

Interlocal Funding Agreement
APPROVED

7/20/07

BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS

JUL 19 2007 *JWS/BS*

INTERLOCAL FUNDING AGREEMENT
FOR
ACQUISITION AND CONSTRUCTION OF THE
CENTRAL FLORIDA COMMUTER RAIL SYSTEM

By and Among

ORANGE COUNTY, FLORIDA

OSCEOLA COUNTY, FLORIDA

SEMINOLE COUNTY, FLORIDA

COUNTY OF VOLUSIA, FLORIDA

CITY OF ORLANDO, FLORIDA

AND

FLORIDA DEPARTMENT OF TRANSPORTATION

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INTERLOCAL FUNDING AGREEMENT

THIS INTERLOCAL FUNDING AGREEMENT is made and entered into by and among Orange County, a charter county and political subdivision of the State of Florida ("Orange County"), Osceola County, a charter county and political subdivision of the State of Florida ("Osceola County"), Seminole County, a charter county and political subdivision of the State of Florida ("Seminole County"), the County of Volusia, a charter county and political subdivision of the State of Florida ("County of Volusia"), the City of Orlando, a municipal corporation of the State of Florida (the "City of Orlando"), and the State of Florida Department of Transportation, an agency of the State of Florida ("FDOT").

WITNESSETH:

WHEREAS, FDOT is undertaking the development and implementation of the Central Florida Commuter Rail Transit System (the "Commuter Rail System") running from DeLand in the County of Volusia through Seminole County and Orange County (including the City of Orlando) to Poinciana in Osceola County; and

WHEREAS, FDOT and CSX Transportation, Inc. ("CSXT") expect to enter into a Contract for Sale and Purchase which, subject to certain conditions precedent, provides for the acquisition (subject to a retained perpetual easement for Rail Freight Services) by FDOT from CSXT of the railroad corridor known as CSXT's A-Line between Milepost A749.7 near DeLand, Florida and Milepost A814.1 near Poinciana, Florida, a distance of approximately 61.54 miles, (the "Corridor") for the use of the Commuter Rail System; and

WHEREAS, FDOT and CSXT expect to enter into a Central Florida Operating and Management Agreement establishing operating windows for passenger rail and freight operations

within the Corridor and providing for use and maintenance of the Corridor; and

WHEREAS, FDOT is in the process of making application to the Federal Transit Administration (FTA) and Congress for capital funds, commonly referred to as New Starts funding to provide a portion of the funds necessary for the planning, design, right-of-way acquisition and construction of the proposed commuter rail service on the Commuter Rail System; and

WHEREAS, Federal New Starts funding and other Federal funding will require a 50 percent match of Federal funds with state and local funds for capital costs, which will be shared among FDOT, Orange County, Osceola County, Seminole County, the County of Volusia and the City of Orlando in the manner set forth herein; and

WHEREAS, Orange County, Osceola County, Seminole County, the County of Volusia and the City of Orlando (collectively, the "Local Government Partners") have agreed that FDOT will be the agency responsible for the design, permitting and construction of the Commuter Rail System, and will be responsible for its funding, operation, management, and maintenance for a period seven years (the "FDOT Funding Period") following the Revenue Operation Date (as hereinafter defined); and

WHEREAS, FDOT has agreed to issue Fixed-Guideway Bonds pursuant to Section 215.615, Florida Statutes, to partially fund acquisition of the Corridor and relocate the Taft Yard Facility, and has agreed to pay the debt service thereon during the first seven years of Commuter Rail System operation and the Local Government Partners have agreed to pay the debt service on the bonds thereafter until the bonds are paid in full; and

WHEREAS, the Local Government Partners have created the Central Florida Commuter Rail Commission (the "Commission") to assume responsibility for funding, operation, management, and maintenance of the Commuter Rail System upon expiration of the FDOT Funding Period; and

WHEREAS, FDOT has agreed to convey an easement in the Corridor and fee title to the

Station Property to the Commission in accordance with and under the conditions described in Section 3.05 of the Interlocal Operating Agreement between FDOT and the Commission; and

WHEREAS, the Commuter Rail System is contained in the Year 2025 Metroplan Orlando's Orlando Urban Area Transportation Study "Financially Constrained Network," and the 2025 Volusia County Long Range Transportation Plan; and

WHEREAS, implementation of the Commuter Rail System will result in overall social and environmental benefits, improve the quality of life in the state, stimulate economic growth, create new employment opportunities, and serve as a positive growth management catalyst; and

WHEREAS, the Commuter Rail System will greatly benefit all of the citizens of and visitors to the Central Florida region, and is needed in order to relieve traffic congestion, and provide transportation opportunities; and

WHEREAS, the Commuter Rail System will become an integral part of a Central Florida balanced transportation system and, with concurrent development of improvements to roadways and bus transit, will greatly enhance the mobility of the traveling public;

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein and other valuable consideration, receipt of which is hereby acknowledged, the parties mutually undertake, promise and agree for themselves, their successors and assigns as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. Except as otherwise expressly provided herein or unless the context otherwise requires, capitalized terms have the meanings assigned to such terms in the Master Glossary of Terms for the Florida Commuter Rail System Agreements, and attached hereto as Appendix A and by the reference incorporated herein.

SECTION 1.02. INTERPRETATION. For the purposes of the interpretation, construction, administration, and implementation of this Interlocal Funding agreement, unless otherwise stated in this Interlocal Funding Agreement, the following rules of construction shall apply:

(A) Words importing the singular number shall include the plural, and vice versa, unless the context clearly indicates to the contrary.

(B) In case of any difference of meaning or implication between the text of this Interlocal Funding Agreement and any caption, illustration, summary table or illustrative table, the text shall control.

(C) The word “shall” is mandatory, not discretionary; the word “may” is permissive and discretionary.

(D) The word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(E) Unless the context clearly indicates to the contrary, where a provision involves two or more items, conditions, provisions or events connected by the conjunction “and,” “or” or “either . . . or,” the conjunction shall be interpreted as follows:

a. *And* indicates that all the connected terms, conditions, provisions or events shall apply.

b. *Or* indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

c. *Either . . . or* indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(F) The word “includes” shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(G) The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof,” and any similar terms, shall refer to this Interlocal Funding Agreement; the term “heretofore” shall mean prior to execution of this Interlocal Funding Agreement.

(H) This Interlocal Funding Agreement shall not be construed more strongly against any party regardless that such party, or its counsel, drafted this Interlocal Funding Agreement.

SECTION 1.03. SECTION HEADINGS. Any headings preceding the texts of the several Articles and Sections of this Interlocal Funding Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Interlocal Funding Agreement nor affect its meaning, construction or effect.

ARTICLE II
REPRESENTATIONS

SECTION 2.01. REPRESENTATIONS OF ORANGE COUNTY. Orange County makes the following representations as the basis for the undertakings on the part of FDOT and the other Local Government Partners herein contained:

(A) Orange County has duly authorized the execution and delivery of this Interlocal Funding Agreement and assuming the due authorization, execution and delivery by the other parties hereto, this Interlocal Funding Agreement constitutes a valid and legally binding obligation of Orange County, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity or public policy.

