COUNTY shall make all good faith efforts to work diligently and expeditiously to determine that it is receiving good title to all property required to be transferred to the COUNTY by this Agreement, including but not limited to obtaining title commitments and addressing exceptions, free from any liens, claims of liens or other encumbrances ("Good Title").

5.3.6. If the Independent Expert recommends Final Acceptance be issued for the PROJECT, the COUNTY shall make all good faith efforts to diligently and expeditiously finalize any title issues which remain and to close on all property required to be transferred to the COUNTY by this Agreement no later than sixty (60) days following the date of the Report recommending Final Acceptance. PROJECT HANDOVER shall be deemed to have occurred on the date the COUNTY notifies SFRTA in writing that it has determined it is receiving Good Title. Closing shall occur no later than thirty (30) days

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thereafter and at that time the COUNTY shall become the OWNER and OPERATOR and shall assume the operations and maintenance obligations of the WAVE MODERN STREETCAR, pursuant to the terms of this Agreement and shall initiate revenue service consistent with the terms of the FEDERAL GRANTS. Revenue service of the WAVE MODERN STREETCAR shall be commenced by the COUNTY no later than six (6) months following PROJECT HANDOVER or the Revenue Operations Date ("ROD") in the FEDERAL GRANTS, whichever is sooner.

5.3.7. If the Independent Expert finds that the PROJECT fails to meet the Acceptance Criteria, the Independent Expert shall provide a detailed statement in the Report describing the conditions which caused the failure to meet the Acceptance Criteria and recommendations for satisfying the Acceptance Criteria. Notwithstanding any such determination, the COUNTY shall still continue to make all good faith efforts to diligently and expeditiously determine if it is receiving Good Title.

5.3.8. The COUNTY and SFRTA shall jointly, expeditiously, and in good faith, attempt to resolve the issues resulting in the failure to meet the Acceptance Criteria. The COUNTY shall not be required to assume the operations and maintenance of the WAVE MODERN

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STREETCAR until the Independent Expert has concluded that the Acceptance Criteria have been met and recommends issuance of Final Acceptance for the PROJECT.

5.3.9. If the COUNTY and SFRTA cannot resolve the issues resulting in the failure to meet the Acceptance Criteria, SFRTA shall use its best efforts to identify a resolution and, if necessary, the DDA shall use its best efforts to obtain additional funding in order for the PROJECT to meet the Acceptance Criteria, as determined by the Independent Expert, and be issued Final Acceptance.

5.3.10. The occurrence of PROJECT HANDOVER also represents an acknowledgement by the COUNTY that it has accepted title and responsibility for, and has the authority to perform: (a) the WAVE MODERN STREETCAR operation and maintenance, fare collection, and financial reporting, and (b) compliance with such portions of the FEDERAL GRANTS which relate to the specific obligations of the COUNTY, including, but not limited to, cooperating with the SPONSOR to address FEDERAL GRANT requirements post-PROJECT HANDOVER, including but not limited to the preparation of the Before and After Study.

5.3.11. COUNTY shall have no responsibility or liability for acts or claims that arose or occurred prior to PROJECT HANDOVER.

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5.3.12. COUNTY shall be a third party beneficiary for any warranties issued for the PROJECT.

5.3.13. SFRTA shall include language in any Design or Construction contracts for the PROJECT that the applicable consultant or contractor acknowledges and agrees that any claims against the consultant or contractor, which may arise during the operation and maintenance of the WAVE MODERN STREETCAR, may be brought against the consultant or the contractor by either SFRTA or the COUNTY.

5.4. Additional Agreements.

The PARTNERS agree to enter into additional agreements, as may be necessary, between the PARTNERS or with the CAPITAL STAKEHOLDERS, to effectuate the terms of this Agreement.

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6. PROJECT FUNDING FOR CAPITAL COSTS

The proposed PROJECT funding for Phase I is as specified in Exhibit 1, and the proposed PROJECT funding for PHASE 1A is specified in Exhibit 2. The COUNTY agrees to fund the WAVE MODERN STREETCAR's operations and maintenance needs for twenty (20) years following PROJECT HANDOVER, subject to the PROJECT having received all of the expected capital grants and funding necessary to complete the PROJECT, and the occurrence of PROJECT HANDOVER. The COUNTY and SFRTA shall have no obligation to fund the costs of any capital improvements associated with the PROJECT. The PARTNERS recognize and acknowledge that reimbursement for the PROJECT costs from FEDERAL GRANTS is contingent upon SFRTA's receipt of Local Funds.

6.1 FEDERAL FUNDS

The PARTNERS acknowledge and agree that SFRTA has obtained the TIGER GRANT that allows Phase 1A to be completed and implemented. The PARTNERS also acknowledge and agree that it is highly desirable and more efficient to construct the entire PROJECT, i.e. PHASE 1A and PHASE 1. SFRTA will enter into agreements for the FEDERAL GRANTS as described below:

- 6.1.1. Consistent with the FINANCE PLAN, SFRTA, as SPONSOR, will seek funding for the PROJECT from FTA pursuant to the 49 U.S.C 5309 Capital Investment Grant Program ("Section 5309 Capital Investment

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Grant Program"), for fifty percent (50%) of the capital funding for the PROJECT.

- 6.1.2. SFRTA agrees to fully explore and pursue all reasonably feasible federal funding options and opportunities to obtain all or a portion of required federal funds identified in the FINANCE PLAN.
- 6.1.3. PARTNERS acknowledge FTA's award of the TIGER Grant to SFRTA has resulted in partial capital funding that will allow for Phase 1A to be completed and implemented.
- 6.1.4. SFRTA and the PARTNERS acknowledge and agree that SFRTA will continue to pursue federal funding for implementation of Phase I as long as the schedule for the PROJECT is not impacted since all PARTNERS recognize that full implementation of the PROJECT, i.e. PHASE 1, is desirable and that significant cost savings should accrue to the benefit of the PARTNERS providing Capital Funds.

