

TERMINATION AND RELEASE AGREEMENT

THIS TERMINATION AND RELEASE AGREEMENT (the "Agreement") is entered into as of the ____ day of February, 2019, between the **DOWNTOWN DEVELOPMENT AUTHORITY OF FORT LAUDERDALE, FLORIDA**, a body politic and corporate and an agency of the City of Fort Lauderdale as established by the laws of the State of Florida ("DDA") and the **CITY OF FORT LAUDERDALE**, a municipal corporation organized and existing under the laws of the State of Florida ("City").

WHEREAS, the City, DDA, Broward County, Florida, the Broward Metropolitan Planning Organization and the South Florida Regional Transportation Authority entered into the Wave Modern Streetcar Partnership Agreement dated as of April 26, 2013, as amended (the "Wave Agreement") for the planning, financing, design, implementation, project sponsorship, ownership, operation and maintenance of a transit circulator within the downtown area of the City, to be known as the Wave Modern Streetcar (the "Wave Project");

WHEREAS, in connection with the Wave Project, the City and DDA entered into various additional agreements, including, but not limited to: (i) the State Infrastructure Bank Amended and Restated Loan Agreement dated as of August 11, 2017 (the "SIB Loan Agreement"), by and among the State of Florida Department of Transportation ("FDOT"), DDA and the City, and (ii) the Wave Assessment Interlocal Agreement dated as of April 15, 2014, as amended (the "Interlocal Agreement"), by and between the City and DDA;

WHEREAS, in order to pay the debt service obligations, reserve requirements and other amounts payable under the SIB Loan Agreement, pursuant to certain ordinances enacted and resolutions adopted by the City (the "Wave Ordinances and Resolutions") the City levied special assessments on properties within the City which were determined to be specially benefitted by the Wave Project (the "Wave Assessments") commencing in 2013;

WHEREAS, pursuant to the Interlocal Agreement, net Wave Assessments (less amounts paid by the North Broward Hospital District) collected by the City since 2013 have been transferred to DDA to be held by DDA for application as required by the Interlocal Agreement and the SIB Loan Agreement;

WHEREAS, in 2018, the parties to the Wave Agreement and to the various other agreements related to the Wave Project decided to cancel and terminate the Wave Project;

WHEREAS, as a result of the cancellation and termination of the Wave Project, by letter dated July 25, 2018, FDOT informed the City and DDA that it was annulling the SIB Loan Agreement and the \$19,400,000 loan thereunder (the "FDOT Annulment Letter");

WHEREAS, in light of the cancellation and termination of the Wave Project, the City and DDA agree with and confirm annulment of the SIB Loan and the \$19,400,000 loan thereunder and all of the parties' obligations thereunder;

WHEREAS, in light of the cancellation and termination of the Wave Project, the City and DDA further desire to cancel and terminate the Interlocal Agreement, and the City is to refund the Wave Assessments collected since 2013 to the persons lawfully entitled to receive such refunds;

WHEREAS, as a result of the cancellation and termination of the Wave Project, and in order to facilitate the City's refund of the Wave Assessments to the persons lawfully entitled to receive such refunds, DDA is required and has agreed to return to the City all proceeds of the Wave Assessments currently held by or on behalf of DDA, to wit, \$6,825,265.49 as of December 31, 2018, plus accrued interest through the date of payment (the "Reimbursement Amount"); and

WHEREAS, concurrently with the execution of this Agreement, DDA shall pay to the City the Reimbursement Amount;

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the receipt and adequacy of which is hereby acknowledged and agreed, the parties hereby agree as follows:

1. **Termination of SIB Loan Agreement.** In accordance with the FDOT Annulment Letter, the City and DDA agree and confirm that the SIB Loan Agreement (and the loan thereunder) has been annulled and terminated in its entirety and the City and DDA have no further obligations or responsibilities thereunder. The City and DDA are authorized to take the following actions:
 - (a) DDA is authorized to release and pay all monies held in the Wave Disbursement Account, the Wave Reserve Account and the Wave Rolling Coverage Account, and any other proceeds of the Wave Assessments held by or on behalf of DDA, to the City;
 - (b) DDA and City are authorized and directed to terminate the Interlocal Agreement; and
 - (c) The City is authorized to refund the Wave Assessments collected since 2013 to the persons lawfully entitled to receive such refunds.
2. **Termination of Interlocal Agreement.** The Interlocal Agreement is hereby terminated in its entirety and the parties are authorized and directed to take the following actions:
 - (a) DDA acknowledges and agrees that there are no monies due and owing to DDA from the City and the City acknowledges that there are no monies due and owing to the City from DDA except as set forth in Section 2(b) hereof; and
 - (b) DDA shall simultaneously herewith release and within ten (10) days after execution of the Release, pay to the City all monies held in the Wave Disbursement Account, the Wave Reserve Account and the Wave Rolling Coverage Account, and any other proceeds of the Wave Assessments held by or on behalf of DDA, in the total amount of \$6,825,265.49 (as of December 31, 2018), plus accrued interest through the date of payment to the City. Payment shall be made by DDA to the City by wire transfer in accordance with the wire transfer instructions set forth in Exhibit "A" attached hereto and incorporated herein.
3. **Repeal or amendment of Wave Ordinances and Resolutions.** The City may repeal or amend the Wave Ordinances and Resolutions as the City determines reasonable or necessary.
4. **Releases.** Each of the parties hereby releases and remises the other parties from any claims, actions, causes of action, suits, debts, dues, sums of money, accounts, interests, reckonings, bonds, bills, specialties, covenants, contracts, controversies, promises, agreements, variances, trespasses, damages, judgments, extents, executions, demands,