(B) To Orange County's knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of Orange County, threatened against or affecting Orange County, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated hereby or which, in any way, would materially adversely affect the validity of this Interlocal Funding Agreement.

SECTION 2.02. REPRESENTATIONS OF OSCEOLA COUNTY. Osceola County makes the following representations as the basis for the undertakings on the part of FDOT and the other Local Government Partners herein contained:

(A) Osceola County has duly authorized the execution and delivery of this Interlocal Funding Agreement and assuming the due authorization, execution and delivery by the other parties hereto, this Interlocal Funding Agreement constitutes a valid and legally binding obligation of Osceola County,

enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity or public policy.

(B) To Osceola County's knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of Osceola County, threatened against or affecting Osceola County, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated hereby or which, in any way, would materially adversely affect the validity of this Interlocal Funding Agreement.

SECTION 2.03. REPRESENTATIONS OF SEMINOLE COUNTY. Seminole County makes the following representations as the basis for the undertakings on the part of FDOT and the other Local Government Partners herein contained:

(A) Seminole County has duly authorized the execution and delivery of this Interlocal Funding Agreement and assuming the due authorization, execution and delivery by the other parties hereto, this Interlocal Funding Agreement constitutes a valid and legally binding obligation of Seminole County, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity or public policy.

(B) To Seminole County's knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of Seminole County, threatened against or affecting Seminole County, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated hereby or which, in

any way, would materially adversely affect the validity of this Interlocal Funding Agreement.

SECTION 2.04. REPRESENTATIONS OF THE COUNTY OF VOLUSIA. The County of Volusia makes the following representations as the basis for the undertakings on the part of FDOT and the other Local Government Partners herein contained:

(A) The County of Volusia has duly authorized the execution and delivery of this Interlocal Funding Agreement and assuming the due authorization, execution and delivery by the other parties hereto, this Interlocal Funding Agreement constitutes a valid and legally binding obligation of the County of Volusia, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity or public policy.

(B) To the County of Volusia's knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of the County of Volusia, threatened against or affecting the County of Volusia, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated hereby or which, in any way, would materially adversely affect the validity of this Interlocal Funding Agreement.

SECTION 2.05. REPRESENTATIONS OF THE CITY OF ORLANDO. The City of Orlando makes the following representations as the basis for the undertakings on the part of FDOT and the other Local Government Partners herein contained:

(A) The City of Orlando has duly authorized the execution and delivery of this Interlocal Funding Agreement and assuming the due authorization, execution and delivery by the other parties hereto, this Interlocal Funding Agreement constitutes a valid and legally binding obligation of the City

of Orlando, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity or public policy.

(B) To the City of Orlando's knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of the City of Orlando, threatened against or affecting the City of Orlando, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated hereby or which, in any way, would materially adversely affect the validity of this Interlocal Funding Agreement.

SECTION 2.06. REPRESENTATIONS OF FDOT. FDOT makes the following representations as the basis for the undertakings on the part of the Local Government Partners herein contained:

(A) FDOT has duly authorized the execution and delivery of this Interlocal Funding Agreement and assuming the due authorization, execution and delivery by the other parties hereto, this Interlocal Funding Agreement constitutes a valid and legally binding obligation of FDOT, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally, or by the exercise of judicial discretion in accordance with general principles of equity or public policy.

(B) To FDOT's knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body pending or, to the best knowledge of FDOT, threatened against or affecting FDOT, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated hereby or which, in any way, would

materially adversely affect the validity of this Interlocal Funding Agreement.

ARTICLE III

STATIONS

SECTION 3.01. GENERAL PROVISIONS. Phases I and II of the Commuter Rail System will include seventeen Stations, each of which will be pedestrian accessible, have convenient connections for bus and other transportation services, and amenities designed with input from the Local Government Partners. Subject to the conveyance requirements set forth in Section 3.05 of the Interlocal Operating Agreement, the Stations, other than Amtrak Stations, shall be owned by FDOT for the benefit of the Commuter Rail System. Management of Amtrak Stations shall be subject to prior agreements with CSXT, and upon their expiration, future agreement between Amtrak and FDOT (during the FDOT Funding Period, provided that FDOT permits the Commission to offer input regarding such future agreement between Amtrak and FDOT) or the Commission (following expiration of the FDOT Funding Period). Operation and management of the Station Platforms and Station Property shall be delineated in a joint use agreement between FDOT and the Responsible Local Government Partner.

SECTION 3.02. JOINT USE AGREEMENTS.

(A) Prior to the Commissioning of the Commuter Rail System, FDOT and the Responsible Local Government Partner shall enter into a joint use agreement for the Station or Stations, which shall delineate the responsibilities of each party, and as a minimum include the following:

- (1) maintenance and operation standards for the Station;
- (2) control over the Station Platform and any structure or device or system located on the Station Platform;

(3) provision of adequate pedestrian access to the Station Platform and Station Property;

(4) requirements for housekeeping and appearance of the Station Platform and Station Property, for which the Local Government Partner shall be responsible from its own funds;

(5) security and law enforcement for the Station Platform and Station Property;

(6) access for vehicular or pedestrian traffic to the Station Platform and Station Property;

(7) provision of adequate lighting and parking; and

(8) the Local Government Partner's rights to develop ancillary facilities located near or on the Station site that are not inconsistent with this Interlocal Funding Agreement.

(B) Revenue generated at any Commuter Rail System Station maintained wholly or in part by a Responsible Local Government Partner that shall be retained by the Responsible Local Government Partner shall exclude revenue generated from parking operations on Station Property and joint fare revenues and shall include the following:

(1) non-fare vending or concession revenues;

(2) facility rental income;

(3) revenue generated from parking operations located on property that is not part of the commuter rail system;

(4) financial contributions by other entities to a particular Local Government Partner in support of such Station or as a contribution toward a particular Local Government Partner's Share of Local Operating Support payment; and

(5) advertising and naming rights.

To the extent Federal or State funds are used to construct parking facilities associated with the Commuter Rail System there shall be no charge for Station parking during the FDOT Funding Period. Thereafter any charge for such parking shall be approved pursuant to Section 3.05(E) of the Interlocal Governance Agreement.

SECTION 3.03. STATION IMPROVEMENTS. In the event it is determined that additional parking or other improvements to the Station Property need to be provided at any given Station location, FDOT and the Responsible Local Government Partner within whose jurisdiction the Station is located agree to work together to meet these needs.

SECTION 3.04. STATION AREA LAND USE AND DEVELOPMENT. FDOT and the Local Government Partners agree that maintaining a transit friendly atmosphere in the vicinity of Stations will encourage and foster use of the Commuter Rail System and increase ridership. Therefore, the parties agree that each Local Government Partner, to the extent permitted by law, shall encourage land use policies and restrictions, consistent with sound growth management principles and in accordance with applicable law, that encourage transit oriented land uses and enhance utilization of the Commuter Rail System by the general public. With respect to any right-of-way or other real estate owned by or under the control of FDOT contiguous with a Station, FDOT shall cooperate with the Responsible Local Government Partner in determining appropriate uses for such property so as to promote the Commuter Rail System and other public transit. Furthermore, the parties agree that the Responsible Local Government Partner shall have exclusive authority to establish ancillary facilities at the Station location, and to grant allowable development rights, or to enter into agreements with landowners in the vicinity of a Station that could produce revenue for the Responsible Local Government Partner. FDOT agrees to cooperate in using their authority with the Responsible Local Government Partners for development of the Station Platforms and Station Property.