6.2. STATE FUNDS

The PARTNERS acknowledge and agree that the ability to proceed with the PROJECT is contingent upon FDOT providing CAPITAL FUNDS as described below:

- 6.2.1. For PHASE 1 and PHASE 1A, FDOT has allocated funding from the FLORIDA NEW STARTS TRANSIT PROGRAM ("NSTP") administered by FDOT. The NSTP may fund up to fifty percent (50%) of a project, not

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to exceed the local share, through a dollar-for-dollar match of the local share of the project cost for transit fixed guide-way projects that qualify under the FTA New Starts Program and are consistent with the FINANCE PLAN. It is anticipated that FDOT will fund up to twenty-five percent (25%) of PHASE I, not to exceed the local share (see Exhibit 1) and up to thirty-nine percent (39%) of PHASE 1A, not to exceed the Local share, where "Local" shall be defined to mean non-federal and non-state capital dollars for the PROJECT.

6.2.2. FDOT shall have no obligation to fund operations and maintenance costs for the WAVE MODERN STREETCAR.

6.3. LOCAL FUNDS.

The CITY agrees to provide a total amount of CAPITAL FUNDS for PHASE 1 of Thirty One Million, Ninety Thousand Dollars (\$31,090,000) or Twenty Four Million Four Hundred and Sixty Thousand Dollars (\$24,460,000) for PHASE 1A ("CITY's CAPITAL FUNDS") which shall be comprised as follows:

6.3.1. Ten Million Five Hundred Thousand Dollars (\$10,500,000) or an equivalent combination of capital contribution; payable by in-kind services, real or personal property, cash or any other means as mutually agreed to by the CITY and SPONSOR (the "CASH AMOUNT"). Land in lieu of cash must meet all applicable State and Federal requirements and specific requirements

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of all funding grants and agreements specific to the PROJECT, with the FTA Federal process to be utilized to determine the appraised value of the land. All land and other agreements, as necessary to effectuate the terms of this Agreement, will be between the SPONSOR and CITY to meet FTA requirements, but all real property necessary for the COUNTY to operate and maintain the WAVE MODERN STREETCAR will be transferred to the COUNTY, as OWNER and OPERATOR, at the time of PROJECT HANDOVER.

6.3.1.1. The CITY agrees to transfer to SFRTA One Million One Hundred Thousand Dollars (\$1,100,000) of the CASH AMOUNT within three (3) months of the signing of this Agreement.

6.3.1.2. The CITY agrees to transfer to SFRTA the remainder of the CASH AMOUNT no later than June 30, 2014.

6.3.2. The CITY shall use an ASSESSMENT process to raise an additional Twenty Million, Five Hundred and Ninety Thousand Dollars (\$20,590,000) or Thirteen Million, Nine Hundred and Sixty Thousand Dollars (\$13,960,000), if only PHASE 1A is implemented, from the net proceeds of a bond issue (the "ASSESSMENT AMOUNT"), as a portion of the CITY's CAPITAL FUNDS. The CITY will transmit to SFRTA the entire ASSESSMENT AMOUNT by December 31, 2013. The CITY agrees to issue bonds payable

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solely from the ASSESSMENT to provide for the CAPITAL FUNDS for the PROJECT, as a prerequisite to the execution by SPONSOR of the FEDERAL GRANT AGREEMENTS.

6.3.3. CITY shall have no obligation to fund the operations and maintenance costs for the WAVE MODERN STREETCAR.

6.3.4. CITY shall budget a minimum of One Million One Hundred Thousand Dollars (\$1,100,000) in CITY's Budget for the fiscal year commencing on October 1, 2012, and ending September 30, 2013 and Four Hundred Thousand Dollars (\$400,000) in the following fiscal year.

6.3.5. The BROWARD MPO has programmed Eight Million One Hundred and Forty Thousand Dollars (\$8,140,000) consistent with the PHASE 1A FINANCE PLAN or Four Million Six Hundred and Forty Thousand Dollars (\$4,640,000) consistent with the PHASE 1 FINANCE PLAN, in the 12/13 State Fiscal Year ("BROWARD MPO CAPITAL FUNDS").

6.3.6. To satisfy both state and federal local matching requirements, the BROWARD MPO CAPITAL FUNDS, which are considered Federal for State matching purposes, must be "exchanged" with another PARTNER's eligible capital dollars. The BROWARD MPO will use its best efforts to expeditiously "exchange" the BROWARD MPO CAPITAL FUNDS with Local dollars on another eligible capital project to use those replaced Local dollars, equaling the same amount as the BROWARD MPO CAPITAL FUNDS, towards the

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PROJECT. No later than December 31, 2013, the BROWARD MPO shall provide SFRTA with the BROWARD MPO CAPITAL FUNDS equaling \$4,640,000, if PHASE 1 is to be implemented, or the total amount of the BROWARD MPO CAPITAL FUNDS, if only PHASE 1A is to be implemented. If the applicable amount of BROWARD MPO CAPITAL FUNDS are not “exchanged” at the same time, the BROWARD MPO agrees to provide SFRTA with any portion of same as it becomes available.

7. FUNDING FOR OPERATION AND MAINTENANCE COSTS

Upon PROJECT HANDOVER, the COUNTY shall be solely responsible for all operational and maintenance costs of the WAVE MODERN STREETCAR for twenty (20) years.

8. CAPITAL FUNDS MANAGEMENT

8.1. SFRTA, acting as SPONSOR, will receive all CAPITAL FUNDS provided by PARTNERS and CAPITAL STAKEHOLDERS, as described herein, and will have sole responsibility for payments associated with the capital costs of the PROJECT consistent with the FEDERAL GRANT AGREEMENTS and this Agreement. All PARTNERS responsible for contributing CAPITAL FUNDS agree to enter into future agreements, as may be required by SFRTA, to transfer their respective CAPITAL FUNDS to SFRTA for the sole purpose of funding the capital costs of the PROJECT in a timely fashion and as provided for in this Agreement. Funding by FDOT will be contingent upon the

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PARTNERS adopting this Agreement and upon execution of a Joint Participation Agreement ("JPA") between FDOT and SFRTA, setting forth the required terms and conditions of the FDOT Capital Funds for the PROJECT as outlined in Section 6.2 of this Agreement.