obligations, costs, expenses, losses, exposures, liabilities and demands of any kind, whatsoever, of every name and nature, both in law and equity, known or unknown arising from or related to the SIB Loan Agreement, the Interlocal Agreement, the Wave Ordinances and Resolutions or otherwise related to the Wave Project (collectively, the "Claims") as follows:

- (a) DDA hereby releases and remises the City from any Claims DDA may have against the City; and
- (b) Upon payment by DDA to the City of the amounts described in 2(b) of this Agreement, the City hereby releases and remises DDA from any Claims City may have against DDA.

5. **Miscellaneous.**

- (a) The recitals to this Agreement are hereby incorporated herein and made a part hereof;
- (b) This Agreement shall be governed and construed in accordance with the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement, and for any other legal proceeding, shall be in Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida;
- (c) No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by both parties hereto;
- (d) All notices and communications hereunder will be deemed given upon receipt by personal delivery, overnight courier, fax or email or upon the 3rd day following mailing by registered or certified mail, return receipt requested, and either delivered or addressed to the addresses set forth herein;
- (e) This Agreement constitutes the entire agreement between the parties and supersedes any prior understandings or agreements, written or verbal, between the parties;
- (f) In the event any provision of this Agreement shall be held invalid or unenforceable for any reason, such holding shall not invalidate or render unenforceable any other provisions hereof;
- (g) In connection with any dispute hereunder, all parties waive any right to a trial by jury in connection therewith; and
- (h) This Agreement may be executed in counterparts, which together shall constitute a single agreement.

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TERMINATION AGREEMENT

IN WITNESS WHEREOF, each of the parties has duly executed this Agreement as of the date first written above.

**DOWNTOWN DEVELOPMENT AUTHORITY
OF FORT LAUDERDALE, FLORIDA**

WITNESS:

By:_____

Name:

Title:

Print Name

STATE OF FLORIDA:

COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____day of February, 2019, by _____, _____ of the DOWNTOWN DEVELOPMENT AUTHORITY OF FORT LAUDERDALE, FLORIDA, a body corporate and politic of the City of Fort Lauderdale.
(SEAL)

Signature: Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

☒ Personally Known

**[City Signature Page to Termination Agreement between City of Fort Lauderdale and
Downtown Development Authority of Fort Lauderdale, Florida]**

WITNESSES:

CITY OF FORT LAUDERDALE, a
municipal corporation of the State of Florida.

Print Name

By _____
Christopher J. Lagerbloom
City Manager

Print Name

(SEAL)

APPROVED AS TO FORM:
Alain E. Boileau, City Attorney

ATTEST:

Lynn Solomon, Assistant City Attorney

Jeffrey A. Modarelli, City Clerk

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____ day of February, 2019,
by Christopher J. Lagerbloom, City Manager of the CITY OF FORT LAUDERDALE, a
municipal corporation of Florida.

(SEAL)

Signature: Notary Public, State of Florida

☒ Personally Known

Name of Notary Typed, Printed or Stamped

EXHIBIT "A"

**WIRE TRANSFER INSTRUCTIONS FOR PAYMENT
BY DDA TO CITY OF FORT LAUDERDALE OF
REIMBURSEMENT AMOUNT PURSUANT TO
TERMINATION AND RELEASE AGREEMENT**



Wire Transfer Instructions

Bank Name	Wells Fargo Bank N.A.
Bank Account Number	
Routing Number ACH	
Routing Number Wire	
Bank Account Name	City of Fort Lauderdale Master Account
Bank Contact	Stephen Lenehan 450 S Australian Ave MAC Z6344-070 West Palm Beach, FL 33401
Phone Number	561-650-2364
Fax Number	561-650-2367
Email	stephen.lenehan@wellsfargo.com

International Information

SWIFT Code WFBUIUS65
IBAN

Please email DJohnson@fortlauderdale.gov and AHenfield@fortlauderdale.gov with the following information:

- 1) Amount wired
- 2) Settlement date
- 3) City contact information
- 4) Reason for payment