SECTION 3.05. OTHER RIGHTS OF LOCAL GOVERNMENT PARTNERS.

The following specific policy areas have been reserved for the sole determination of each individual Local Government Partner, and therefore excluded from oversight, control or action by FDOT or any other Local Government Partner:

(A) any policy governing station amenity charges and other revenue sources, other than Commuter Rail System fares and parking charges at FDOT owned facilities, provided no such charge adversely affects the Commuter Rail System; and

(B) any policy governing development opportunities at or near a Station, provided that no such development adversely affects the Commuter Rail System, or restricts vehicular or pedestrian access to the Station.

SECTION 3.06. STATION MAINTENANCE AND SECURITY. Station Property shall be maintained by the Responsible Local Government Partner. Security for the Station Property shall be provided by the Responsible Local Government Partner.

SECTION 3.07. APPLICATION TO WINTER PARK AND MAITLAND.

Notwithstanding the foregoing, nothing in this Article III is intended to, nor shall it be construed to, give FDOT or a Local Government Partner any authority or control over land use or other municipal government decisions. Specifically, and without limitation of this Section, the City of Winter Park and the City of Maitland shall have the right to approve or disapprove Station improvements, Station land use area and development, lighting, parking and security related to any Station within its municipal boundaries. No Joint Use Agreement (as discussed in Section 3.01, 3.02 or otherwise) shall be binding on the City of Winter Park or the City of Maitland unless the City of Winter Park or the City of Maitland is respectively a signatory and party thereto. The parties to this Interlocal Funding Agreement understand and acknowledge that the building in Winter Park generally known as the "Amtrak Station"

is City of Winter Park property, and the City of Winter Park has not agreed to convey any of its property to either FDOT or the Commission.

ARTICLE IV

FINANCIAL OBLIGATIONS

SECTION 4.01. INITIAL CAPITAL FUNDING.

(A) The parties expect to receive FTA Funds for 50 percent of the Phase I Cost Estimate and 50 percent of the Phase II Cost Estimate. The remaining Capital Cost will be funded by FDOT and the Local Government Partners as described in this Section and Section 4.02 hereof.

(B) The Local Government Partners agree to contribute funds toward the Capital Cost for the construction, installation and equipping of Phase I and Phase II in the amounts shown in the following table:

	Volusia	Seminole	Orlando	Orange	Osceola
Engineering					
Phase I	\$80,000	\$763,000	\$228,000	\$369,000	\$0
Phase II	\$319,000	\$0	\$0	\$302,000	\$448,000
Station Property					
Phase I	\$808,000	\$7,700,000	\$0	\$1,950,000	\$0
Phase II	\$200,000	\$0	\$0	\$150,000	\$3,400,000
Final Design					
Phase I	\$191,000	\$1,823,000	\$544,000	\$879,000	\$0
Phase II	\$762,000	\$0	\$0	\$719,000	\$1,070,000
Construction					
Phase I	\$5,621,000	\$35,914,000	\$12,928,000	\$20,852,000	\$0
Phase II	\$18,519,000	\$0	\$0	\$15,129,000	\$22,182,000
Total	\$26,500,000	\$46,200,000	\$13,700,000	\$40,350,000	\$27,100,000

FDOT agrees to match the foregoing Initial Capital Contributions on a one-to-one basis with its own funds.

(1) The Preliminary Engineering Contributions for Phase I and Phase II shall be paid by each Local Government Partner on or prior to the thirtieth day following the date on which this Interlocal Funding Agreement has been fully executed by all of the parties hereto. FDOT shall use the Preliminary Engineering Contributions for design of the Commuter Rail System. The parties anticipate that the Preliminary Engineering Contributions will be sufficient to fund twenty-five percent of the thirty percent engineering for the Commuter Rail System.

(2) The Station Property Contributions for Phase I and Phase II shall be paid by each Local Government Partner on or prior to the sixtieth day following the date on which this Interlocal Funding Agreement has been fully executed by all of the parties hereto. FDOT shall use the Station Property Contributions to fund twenty-five percent of the Station Property acquisition cost.

(3) When thirty percent design of the Commuter Rail System has been completed, FDOT will notify the Local Government Partners in writing. The Final Design Contributions for Phase I shall be paid by each Local Government Partner within thirty days of the notice provided by FDOT (estimated to be November 1, 2007). FDOT shall use the Final Design Contributions to fund twenty-five percent of the Phase I Commuter Rail System design cost.

(4) The Construction Contributions for Phase I shall be paid by each Local Government Partner within 30 days before FDOT enters into the guaranteed maximum design-build or other firm-fixed price contract, as set forth in Section 4.02(A) hereof. FDOT shall use the Phase I Construction Contributions to fund twenty-five percent of the Phase I Commuter Rail System construction cost.

(5) FDOT shall notify the Local Government Partners in writing two months prior to the date it expects to request proposals for a guaranteed maximum price design-build or other

firm-fixed price contract for Phase II of the Commuter Rail System. The Final Design Contributions for Phase II shall be paid by each Local Government Partner within thirty days of the notice provided by FDOT (estimated to be October 1, 2010). FDOT shall use the Final Design Contributions to fund twenty-five percent of the Phase II Commuter Rail System design cost.

(6) The Construction Contributions for Phase II shall be paid by each Local Government Partner within 30 days before FDOT enters into the a guaranteed maximum design-build or other firm-fixed price contract, as set forth in Section 4.02(B) hereof. FDOT shall use the Phase II Construction Contributions to fund twenty-five percent of the Phase II Commuter Rail System construction cost.

(C) A Local Government Partner may elect to defer payment of any installment of its Initial Capital Contribution by providing an irrevocable commercial letter of credit to FDOT meeting the requirements set forth in Rule 14-116.002, Florida Administrative Code and in a form acceptable to the FDOT Comptroller. The deferred payment schedule shall be as agreed in writing by FDOT and the Local Government Partner electing to provide a letter of credit. The written agreement must be entered into by the Local Government Partner and FDOT, and the letter of credit must be obtained by Local Government Partner and approved by FDOT, at least thirty days prior to the installment due date for which payment is being deferred.

(D) The Department and the Local Government Partners agree that the Local Government Partners' capital contributions will be limited to 50% of the amount not funded by FTA Funds, and therefore, in the event that the final costs for Engineering, Station Property, Final Design, and Construction are less than estimated, any excess contribution will be refunded so as to not exceed the limit.

(E) To the extent that a Local Government Partner is obtaining a State Infrastructure Bank (SIB) loan to provide the funds for that Local Government Partner's contribution hereunder, the terms and conditions of the SIB loan documents are hereby incorporated by this reference and the Department agrees to fully cooperate so as to permit the Local Government Partner to be in compliance with the SIB loan requirements.

SECTION 4.02. CONSTRUCTION COST CONTINGENCIES.