- 8.2. SFRTA agrees to set up accounting methods necessary to track all revenues and expenditures specific to the PROJECT and will provide a clear accounting of all Capital Funds received, expended and available throughout the life of the FEDERAL GRANT AGREEMENTS, as required by the FTA, except for those responsibilities assumed by the COUNTY after PROJECT HANDOVER, pursuant to the terms of this Agreement. SFRTA will prepare quarterly financial reports for the PARTNERS until PROJECT HANDOVER occurs.
- 8.3. SFRTA shall be reimbursed in an amount not to exceed ten percent (10%) of all Federal Funds for which SFRTA acts as the FTA Designated Recipient ("DR"), regardless of the type of funding agreement (the "Administrative Fee"). The Administrative Fee will defray SFRTA's costs associated with SFRTA's role in development of the PROJECT, including, but not limited to, acting as the SPONSOR, IMPLEMENTOR and DR. SFRTA, to the extent allowed by FTA, may enter into third-party agreements for PROJECT services and support that may be eligible for reimbursement from the Administrative Fee. SFRTA shall provide the "cash float" necessary between payment of invoices and

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reimbursement by FDOT and FTA of the FEDERAL GRANT funds during the PROJECT.

8.4.

At some time following PROJECT HANDOVER, SFRTA shall, pursuant to the requirements of the FEDERAL GRANT AGREEMENTS, the JPA, any capital funding agreements entered into with the PARTNERS ("Applicable Agreements") and any applicable accounting requirements and principles, determine if there are any CAPITAL FUNDS remaining after all of its obligations under the Applicable Agreements have been satisfied. Should there be any remaining CAPITAL FUNDS, SFRTA shall return such monies to the PARTNERS or CAPITAL STAKEHOLDERS pursuant to the terms of the Applicable Agreements.

8.5.

The PROJECT capital budget includes the cost of utility relocation and these costs will be handled like all other PROJECT capital costs. The PARTNERS agree to utilize their best efforts to minimize any schedule impacts and shall require utilities within their rights of way to be moved at no cost to the PROJECT, when that option is legally available to the CITY, COUNTY and STATE.

9 FINANCE PLAN CHANGES

PARTNERS acknowledge and recognize that changes to the FINANCE PLAN may be required as either scope or available funds for the PROJECT change.

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10 CAPITAL COST OVERRUNS

10.1 The intent of all PARTNERS is that the PROJECT shall be constructed within the identified and agreed upon capital budget with no CAPITAL COST OVERRUNS beyond those handled through the approved capital budget contingencies. The PARTNERS agree the IMPLEMENTOR shall have authority to change the scope of the PROJECT, consistent with the FEDERAL GRANT requirements, to save and reduce costs to maintain the approved capital budget. SFRTA will make all reasonable efforts and use best practices to avoid

exceeding the applicable PROJECT capital budget, as identified in Exhibits 1 and 2. SFRTA is responsible for ensuring that the capital budget is maintained through PROJECT HANDOVER and will make all reasonable efforts to that affect. Any CAPITAL COST INCREASES may be considered by IMPLEMENTOR only if the requesting PARTNER is willing to pay all associated costs.

10.2 BETTERMENTS that impact the CONSTRUCTION schedule may be rejected by SFRTA, even if the requesting PARTNER is willing to pay incremental costs plus schedule induced costs. Under no circumstances are PARTNER-requested BETTERMENTS considered CAPITAL COST OVERRUNS.

10.3 Notwithstanding anything in this Agreement to the contrary, in the event the COUNTY determines that approval or denial of a proposed Project Budget Change or Project Change Order (collectively referred to herein as a "Change

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Order") would increase the annual costs of the COUNTY's operation and maintenance obligations pursuant to this Agreement of approximately Two Million Five Hundred Thousand Dollars (\$2,500,000) ("COUNTY Annual Operating Commitment"), by an amount equal to or exceeding five percent (5%) or One Hundred and Twenty-Five Thousand Dollars (\$125,000) per year (the "Threshold Amount"), SFRTA and the COUNTY agree to implement the following procedures with respect to the Change Order:

10.3.1 COUNTY shall be required, no later than fifteen (15) days after receipt of a Change Order from SFRTA, to advise SFRTA, in writing, as to whether or not the COUNTY has a good faith, reasonable belief that the Change Order may or may not increase the COUNTY's annual operation and maintenance obligations by an amount equal to or greater than the Threshold Amount (the "Statement").

10.3.2 If the COUNTY informs SFRTA, in the Statement, that it believes the Change Order will increase its annual operation and maintenance obligations by an amount equal to or greater than the Threshold Amount, then no later than ten (10) days after SFRTA's receipt of the Statement, the COUNTY and SFRTA will attempt, in good faith, to resolve the dispute or claim arising from the Change Order through negotiations between the SFRTA Executive Director and the Director of the Broward County Mass Transit Department. If the COUNTY and SFRTA cannot amicably settle

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the disputed Change Order within thirty (30) days after SFRTA receives the Statement, the remaining provisions of Section 10.3 of this Agreement shall apply, unless this time is extended by mutual agreement between SFRTA and COUNTY.

10.3.3 SFRTA may proceed with the denial or the approval and implementation of the Change Order, subject to the rights of the COUNTY as provided herein. In the case where exigent circumstances or financial hardships will occur if the process and associated time periods in Subsections 10.3.1 and 10.3.2 are observed prior to Change Order denial or approval, as reasonably determined by SFRTA, SFRTA may take action to deny or approve and execute the Change Order, but notwithstanding, the process and associated timeframes in Subsections 10.3.1 and 10.3.2 shall still be observed by SFRTA and the COUNTY after the Change Order has been denied or approved and executed.