(A) FDOT shall procure and contract a guaranteed maximum price design-build or other contract that establishes a firm-fixed price for the work, for Phase I of the Commuter Rail System in accordance with the Interlocal Operating Agreement as soon as practicable after FTA approves FDOT's entry into the final design process for Phase I and funding for the Commuter Rail System has been included in the President's budget. If FTA does not approve FDOT's entry into the final design process for Phase I and funding for the Commuter Rail System has not been included in the President's budget prior to July 31, 2008, or if FDOT is unable to enter into a guaranteed maximum design-build or other firm-fixed price contract for Phase I of the Commuter Rail System in accordance with the Interlocal Operating Agreement, this Interlocal Funding Agreement may be terminated pursuant to Section 6.02(B)(4) of the Interlocal Operating Agreement.

(1) If FDOT is able to enter into guaranteed maximum design-build or firm-fixed price contract for Phase I equal to or less than 105 percent of the Phase I Cost Estimate, FDOT shall notify the Local Government Partners of the difference in writing. In such event, FDOT agrees to pay 50 percent of the difference and the Phase I Construction Contribution for each Local Government Partner shall be increased proportionately and paid within forty-five calendar days of notification from the Department or prior to the posting of the accepted bid.

(2) If FDOT can only enter into a guaranteed maximum design-build or firm-fixed

price contract for Phase I greater than 105 percent of the Phase I Cost Estimate, FDOT will notify the Local Government Partners of the difference in writing. The parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to determine whether the Phase I scope can be reduced to bring the cost within 105 percent of the Phase I Cost Estimate or if additional funding will be provided for Phase I.

(a) If the parties agree to reduce the scope and FDOT successfully negotiates with the prospective contractor for a reduction in scope and price, FDOT shall enter into the guaranteed maximum design-build or other firm-fixed price contract for Phase I.

(b) If the parties agree to provide additional funding, each party agreeing to provide additional funds shall distribute a written offer to increase its Phase I funding (specifying the amount) to each of the other parties. Upon circulation of funding offers equal to the amount of the difference specified in the notice provided by FDOT, the offers shall be deemed accepted by the parties and made a part of this Interlocal Funding Agreement. FDOT shall then enter into the guaranteed maximum design-build or other firm-fixed price contract for Phase I.

(c) If the parties cannot agree upon a reduction in scope, FDOT is unable to successfully negotiate with the prospective contractor for a reduction in scope and price, and Phase I funding offers equal to the amount of the difference specified in the notice provided by FDOT are not circulated within forty-five days of the notice provided by FDOT, this Interlocal Funding Agreement may be terminated pursuant to Section 6.02(B)(4) of the Interlocal Operating Agreement.

(B) FDOT shall procure and contract for Phase II of the Commuter Rail System in accordance with the provisions of the Interlocal Operating Agreement, as soon as practicable after FTA

approves FDOT's entry into the final design process for Phase II. If in the event that FTA does not approve FDOT's entry into the final design process for Phase II, or in the event that funding for the Commuter Rail System has not been included in the President's budget prior to July 31, 2008, or in the event that Phase II does not proceed through construction and Commissioning, FDOT, and the Local Government Partners agree to discuss the impacts and renegotiate this Interlocal Funding Agreement.

(C) The parties recognize and agree that due to changed circumstances, increases in the cost of constructing and implementing the Commuter Rail System may need to occur following award of the guaranteed maximum design-build or other firm-fixed price contract. If the amount is such that it will not result in a cumulative increase of the contract price to more than 105 percent of the Phase I Cost Estimate, FDOT agrees to pay 50 percent of the difference and the Phase I Construction Contribution for each Local Government Partner shall be increased proportionately and paid within forty-five calendar days of notification from the Department. If the amount is such that it will result in a cumulative increase of the contract price to more than 105 percent of the Phase I Cost Estimate, FDOT will notify the Local Government Partners of the need and amount of the proposed increase in writing. The parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to determine whether the increase can be reduced, or if additional funding will be provided, or other appropriate course of action. Notwithstanding the foregoing, unless otherwise agreed by the FDOT and the Local Government Partners, the maximum contribution that the Local Government Partners will be obligated to make towards constructing Phase I will be 105 percent of the Phase I Cost Estimate and the payments to be made by the Local Government Partners under this subparagraph (C) will be limited by that total maximum contribution.

SECTION 4.03. FDOT BOND DEBT SERVICE.

(A) FDOT shall issue FDOT Fixed-Guideway Bonds pursuant to Section 215.615, Florida

Statutes, bearing interest at fixed rates consistent with prevailing market rates and having substantially equal annual Debt Service payments, in a total principal amount sufficient to fund FDOT's reasonable transaction costs (estimated at \$1,170,000) and yield \$173,000,000 of net proceeds to fund acquisition of the Corridor and relocate the Taft Yard Facility.

(B) Following expiration of the FDOT Funding Period, each Local Government Partner shall be responsible for paying its "Share of FDOT Bond Debt Service," which shall be computed by multiplying the Debt Service for each Interest Payment Date (reduced by the proceeds of any Commuter Rail System assets, as set forth in Section 3.04 of the Interlocal Operating Agreement) by the Local Government Partner's percentage of track miles, as shown in the following tables.

Before Phase II Opens for Service

Local Government Partner	Track Miles	Percentage of Track Miles
Orange County	9.10 miles	27.9656 percent
Seminole County	16.44 miles	50.5224 percent
County of Volusia	1.50 miles	4.6097 percent
City of Orlando	5.50 miles	16.9023 percent

After Phase II Opens for Service

Local Government Partner	Track Miles	Percentage of Track Miles
Orange County	16.30 miles	26.9243 percent
Osceola County	9.60 miles	15.8573 percent
Seminole County	16.44 miles	27.1556 percent
County of Volusia	12.70 miles	20.9779 percent
City of Orlando	5.50 miles	9.0849 percent

(C) Each Local Government Partner shall pay its respective Share of FDOT Bond Debt Service on each Interest Payment Date by wire transfer in immediately available funds in accordance with written instructions provided to the Local Government Partners by FDOT. Unless otherwise agreed to by FDOT, no Federal funds shall be used for these payments.

(D) Each Local Government Partner understands and agrees that its commitment to pay its

respective Share of FDOT Bond Debt Service shall survive any termination of the Interlocal Operating Agreement or the discontinuance of any service as provided for in the Interlocal Operating Agreement, unless otherwise agreed in writing by FDOT.

SECTION 4.04. COVENANT TO BUDGET AND APPROPRIATE.

(A) Each Local Government Partner hereby covenants and agrees to appropriate in its annual budget for each Fiscal Year, by amendment, if necessary, from Non-Ad Valorem Funds lawfully available in each Fiscal Year, amounts required to pay its Initial Capital Contribution and its Share of FDOT Bond Debt Service for each such Fiscal Year. Each Local Government Partner's Funds shall be cumulative to the extent not paid, and shall continue until such Non-Ad Valorem Funds or other legally available funds in amounts sufficient to make all such required payments shall have been budgeted, appropriated and actually paid. Notwithstanding the foregoing, the Local Government Partners do not covenant to maintain any services or programs, now provided or maintained by such Local Government Partners which generate Non-Ad Valorem Funds.

(B) The foregoing covenant to budget and appropriate does not create any lien upon or pledge of such Non-Ad Valorem Funds, nor does it preclude a Local Government Partner from pledging its Non-Ad Valorem Funds in the future, nor does it require a Local Government Partner to levy and collect any particular Non-Ad Valorem Funds, nor does it give the parties to this Interlocal Funding Agreement a prior claim on the Non-Ad Valorem Funds as opposed to claims of general creditors of the Local Government Partner. The covenant to appropriate Non-Ad Valorem Funds is subject in all respects to the payment of obligations secured by a pledge of such Non-Ad Valorem Funds heretofore or hereafter entered into (including the payment of debt service on bonds and other debt instruments). However, the covenant to budget and appropriate in its general annual budget for the purposes and in the manner stated herein shall have the effect of making Non-Ad Valorem Funds available for the

payment of amounts described in this Section, in the manner described in this Interlocal Funding Agreement and placing on each Local Government Partner a positive duty to appropriate and budget, by amendment, if necessary, amounts sufficient to meet its obligations hereunder; subject, however, in all respects to the provisions of general law which provide that the governing body of each county or municipality shall not make appropriations in a Fiscal Year which exceed the amount to be received from taxation or other revenue sources during such Fiscal Year; and subject, further, to the payment of services and programs which are for essential public purposes affecting the health, welfare, and safety of the inhabitants of the Local Government Partner or which are legally mandated by applicable law. Commencing in the fiscal year immediately preceding the fiscal year in which the first Local Government Partners' Contribution is due and continuing in each fiscal year thereafter, each Local Government Partner agrees that in preparing its annual budget it shall first provide for the Local Government Partner's Contribution coming due in the next fiscal year prior to programming or encumbering funds for any new pay-as-you-go capital projects as part of its Capital Improvement Program; provided, however, that this restriction shall not apply to projects already in the proposed budget or in the Capital Improvement Plan, or to projects affecting public health, safety or welfare.

(C) No provision of this Interlocal Funding Agreement shall be considered a debt obligation of any Local Government Partner within the meaning of any constitutional or statutory provision or limitation. Amounts payable hereunder are limited obligations of each Local Government Partner and neither the property, the full faith and credit nor the taxing power of the Local Government Partners, the State of Florida or any political subdivision is pledged as security for the obligations due hereunder.

SECTION 4.05. FDOT FIXED-GUIDEWAY BOND REFUNDING. If at any time there appears to be a cost saving by refunding the FDOT Fixed-Guideway Bonds, FDOT and the Local Government Partners shall investigate and determine the extent of such savings, and FDOT shall agree

to refund and reissue the bonds if substantial savings result therefrom. Refunding the FDOT Fixed-Guideway Bonds shall neither increase the Debt Service becoming due in any Fiscal Year nor extend the final maturity of the FDOT Fixed-Guideway Bonds. All transaction costs incurred by FDOT in connection with any such refunding shall be paid from proceeds of the refunding bonds.

SECTION 4.06. FDOT ANNUAL APPROPRIATIONS. FDOT agrees to use its best efforts to ensure that the Commuter Rail System remains in the FDOT'S annual Adopted Work Program and to request appropriations from the Legislature all as necessary for FDOT to comply with this Interlocal Funding Agreement and the Interlocal Operating Agreement. In addition, FDOT agrees to not propose any subsequent new starts projects ahead of the Commuter Rail System and agrees to not request appropriations from the Legislature for any subsequent new starts projects ahead of the Commuter Rail System. Notwithstanding any other provision of this Interlocal Funding Agreement, in compliance with Section 339.135(6)(a), Florida Statutes, the following language and provisions thereof are hereby made a part of this Interlocal Funding Agreement:

FDOT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of

\$25,000.00 and which have a term for a period of more than 1 year.

ARTICLE V

GENERAL PROVISIONS

SECTION 5.01. TERM. This Interlocal Funding Agreement shall become effective when fully-executed copies of the Interlocal Governance Agreement, the Interlocal Operating Agreement and this Interlocal Funding Agreement have been filed with the clerk of the circuit court, or as otherwise required by law, for each of the Local Government Partners and shall expire upon agreement of the parties that payment in full of the amounts due to FDOT pursuant to Section 4.03 hereof has been accomplished and there otherwise is no need to continue having this Interlocal Funding Agreement effective.

SECTION 5.02. SERVICE POLICIES. To the extent permitted by law, the Local Government Partners agree not to adopt any policy or take any action that may substantially increase the cost of providing Commuter Rail System service (unless authorized by this Interlocal Funding Agreement) or adversely impact the Commuter Rail System service as a whole.

SECTION 5.03. RESOLUTION OF DISPUTES. It is the desire and intent of the parties to avoid, if possible, the expense and delay inherent in litigation; therefore, the Local Government Partners agree that whenever any individual party cannot resolve an issue with any other party, the affected parties will engage in the alternative dispute resolution process described below prior to resorting to litigation.

(A) Any party may give another party written notice of any dispute not resolved in the normal course of business. Within ten business days after delivery of the notice, the receiving party shall submit to the disputing party a written response. The notice and the response shall include (1) a

statement of the position of the party delivering the notice of dispute or the response, as the case may be, and a summary of arguments supporting its position and (2) the name and title of the executive who will represent that party in the negotiation to resolve the dispute and of any other person who will accompany the executive.

(B) Within ten business days after delivery of the disputing party's notice, the executives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one party to the other will be honored. In an effort to facilitate the negotiation process, such executives may agree to have an unrelated third party moderate and facilitate the negotiations. If a negotiator intends to be accompanied at a meeting by an attorney, the other negotiator shall be given at least three business days notice of such intention and may also be accompanied by an attorney.

(C) If the dispute has not been resolved within thirty calendar days after delivery of the disputing party's notice, or if the parties fail to meet within twenty calendar days, either party may give written notice to the other party declaring the negotiation process terminated.

(D) The parties regard the obligations to notify the other party of a dispute and to negotiate such dispute pursuant to this Section as an essential provision of this Interlocal Funding Agreement and one that is legally binding on each of them. In case of a violation of such obligation by either party, the other may bring an action to seek enforcement of such obligation in any court of law having jurisdiction thereof.

(E) Each party shall each bear its own costs and expenses incurred in connection with any negotiations and dispute resolution.

(F) Upon failure to resolve any dispute in accordance in this Section 5.03, the parties may engage in mediation, arbitration, or other dispute resolution processes at their discretion, or pursue

other legal remedies.