10.3.4 COUNTY shall preserve its right to dispute, in its entirety, the Change Order by submitting a written Notice of Claim to SFRTA within sixty (60) days of the failure of the COUNTY and SFRTA to resolve the disputed Change Order, as provide in Subsection 10.3.2_{above}. The Notice of Claim shall include a detailed written statement describing the nature of the COUNTY's dispute, and a cost analysis of the financial impact of the Change Order on the COUNTY's maintenance and

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operations obligations equal to or in excess of the Threshold Amount, as required by this Agreement. Failure by the COUNTY to file the Notice of Claim within the sixty (60) days provided herein, shall constitute an automatic waiver of the COUNTY's rights to pursue said Claim.

10.3.5 The COUNTY and SFRTA agree to commence a binding "Dispute Resolution Process" as described below, with respect to any timely Notice of Claim, no later than sixty (60) days after issuance of the Report. SFRTA shall have no obligation to participate in the Dispute Resolution Process prior to the issuance of the Report.

10.4 After the issuance of the Report, the COUNTY may initiate the Dispute Resolution Process for any timely Notice of Claim previously filed by the COUNTY, as provided in Subsections 10.3.1 through 10.3.5 above. Initiation of the Dispute Resolution Process for a Notice of Claim(s) shall be made by the COUNTY in writing to SFRTA in which the COUNTY shall provide SFRTA with a written notice of its desire to initiate the Dispute Resolution Process, a list of the applicable Notice(s) of Claim and the designation of the COUNTY's proposed Arbitrator ("Notice of DRP"). SFRTA shall be under no obligation to enter into any Dispute Resolution Process, as described herein, and shall have no liability thereunder, for any COUNTY Notice of DRP received more than ninety (90) days following the issuance of the Report. If the Notice of DRP is timely filed, SFRTA shall designate its arbitrator within fifteen (15) days after receipt of the Notice of

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DRP and shall inform the COUNTY in writing of its selection of arbitrator ("SFRTA's Notice of Selection"). The two arbitrators so selected will agree upon a third arbitrator within fifteen (15) days following the COUNTY's receipt of SFRTA's Notice of Selection. If the arbitrators selected by each party cannot agree upon a third arbitrator within the stated time period, they will request the Regional Director of the AAA to designate a third arbitrator. The arbitration panel comprised of the three (3) arbitrators (the "Panel") may agree, upon unanimous consent, to modifications or exceptions from the Arbitration Rules of the American Arbitration Association ("AAA") as the Panel deems appropriate. The decision of the Panel shall be in writing and will include written findings of fact, to the extent the arbitration required the resolution of any factual disputes.

The COUNTY agrees that, if it has filed multiple Notices of Claims during the PROJECT, the Panel shall hear all such Claims, whether they are consolidated or not. The parties agree to make good faith efforts to consolidate all such Claims filed to avoid unnecessary costs and duplicity, unless SFRTA and the COUNTY mutually agree otherwise.

The process to arbitrate disputes, as provided in Section 10.3 of this Agreement, is specifically enforceable in any court having jurisdiction over this Agreement. No individual who is, or has at any time been, an officer, employee or consultant of either party will be an arbitrator without the express written consent of both

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COUNTY and SFRTA. All arbitration proceedings shall occur in Broward County, Florida.

10.5 Both SFRTA and the COUNTY will produce all records which the arbitrators request. SFRTA and the COUNTY will each pay one half the cost of the arbitration. The decision of the Dispute Resolution Process shall be binding upon the COUNTY and SFRTA.

10.6 In the event the arbitrators find that SFRTA's approval and execution or denial of the Change Order did not impact the COUNTY's annual operating and maintenance costs by at least the Threshold Amount, the COUNTY shall not be entitled to any financial relief as a consequence of the Change Order. In the event the arbitrators find that SFRTA's approval and execution or denial of the Change Order increased the COUNTY's annual operating and maintenance expenses by at least the Threshold Amount, the DDA shall be obligated to identify and obtain funding to compensate the COUNTY for the annual increase in the operating and maintenance costs associated with the respective Change Order in excess of the Threshold Amount.

10.7 In the event that a CAPITAL COST OVERRUN cannot be avoided despite the best efforts of the PARTNERS pursuant to terms of this AGREEMENT, the DDA shall be responsible to identify and locate available funding necessary to meet CAPITAL COST OVERRUN needs of the PROJECT. In no case shall the

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COUNTY, CITY or FDOT participate in CAPITAL COSTS OVERRUNS, unless otherwise approved by each of them, i.e. the Broward County Commission, CITY Commission and FDOT authorized representative, respectively.

10.8 SFRTA has the authority under this Agreement, and is empowered by the PARTNERS, to make scope and other changes, in consultation with the PARTNERS, that it deems necessary to ensure the PROJECT capital budget is not exceeded.

11 PARTNER COORDINATION

11.1 SFRTA will retain the services of Project Management Consultants team ("PMC") to manage the PROJECT through PROJECT HANDOVER and perform any Before and After Studies, or any other post-PROJECT HANDOVER activities which SFRTA is required to perform pursuant to the terms of the FEDERAL GRANT AGREEMENTS. The PMC will report to the SFRTA Project Manager.

11.2 SFRTA shall be responsible for the preparation of all PROJECT Solicitation Documents and Contracts, as those terms are defined in SFRTA's Procurement Policy, and shall have final decision-making authority with respect to same as the IMPLEMENTOR, except as related to the Independent Expert which is addressed in Section 5.3 of this Agreement. SFRTA will accept input from the COUNTY on the PROJECT Solicitation Documents which is provided in a timely manner, but shall not be obligated to make any changes to said documents as a result of such input.

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11.3 TECHNICAL ADVISORY GROUP (TAG)

The SFRTA, COUNTY, FDOT, BROWARD MPO, CITY and DDA will form a Technical Advisory Group ("TAG"), with one Designated Representative from each PARTNER, each with one vote, that will work with the SFRTA to oversee and review PROJECT changes through Design, Construction, testing, and PROJECT HANDOVER.