SECTION 5.04. NOTICES. Whenever this Interlocal Funding Agreement requires or permits any consent, approval, notice, request, proposal, or demand from one party to another, the content, approval, notice, request, proposal, or demand must be in writing to be effective and shall be delivered to and received by the party intended to receive it (A) by hand delivery to the person(s) hereinafter designated, or (B) by overnight hand delivery addressed as follows, or (C) through the United States Mail, postage prepaid, certified mail, return-receipt requested, or (D) delivered and received by facsimile telephone transmission or other electronic transmission (provided that an original of the electronically transmitted document is delivered within five (5) days after the document was electronically transmitted) upon the date so delivered to and received by the person to whom it is addressed at the address set forth opposite the party's name below:

Party	Principal & Address	With a copy to:
Orange County	Orange County Administrator Post Office Box 1393 Orlando, Florida 32802-1393 Phone No. (407) 836-7370 Facsimile No. (407) 836-7399	Orange County Attorney Post Office Box 1393 Orlando, Florida 32802-1393 Phone No. (407) 836-7320 Facsimile No. (407) 836-5888
Osceola County	Osceola County Manager 1 Courthouse Square Suite 4700 Kissimmee, Florida 34741 Phone No. (407) 343-2385 Facsimile No. (407) 343-2391	Osceola County Attorney 1 Courthouse Square Suite 4200 Kissimmee, Florida 34741 Phone No. (407) 343-2330 Facsimile No. (407) 343-2353
Seminole County	Deputy County Manager Seminole County Services Building 1101 East First Street Sanford, Florida 32773 Phone: (407) 665-7212 Fax: (407) 665-7958	County Attorney Seminole County Services Building 1101 East First Street Sanford, FL 32771 Phone (407) 665-7254 Fax: (407) 665-7259

Party	Principal & Address	With a copy to:
County of Volusia	County Manager 123 W. Indiana Avenue DeLand, Florida 32720 Phone: (386)736-5920 Fax: (386)822-5717	County Attorney 123 W. Indiana Avenue DeLand, Florida 32720 Phone: (386)736-5950 Fax: (386)736-5990
City of Orlando	Director of Transportation 400 South Orange Avenue Orlando, Florida 32801 Phone: (407) 246-3978 Fax: (407) 246-3392	Chief Administrative Officer 400 South Orange Avenue Orlando, Florida 32801 Phone: (407) 246-3091 Fax: (407)246-3342
FDOT	District Five Secretary 719 South Woodland Boulevard DeLand, Florida 32720 Telephone: (386) 943-5476 FAX: (386) 740-2675	District Five General Counsel 719 South Woodland Boulevard Deland, FL 32720 Telephone: (386) 943-5492 FAX: (386) 736-5500

Any of the above parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand or facsimile transmission or three days after the date mailed.

SECTION 5.05. ENFORCEMENT. If any party initiates an action to enforce any provision of this Interlocal Funding Agreement or for damages by reason of an alleged breach of any provision hereof, FDOT and each Local Government Partner shall pay its own costs, and expenses, and attorneys' fees and costs incurred in connection with such action.

SECTION 5.06. COUNTERPARTS. This Interlocal Funding Agreement may be executed in multiple counterparts. Each such counterpart shall be deemed an original of this Interlocal Funding Agreement, so that in making proof of this Interlocal Funding Agreement, it shall only be necessary to produce or account for one such counterpart.

SECTION 5.07. CONCURRENT AGREEMENTS. This Interlocal Funding Agreement is being entered into in conjunction with the Interlocal Operating Agreement between FDOT and the Commission, and these two agreements, being *pari materia*, must be construed with reference to one another and neither agreement shall have precedence over the other. Furthermore, these two Agreements encompass all prior negotiations, correspondence, conversations, agreements, and understandings of the parties relating to the subject matter, supersede all prior understandings and agreements regarding the subject matter, and may not be amended, modified, or supplemented except by an instrument or instruments in writing executed by all of the parties.

SECTION 5.08. SEVERABILITY. In the event any one or more of the provisions contained in this Interlocal Funding Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Interlocal Funding Agreement shall be revised so as to cure such invalid, illegal or unenforceable provision to carry out as nearly as possible the original intent of the parties.

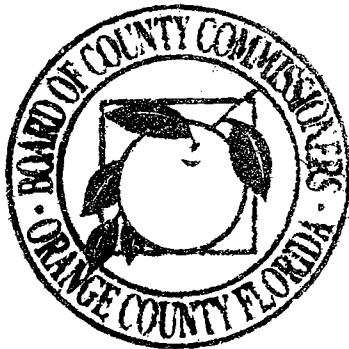
SECTION 5.09. CONTRACTUAL RELATIONSHIP. It is specifically understood and agreed that the relationship described in this Interlocal Funding Agreement between and among the Local Government Partners is contractual in nature and is not to be construed to create a partnership or joint venture or agency relationship among the parties. Nor, shall FDOT and individual Local Government Partners be liable for any debts or liabilities incurred by the other parties to this Interlocal Funding Agreement except as provided herein, or for non-commuter rail service operations or activities.

SECTION 5.10. GOVERNING LAW AND VENUE. This Interlocal Funding Agreement and all agreements entered into in connection with the transactions contemplated by this Interlocal Funding Agreement are, and will be, executed and delivered, and are intended to be performed in

Orange County, Osceola County, Seminole County and the County of Volusia. The laws of Florida shall govern the validity, construction, enforcement, and interpretation of this Interlocal Funding Agreement. In the event of litigation among the parties hereto, their successors or assigns, with regard to this Interlocal Funding Agreement and any subsequent supplementary agreements or amendments, venue shall lie exclusively in the county where the administrative offices of the Commuter Rail System are located.

SECTION 5.11. FURTHER ASSURANCES. Each party agrees to perform any further acts and to sign and deliver any further documents that may be reasonably necessary to carry out the provisions of this Interlocal Funding Agreement.

EXECUTED by the following to be effective upon the date as herein provided:



By and For Orange County:

By: Board of County Commissioners

By: Richard T. Crotty
Richard T. Crotty
Orange County Mayor

Attest: Martha O. Haynie, Orange County Comptroller
as Clerk of the Board of County Commissioners

By: Rosilyn M. Stapleton
Deputy Clerk
Print Name: Rosilyn M. Stapleton

By and For Osceola County:

IN WITNESS WHEREOF, the Board of County Commissioners of Osceola County, Florida, has caused this Interlocal Funding Agreement to be executed and delivered this 22 day of August, 2007.

OSCEOLA COUNTY, FLORIDA

By: _____

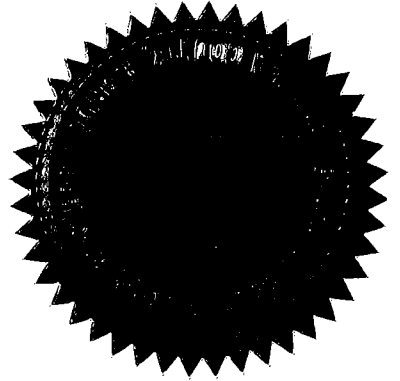
[Handwritten Signature]
Chairman (SEAL)
Board of County Commissioners

Board approved 7/30/07

ATTEST:

[Handwritten Signature]

Clerk to the Board of
County Commissioners




By and For Seminole County:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

ATTEST:



MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

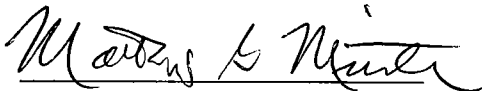
By: 
_____, Chairman

Date: Aug. 13, 2007

For the use and reliance
of Seminole County only.

Approved as to form and
legal sufficiency.

As authorized for execution by the Board
of County Commissioners at its 7-24,
2007, regular meeting.



County Attorney

By and For County of Volusia:

IN WITNESS WHEREOF, the County Council of the County of Volusia, Florida, has caused this Interlocal Governance Agreement to be executed and delivered this 16 day of

August, 2007.

ATTEST:

COUNTY OF VOLUSIA

By: 

By: 

Name: James T. Dinneen

Name: Frank T. Bruno, Jr.

Title: County Manager/Clerk

COUNTY CHAIR
Title: Council Chair

Dated: 8/16/07

Dated: 8/16/07

By and For City of Orlando:

IN WITNESS WHEREOF, the City Council of the City of Orlando, Florida, has caused this Interlocal Governance Agreement to be executed and delivered this 3 day of August, 2007.

CITY OF ORLANDO
By: [Signature]
Mayor / Mayor Pro Tem

ATTEST
[Signature]
Alana C. Brenner, City Clerk

APPROVED AS TO FORM AND LEGALITY for the use and reliance of the City of Orlando, Florida, only.

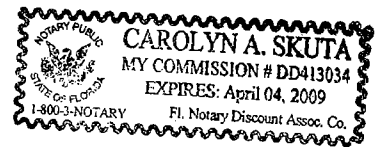
8/5, 2007
[Signature]
Assistant City Attorney
Orlando, Florida

STATE OF FLORIDA
COUNTY OF ORANGE

PERSONALLY APPEARED before me, the undersigned authority, Samuel Ingo and Alana C. Brenner, well known to me and known by me to be Mayor [Signature] and City Clerk, respectively, of the City of Orlando, Florida, and acknowledged before me that they executed the foregoing instrument on behalf of the City of Orlando as its true act and deed, and that they were duly authorized to do so.

WITNESS MY hand and official seal this 3 day of August, 2007.

[Signature]
Notary Public - State of Florida at Large
Print Name: _____
My commission expires:



By and For The State of Florida Department of Transportation:

Naame Dowd Date: 8/28/07
Secretary, District Five

Wally Jasse Date: 8/29/07
Legal Review

Approved by Lowell Clary Date: 7/2/07
Office of Comptroller

APPENDIX A

MASTER GLOSSARY OF TERMS FOR CENTRAL FLORIDA COMMUTER RAIL SYSTEM AGREEMENTS

DEFINITIONS

As used in the Interlocal Governance Agreement, the Interlocal Operating Agreement and the Interlocal Funding Agreement, the following terms shall have the following meanings unless the context hereof otherwise requires.

"Average Fare" means the average fare paid for passage on the Commuter Rail System, as calculated pursuant to Section 5.02(F) of the Interlocal Operating Agreement.

"Base Service" means commuter rail service provided in accordance with the standards set forth in Section 4.05 of the Interlocal Operating Agreement, as adjusted pursuant to Sections 4.06 and 4.07 of the Interlocal Operating Agreement.

"Boarding Share" means the share of passenger boardings computed for each Local Government Partner pursuant to Section 4.01(A) of the Interlocal Governance Agreement.

"Capital Cost" means costs properly attributable to the acquisition of the Station Property and the construction, installation and equipping of Phase I and Phase II under generally accepted accounting principles applicable to the Commuter Rail System.

"Central Florida Operating and Management Agreement" means that certain Central Florida Operating and Management Agreement between CSXT and FDOT, in substantially the form attached to the Interlocal Operating Agreement as Appendix F, delineating the rights and responsibilities of FDOT and CSXT for the control, dispatch, operation, maintenance, and management of the Corridor and for freight and passenger rail service on the Corridor.

"Chief Executive Officer" means the chief executive officer of the Commuter Rail System appointed pursuant to Section 4.13(A) of the Interlocal Operating Agreement.

"Chief Operating Officer" means the chief operating officer of the Commuter Rail System appointed pursuant to Section 4.13(B) of the Interlocal Operating Agreement.

"City of Orlando" means the City of Orlando, a municipal corporation organized under the laws of the State of Florida.

"Commuter Rail System" means the Central Florida Commuter Rail Transit System, a Fixed Guideway Transit System that shall operate within the Corridor, as described in the Interlocal Operating Agreement.

"Commission" means the Central Florida Commuter Rail Commission created by the Interlocal Governance Agreement.

"Commissioning" means the control, operation, management and maintenance of Commuter Rail System from completion of construction through all Federal and State governmental approvals up to the point in time that Commuter Rail System is ready to transport paying passengers and be placed into a revenue generating mode by the FDOT according to FTA and FRA guidelines.

"Commuter Rail Easement" means the easement for use of the Corridor (including the Station Platforms), maintenance facility, layover facility, and other real property used or held for use by the Commuter Rail System, attached to the Interlocal Operating Agreement as Appendix D, which will be executed and delivered by FDOT to the Commission pursuant to Section 3.05(B) of the Interlocal Operating Agreement.

"Construction Contribution" means, for each Local Government Partner, the amount shown for Phase I and/or Phase II Construction in Section 4.01(B) of the Interlocal Funding Agreement.

"Contract for Sale and Purchase" means certain Contract for Sale and Purchase between CSXT and FDOT, in substantially the form attached to the Interlocal Operating Agreement as Appendix E, which, subject to certain conditions precedent, provides for acquisition of the Corridor by FDOT, subject to a retained perpetual easement for Rail Freight Services.

"Contract Operator" means a third-party, independent contractor or contractors procured to operate, maintain and dispatch the Commuter Rail System's commuter passenger trains and maintain the Corridor.

"Corridor" means the railroad corridor formerly known as CSXT's A-Line between Milepost A749.7 near DeLand, Florida and Milepost A814.1 near Poinciana, Florida, a distance of approximately 61.54 miles through which the Commuter Rail System will operate, as depicted in Appendix B. The term "Corridor" includes the Station Platforms.

"Corridor Access Management" means managing, directing, and controlling the occupation, use, and access to the Corridor in a manner consistent with freight and passenger rail services in accordance with this Interlocal Agreement and the Central Florida Operating and Management Agreement.

"County of Volusia" means the County of Volusia, a charter county and political subdivision of the State.

"CSXT" means CSX Transportation, Inc., a corporation organized and existing under the laws of the State of Virginia and authorized to do business in the State.

"Customer Advisory Committee" means the advisory committee created pursuant to Section 3.08 of the Interlocal Governance Agreement.

"Debt Service" means an amount equal to the sum of the principal of (either at the stated maturity or by an advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the FDOT Fixed-Guideway Bonds during each Fiscal Year of the Local Government Partners as such payments become due (provided that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments shall be deemed to become due in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration) during or prior to such Fiscal Year.

"Diesel Multiple Unit" means a steel wheel on steel rail transit vehicle that is self-propelled, with the capacity to operate independently and pull non-powered cars. The Commuter Rail System intends to utilize FRA compliant (49 CFR Part 238 specifications for compression testing) Diesel Multiple Units, which pass the FRA 800,000-pound structural buff load test and have the ability to run in mixed freight service on existing track.

"District Secretary" means the FDOT District Secretary for District 5, in which the Commuter Rail System is located.

"Extended Service" means the provision of service to any Station not listed in Appendix C to the Interlocal Operating Agreement.