11.4. SFRTA, through its PMC, and in coordination with the PARTNERS, will be responsible for the implementation of the PROJECT and lead the TAG. The PMC will report directly to the SFRTA Project Manager appointed by SFRTA. The TAG will coordinate its activities with the SFRTA Project Manager. The SFRTA Project Manager, through the PMC, will direct the day-to-day needs of the PROJECT and SFRTA shall contract for, and manage, the PROJECT. SFRTA Project Manager will provide the primary interface with the FTA for completion of the PROJECT.

11.5. SFRTA will provide progress plans and monthly meeting PROJECT updates to the TAG, as necessary. Specifically, the TAG will review PROJECT control oversight procedures, review final reports, participate in inspection and testing, comment and review Designs, third party approvals, review substantial completion punch list walk through items, review safety and security certifications and address Final Acceptance.

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11.6 The TAG also provides input on proposed change orders related to Design and Construction that may conflict with Design criteria, schedule, and safety, or that may negatively impact budget, future operations, and maintenance. The TAG shall make recommendations to SFRTA Project Manager and the SFRTA Change Order Committee ("COC"), when change orders are sent to the COC for approval. This process shall be independent of the COUNTY review of Change Orders, pursuant to Section 10 of this Agreement.

11.7 The COUNTY, as the future OWNER and OPERATOR will have inspection rights at any time during regular business hours with proper coordination with SFRTA. The COUNTY shall be entitled to participate in pre-construction activities and review of Construction and PROJECT work plans. The COUNTY shall be notified by SFRTA of all PROJECT systems factory testing, local field tests and integration testing. The COUNTY shall be afforded the opportunity to monitor and test components and systems related to train operations and maintenance of trains and property. However, nothing herein is intended to change the procedure for determining if PROJECT HANDOVER shall occur.

12. GRANTEE

12.1. SFRTA will submit the SMALL STARTS GRANT APPLICATION to FTA, and apply for any other FEDERAL GRANTS required to receive any appropriated

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funding for the PROJECT. SFRTA will prepare and submit to FTA in a timely manner all necessary documents at its expense.

12.2. SFRTA will submit the application to FDOT District 4 for the NSTP for the PROJECT. The BROWARD MPO agrees to provide all possible assistance to support the PROJECT, as may be requested by FDOT or SFRTA.

12.3. SFRTA, as SPONSOR, shall coordinate all PROJECT management activities and shall be the primary point of contact for the FTA, the FTA-appointed Project Management Oversight Consultant, FDOT and other federal, State and local agencies regarding the PROJECT.

13. CONTRACTING FOR SERVICES

PARTNERS shall have right to review and comment on all contracts in excess of One Million Dollars (\$1,000,000), except where the contract is in the form of a Change Order and then the comments shall be provided through the TAG, as addressed herein, or as provided in Section 10 of this Agreement. SFRTA shall be responsible for the competitive selection, award and administration of all of the professional(s) agreements to perform all consultant services and Construction contracts it deems necessary to complete the PROJECT, which shall be done according to SFRTA's Procurement Policy. The only exception to this is retention of the Independent Expert which shall be selected as described in this Agreement. Designated Partner Representatives shall serve on SFRTA's Evaluation and

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Selection Committees for the PROJECT procurements. Any unsolicited proposals to Design, Construct, finance and/ or operate the WAVE MODERN STREETCAR, will utilize the SFRTA Unsolicited Proposal Policy and the process described therein, which includes a fee due at submittal.

14 CONTRACTING FOR OPERATING AND MAINTENANCE SERVICES

The COUNTY shall be responsible for the competitive selection and administration of all agreements for the operations and maintenance of the WAVE STREETCAR SYSTEM after PROJECT HANDOVER, which shall be made using the COUNTY'S Procurement Code.

15 PERMIT AND ENFORCEMENT AUTHORITY

PARTNERS shall, to the extent legally permitted, use their best efforts to expedite any and all permits for the PROJECT.

16 PROPERTY DEDICATION

Property dedication shall meet all applicable State and Federal requirements and the specific requirements of any funding grants and agreements specific to the PROJECT. The FTA Federal process will determine the land value.

17 TIMING OF PAYMENTS

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Timing of payments will be consistent with the provisions herein and all applicable funding agreements. SFRTA will develop the accounting system for the PROJECT's collections and disbursements, in accordance with FTA requirements. The procedures will include the indirect cost allocation plan for the CITY and DDA in accordance with the U.S. Office of Management and Budget Circular A-87. The PROJECT Management Plan will further define the proposed accounting system based on the PROJECT budget, schedule and cash flow.

18. DEFAULT, LIABILITY AND SOVEREIGN IMMUNITY

Should SFRTA be found in default of any FEDERAL GRANT AGREEMENT and subject to the remedies set forth in the applicable FEDERAL GRANT AGREEMENT for the failure of any of the PARTNERS to meet their performance and/or funding commitments, SFRTA shall have the following remedies in addition to any other remedies provided at law or equity:

18.1. DEFAULT OF CAPITAL FUNDING COMMITMENT

In the event SFRTA is found to be in default of any FEDERAL GRANT AGREEMENT because of its inability to complete the PROJECT due to a failure of one of the PARTNERS to meet its capital funding commitment (the "Defaulting PARTNER"), SFRTA shall have all remedies at law and equity, as limited by Section 18.2 of this Agreement, including the right to specific performance against the

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Defaulting PARTNER. The PARTNERS recognize that in the event of a default of any FEDERAL GRANT AGREEMENT, the federal government may demand all Federal funds provided to SFRTA for the PROJECT be returned to the federal government and such funds shall be considered damages recoverable by SFRTA from the Defaulting PARTNER.

If FDOT, the CITY, or both, also seek the return of CAPITAL FUNDS provided for the PROJECT from SFRTA, such funds shall also be considered damages recoverable by SFRTA from the Defaulting PARTNER.

18.2. DEFAULT OF OPERATING FUNDING COMMITMENT

A default by the COUNTY of its obligation to operate and maintain the WAVE MODERN STREETCAR pursuant to the terms of this Agreement could result in SFRTA being found in default of any FEDERAL GRANT AGREEMENTS and subject to the remedies set forth in any of the FEDERAL GRANT AGREEMENTS. In the event SFRTA is found to be in default of any FEDERAL GRANT AGREEMENTS as a result of a COUNTY default or notified by the federal government that it shall be found in default of any FEDERAL GRANT AGREEMENT as a result of the COUNTY's failure to operate the WAVE MODERN STREETCAR, SFRTA shall have all remedies at law, including but not limited to, damages for repayment of the FEDERAL GRANTS and the COUNTY Annual Operating Commitment, and the right to assume the role of OPERATOR of the WAVE MODERN STREETCAR to

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minimize its liability under any FEDERAL GRANT AGREEMENT. SFRTA's role as OPERATOR under the stated circumstances shall not preclude SFRTA from seeking monetary damages from the COUNTY for any monies relating to the COUNTY's failure to operate the WAVE MODERN STREETCAR, including but not limited to, the COUNTY Annual Operating Commitment. Should SFRTA become the OPERATOR under the terms of this Section, the COUNTY, as OWNER, shall cooperate with SFRTA in its operation and maintenance of the WAVE MODERN STREETCAR, and shall take no actions to prevent SFRTA from accessing COUNTY property, both personal and real, necessary for the operation and maintenance of the WAVE MODERN STREETCAR.

If FDOT, the CITY, or both, also seek the return of CAPITAL FUNDS provided for the PROJECT from SFRTA, solely or in part as a result of a COUNTY default, such funds applicable to the percentage of fault determined for the COUNTY shall also be considered damages recoverable by SFRTA from the COUNTY.

18.3. LIABILITY AND SOVEREIGN IMMUNITY PARTNERS are agencies as defined in Chapter 768.28, F.S. Each PARTNER agrees to be fully liable and responsible for acts and omission of its elected officials, officers, agents or employees, to the extent permitted by law except that SFRTA assumes no liability for the failure of the other PARTNERS to meet their respective

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performance and/or funding commitments made in this Agreement. Nothing herein is intended to serve as a waiver of sovereign immunity by any PARTNER to which sovereign immunity may be applicable. The PARTNERS each acknowledge the waiver of sovereign immunity for liability in tort contained in Section 768.28, F.S., the State of Florida's partial waiver of sovereign immunity, and acknowledge that such statute permits actions at law to recover damages in tort for money damages up to the limits set forth in such statute for death, personal injury or property caused by the negligent or wrongful acts or omissions of an agent or employee acting within the scope of the agent's or employee's office or employment. The PARTNERS agree to be individually responsible for all such claims and damages, to the extent and limits provided in Section 768.28, F.S., arising from the actions of their own respective employees and agents. The PARTNERS acknowledge that the foregoing shall not constitute an agreement by any PARTNER to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense that the PARTNERS may have under such statute, nor as consent to be sued by third parties.

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Nothing herein shall be construed as consent by a state agency or political subdivision for the State of Florida to be sued by third parties in any matter arising out of this Agreement or any other contract associated with the PROJECT.

19. MISCELLANEOUS

19.1. RIGHTS IN DOCUMENTS AND WORK

As the SPONSOR, all documents created by SFRTA or its consultants and/or contractors in connection with the PROJECT are public records of SFRTA, to the extent required by Chapter 119, F.S. ("Florida's Public Records Law") and will be subject to the requirements of the FEDERAL GRANT AGREEMENT(S) and applicable Federal and State law. SFRTA shall make available to all other PARTNERS such records for inspection upon reasonable notice during normal business hours, pursuant to Florida's Public Records Law.

19.2. INDEPENDENT CONTRACTOR

The PARTNERS are independent contractors under this Agreement. Services provided by the PARTNERS pursuant to this Agreement shall be subject to the supervision of the PARTNER providing the service. In providing such services, neither the PARTNER nor its agents shall act as officers, employees, or agents of any other PARTNER. No partnership, joint venture, or other joint relationship is created by this AGREEMENT.

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19.3. THIRD PARTY BENEFICIARIES

The PARTNERS do not intend to directly or substantially benefit a third party by this Agreement. Therefore, the PARTNERS agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against any of the PARTNERS based upon this Agreement.

19.4. NOTICES

Whenever any PARTNER desires to give notice to any other PARTNER, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the PARTNER for whom it is intended at the place specified, unless changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR COUNTY:

To: Governmental Center, Room 409
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Attention: County Administrator

With a copy to:

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Governmental Center, Room 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Attention: County Attorney

FOR CITY:

To: City of Ft. Lauderdale
City Hall
100 N. Andrews Avenue
Fort Lauderdale, FL 33301
Attention: City Manager

FOR DDA:

To: 305 South Andrews Avenue, Suite 301
Fort Lauderdale, FL 33301
Attention: Executive Director

FOR SFRTA:

To: 800 N.W. 33rd Street, Suite 100
Pompano Beach, FL 33064
Attention: Executive Director

With a copy to:

800 N.W. 33rd Street, Suite 100
Pompano Beach, FL 33064

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Attention: General Counsel

FOR BROWARD MPO:

To: Trade Centre South
100 West Cypress Creek Road,
8th Floor, Suite 850
Fort Lauderdale, Florida 33309-2112
Attention: Executive Director

19.5. ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of all PARTNERS.

19.6. CONFLICTS

Neither the PARTNERS nor their employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with the PARTNERS' loyal and conscientious exercise of judgment and care related to their performance under this Agreement.

19.7. MATERIALITY AND WAIVER OF BREACH

19.7.1. The PARTNERS agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the

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PARTNERS in exchange for quid pro quo, that each is substantial and important to the formation of this Agreement and that each is, therefore, a material term hereof.

19.7.2. Failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

19.8. COMPLIANCE WITH LAWS

The PARTNERS shall each comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing their duties, responsibilities, and obligations pursuant to this Agreement.

19.9. SEVERANCE

In the event a material portion of this Agreement is found by a court of competent jurisdiction in a final order to be invalid, the remaining provisions shall continue to be effective unless any PARTNER elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made by a PARTNER within seven (7) days after the finding by the court becomes final and shall serve to terminate this Agreement in its entirety. If the Agreement is terminated, the PARTNERS retain all rights and remedies, as stated herein.

19.10. JOINT PREPARATION

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The preparation of this Agreement has been a joint effort of the PARTNERS. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the PARTNERS than the other.

19.11. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the provisions of this Agreement shall prevail and be given effect.

19.12. JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the State of Florida. All the PARTNERS agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the Seventeenth Judicial Circuit Court in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such Court, forsaking any other jurisdiction which any PARTNER may claim by virtue of its residency or other jurisdictional device. The only exception shall be any dispute resolution proceedings addressed in this Agreement which shall be conducted in Broward County. **BY ENTERING INTO THIS AGREEMENT,**

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PARTNERS HEREBY EXPRESSLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

19.13. AMENDMENTS

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by all of the PARTNERS or others with delegated authority to so or otherwise authorized to execute same on a PARTNER's behalf. Proof of delegation shall be provided upon the request of any PARTNER.

19.14. PRIOR AGREEMENTS

This Agreement represents the final and complete understanding of the PARTNERS and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The PARTNERS agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the PARTNERS agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

19.15 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a PARTNER hereby represents and warrants that he or she is, on the date he or she signs this

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Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such PARTNER and does so with full legal authority.

19.16 MULTIPLE ORIGINALS

Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, and shall have the force and effect of an original document.

19.17 FORCE MAJEURE

It is expressly understood and agreed by the PARTNERS that if the performance of any provision of this Agreement is delayed by reason of war, civil commotion, act of God, governmental restrictions, regulations or interferences, fire or other casualty, court injunction, or any circumstances which are reasonably beyond the control of the PARTNER obligated or permitted under the terms of this Agreement to do or perform the same, the PARTNER so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the period of time applicable to such requirements shall be extended for a period of time equal to the period of time such PARTNER was delayed.

20 RESOLUTION OF DISPUTES

It is the desire and intent of the PARTNERS to avoid, if possible, the expense and delay inherent in litigation. Therefore, the PARTNERS agree that whenever any PARTNER(s) cannot resolve an issue with the other PARTNER(s), the affected

THE WAVE MODERN STREETCAR PARTNERSHIP AGREEMENT

PARTNERS will engage in the alternative dispute resolution process described below prior to resorting to litigation. This process is separate from and shall not supersede the dispute resolution process regarding a Notice of Claim filed by the COUNTY, as outlined in Section 10 of this Agreement.

20.1 NOTICE OF DISPUTE

Any PARTNER(s) may give another PARTNER(s) written notice of any dispute not resolved in the normal course of business, with copies to the other non-disputing PARTNERS ("Notice"). Within ten (10) business days after delivery of the Notice, the receiving PARTNER shall submit to the disputing PARTNER a written response with copies to the other PARTNERS (the "Response"). The Notice and Response shall each include: (1) a statement of the position of the PARTNER delivering the Notice or Response, as the case may be, and a summary of arguments supporting the PARTNER's position; and (2) the name and title of the executive who will represent that PARTNER in the negotiation to resolve the dispute and of any other person who will accompany the executive.

20.2 DISPUTE MEETING

In the event there is a dispute, within ten (10) business days after delivery of the Response, the executives of the PARTNERS shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to

THE WAVE MODERN STREETCAR PARTNERSHIP AGREEMENT

attempt to resolve the dispute. All reasonable requests for information made by one PARTNER to the other will be honored. In an effort to facilitate the negotiation process, such executives may agree to have an unrelated third PARTNER moderate and facilitate the negotiations. If a PARTNER intends to be accompanied at a dispute resolution meeting by an attorney, the other PARTNER shall be given at least three (3) business days notice of such intention and may also be accompanied by an attorney.

20.3 FAILURE TO RESOLVE DISPUTE

If the dispute has not been resolved within thirty (30) calendar days after delivery of the Notice, or if the parties fail to meet within twenty (20) calendar days, any of the PARTNERS directly involved in the dispute may give written notice to the other PARTNER(S) declaring the dispute resolution process terminated.

20.4 ENFORCEMENT

The PARTNERS regard the obligations to notify other PARTNERS of a dispute and to negotiate such dispute pursuant to this Section as an essential provision of this Agreement and one that is legally binding on each of them. In case of a violation of such obligation by any PARTNER, the other PARTNERS may bring an action to seek enforcement of such obligation to any court of law having jurisdiction. Each PARTNER shall bear its own costs and expenses incurred in connection with any negotiations and dispute resolution and litigation arising out of this Agreement.

20.5 ALTERNATE RESOLUTION

THE WAVE MODERN STREETCAR PARTNERSHIP AGREEMENT

Upon failure to resolve any dispute in accordance with this Section, or in accordance with the dispute resolution procedure established for PROJECT HANDOVER in this Agreement, the PARTNERS may engage in mediation, arbitration, or other dispute resolution processes at their discretion, or pursue other legal remedies.

21 FURTHER ASSURANCES

Each PARTNER agrees to perform any further acts and to sign and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

22 INSURANCE

The PARTNERS agree to maintain insurance coverage or be self-insured for commercial general liability, worker's compensation and employer's liability insurance in accordance with Chapter 440, F.S., as may be amended from time to time.

23 EFFECTIVE DATE

The Effective Date of this Agreement shall be the date on which the last PARTNER executes this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

**THE WAVE MODERN STREETCAR PARTNERSHIP
AGREEMENT**

BROWARD COUNTY, through its **BOARD OF COUNTY COMMISSIONERS**, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the 12 day of March, 2013

COUNTY

ATTEST:

BROWARD COUNTY, by and through
Board of County Commissioners



Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By 
Mayor

12 day of March, 2013

Insurance requirements
Approved by Broward County
Risk Management Division

Approved as to form by Office
of the County Attorney for Broward County, FL

By  3/25/13
Date:

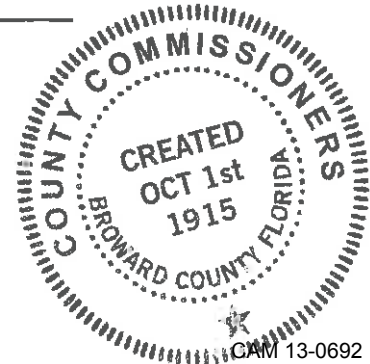
Risk Management Division

Jacqueline A. Binns
Risk Insurance and
Contracts Manager

Joni Armstrong Coffey, County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: 
Assistant County Attorney

Date: 3/25/13



**THE WAVE MODERN STREETCAR PARTNERSHIP
AGREEMENT**

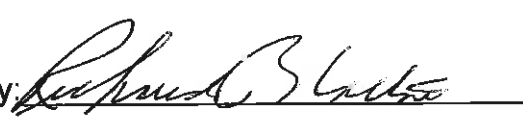
BROWARD METROPOLITAN PLANNING ORGANIZATION, through its BOARD OF DIRECTORS, signing by and through its Chair or Vice-Chair, authorized to execute same by Board action on the 11th day of April, 2013

BROWARD MPO

ATTEST:

BROWARD MPO, by and through its
Board of Directors


By: Gregory Stuart, Executive Director

By: 
Richard Blattner, Chair

11 day of April, 2013

Approved as to form by

Attorney for Broward MPO

By: 
Alan L. Gabriel,

BROWARD MPO General Counsel

Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

**THE WAVE MODERN STREETCAR PARTNERSHIP
AGREEMENT**

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

WITNESSES:

CITY OF FORT LAUDERDALE

Safes Ali

Safes Ali

Print Name

Giulio D'Amico

Alia L. Benito

Print Name

By [Signature]
Mayor

By [Signature]
City Manager

(CORPORATE SEAL)

ATTEST:

Jonda K. Joseph
City Clerk

Approved as to form:

[Signature]
City Attorney

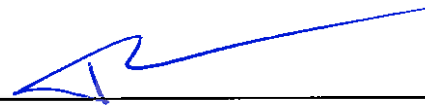
**THE WAVE MODERN STREETCAR PARTNERSHIP
AGREEMENT**

DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF FORT LAUDERDALE,
through its BOARD OF DIRECTORS, signing by and through its Chair or Vice-Chair,
authorized to execute same by Board action on the 16 day of April,
2013.

AUTHORITY:

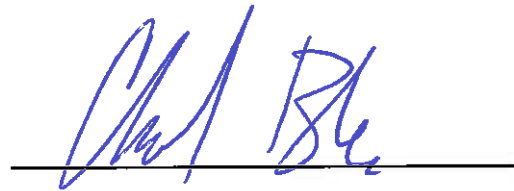
WITNESSES:

By:



Tim Petillo

_____, President



Chadwick Blue

16 day of April, 2013

(SEAL)

APPROVED AS TO FORM:

**THE WAVE MODERN STREETCAR PARTNERSHIP
AGREEMENT**

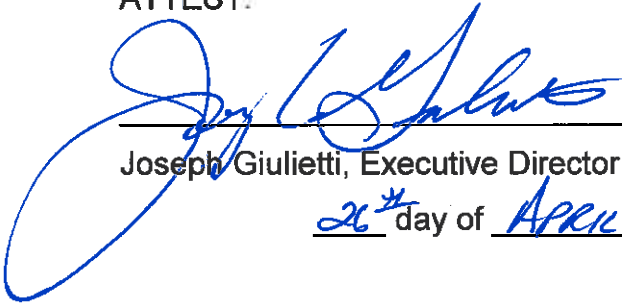
SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY, through its
GOVERNING BOARD, signing by and through its Chair, authorized to execute same by
Board action on the 26th day of April, 2013

SFRTA:

By: 

STEVEN L. APPARIS, CHAIR

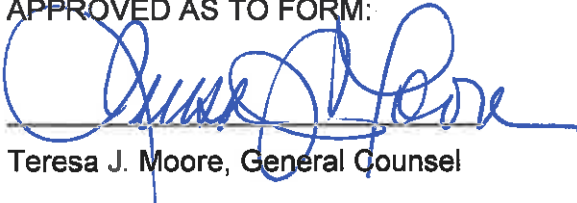
ATTEST:



Joseph Giulietti, Executive Director

26th day of April, 2013

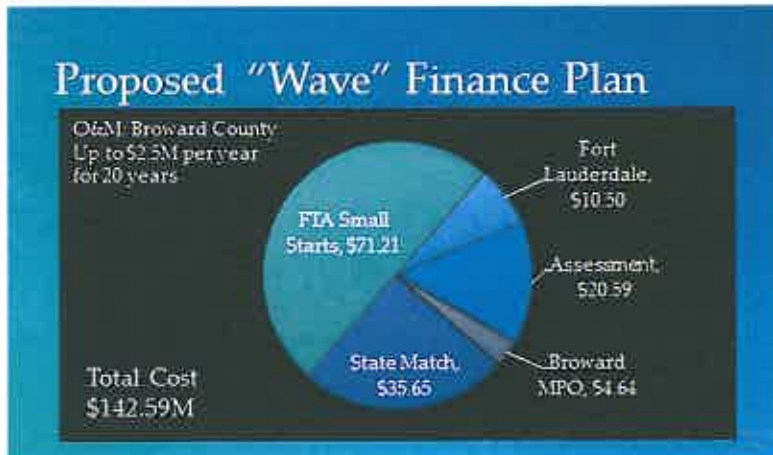
APPROVED AS TO FORM:



Teresa J. Moore, General Counsel

**THE WAVE MODERN STREETCAR PARTNERSHIP
AGREEMENT**

**THE WAVE MODERN STREETCAR PARTNERSHIP
AGREEMENT
EXHIBIT 1
PHASE 1 FINANCE PLAN**



THE WAVE MODERN STREETCAR PARTNERSHIP AGREEMENT

EXHIBIT 2 PHASE 1A FINANCE PLAN