"Expanded Service" means increased headways and service frequencies, additional peak and off peak service, additional night, weekend or Holiday service, special event service and other service increases.

"Farebox Revenue" means fares paid for passage on the Commuter Rail System.

"FDOT" means the State of Florida Department of Transportation, an agency of the State of Florida.

"FDOT Fixed-Guideway Bonds" means the debt obligations initially issued by FDOT to acquire the Corridor and relocate the Taft Yard Facility, as described in Section 4.03(A) of the Interlocal Funding Agreement and any obligations issued for purposes of refunding pursuant to Section 4.05 of the Interlocal Funding Agreement.

"FDOT Funding Period" means the period commencing on the Revenue Operation Date and ending on the first day of the calendar month following expiration a seven-year period, during which FDOT is obligated to fund operating deficits of the Commuter Rail System and Debt Service on the FDOT Fixed-Guideway Bonds.

"Final Design Contribution" means, for each Local Government Partner, the amount shown for Phase I and/or Phase II Final Design in Section 4.01(B) of the Interlocal Funding Agreement.

"Fiscal Year" means (A) during the FDOT Funding Period, the fiscal year for State government, which commences on July 1 and continues through the next succeeding June 30, or (B) following expiration of the FDOT Funding Period, the fiscal year for county government, which commences on October 1 and continues through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for either level of government.

"Five-Year Capital Plan" means a five-year capital plan for capital improvements to the Commuter Rail System including, but not limited to: new track materials and installation (including rails, ties, ballast, switches, fasteners, etc); bridge and culvert upgrades and replacements (supply, fabricate and install); signals and communications equipment upgrades and replacements; at-grade crossing improvements; vehicle storage and maintenance facility

improvements and equipment; maintenance of way equipment and vehicles: control center improvements; station improvements, amenities and equipment upgrades; fare collection equipment and upgrades; Diesel Multiple Unit upgrades; additional Diesel Multiple Units; and parking lot improvements and expansions.

"Fixed Guideway Transit System" means a system used for the transportation of people and goods by means of, without limitation, a street railway, an elevated railway having a fixed guideway, a commuter railroad, a subway, and includes a complete system of tracks, stations, and rolling stock necessary to effectuate passenger service to or from the neighboring regional communities.

"FRA" means the Federal Railroad Administration.

"FTA" means the Federal Transit Administration.

"FTA Funds" means Federal grant funds provided by FTA under the Full Funding Grant Agreement.

"Full Funding Grant Agreement" means the Full Funding Grant Agreement to be entered into by FTA and FDOT pursuant to 49 U.S.C. Section 5309, pursuant to which FTA will provide Federal funds for acquisition and construction of the Commuter Rail System.

"Funding Determination Year" means the 12-month period ending on March 31.

"Governing Board" means the governing body of the Commission established pursuant to Section 3.03 of the Interlocal Governance Agreement.

"Holiday" means a holiday designated by law (currently, Section 110.117, Florida Statutes) as paid holidays observed by all State branches and agencies.

"Initial Capital Contribution" means, for each Local Government Partner, the Preliminary Engineering Contribution, the Station Property Contribution, the Final Design Contribution and the Construction Contribution.

"Interest Payment Date" means the date on which each payment of principal and/or interest becomes due on the FDOT Fixed-Guideway Bonds.

"Local Capital Cost" means the Capital Cost of implementing the Five-Year Capital Plan following expiration of the FDOT Funding Period, after deducting State and Federal contributions.

"Local Farebox Revenue" means the amount computed for each Local Government Partner pursuant to Section 4.01(C) of the Interlocal Governance Agreement.

"Local Government Partner" means Orange County, Osceola County, Seminole County, the County of Volusia and the City of Orlando.

"Local Station Revenue" means any Station revenue described in Section 3.02(B) of the Interlocal Funding Agreement.

"Maintenance of Way" means those labor, materials and equipment that are required to maintain the Corridor, including but not limited to mowing, replacing and repairing ballast, replacing and repairing rails, signals and switches, undertaking minor bridge maintenance and performing other activities required to safely operate the rail service.

"Member" means a member of the Governing Board, as designated in Section 3.03 of the Interlocal Governance Agreement.

"Non-Peak Hours" means 5:00 a.m. – 5:30 a.m., 8:30 a.m. – 3:30 p.m. and 6:30 p.m. to midnight, Monday through Friday.

"Non-Ad Valorem Funds" shall mean all revenues of the Local Government Partner derived from any source whatsoever other than ad valorem taxation on real or personal property, which are legally available to make the payments required herein, but only after provision has been made by the Local Government Partner for the payment of all essential or legally mandated services; provided however, that unless otherwise agreed to by FDOT, the term "Non-Ad Valorem Funds" does not include Federal funds.

"Operating Revenue Without Farebox" means Total Operating Revenue less Farebox Revenue.

"Orange County" means Orange County, a charter county and political subdivision of the State.

"Osceola County" means Osceola County, a charter county and political subdivision of the State.

"Peak Hours" means 5:30 a.m. – 8:30 a.m. and 3:30 p.m. – 6:30 p.m., Monday through Friday, excluding Holidays.

"Phase I" means acquisition of the Corridor and construction of the portion of the Commuter Rail System expected to be operational in 2010, as described in Appendix C to the Interlocal Operating Agreement.

"Phase I Cost Estimate" means \$388,184,000, which includes the estimated cost of preliminary engineering for Phase I and Phase II, acquisition of Station Property for Phase I and Phase II, final design for Phase I and construction of Phase I.

"Phase II" means construction of the portion of the Commuter Rail System expected to be operational in 2013, as described in Appendix C to the Interlocal Operating Agreement.

"Phase II Cost Estimate" means \$217,216,000, which includes the estimated cost of final design for Phase II and construction of Phase II.

"Preliminary Engineering Contribution" means, for each Local Government Partner, the amount shown for Phase I and/or Phase II Engineering in Section 4.01(B) of the Interlocal Funding Agreement.

"Rail Freight Service" means the transportation by rail of property and movable articles of every kind, character and description over the Corridor, as permitted under the perpetual easement retained by CSXT pursuant to the Contract for Sale and Purchase.

"Responsible Local Government Partner" means the County within which a Station is located, except that the Responsible Local Government Partner shall mean the City of Orlando (and not Orange County) with respect to any Station located within the jurisdiction of the City of Orlando.

"Revenue Operation Date" means the date that the Commuter Rail System, after having received all State and Federal approvals for operation, is placed in commuter service for fare paying passengers to ride and shall have the same meaning as used by the FTA.

"Seminole County" means Seminole County, a charter county and political subdivision of the State.

"Share of Local Capital Cost" means the amount computed for each Local Government Partner pursuant to Section 4.02(B) of the Interlocal Governance Agreement.

"Share of Local Operating Support" means the amount computed for each Local Government Partner pursuant to Section 4.01(D) of the Interlocal Governance Agreement.

"Share of Local Operating Support Without Farebox" means the amount computed for each Local Government Partner pursuant to Section 4.01(B) of the Interlocal Governance Agreement.

"Share of FDOT Bond Debt Service" means the amount computed for each Local Government Partner pursuant to Section 4.03(B) of the Interlocal Funding Agreement.

"State" means the State of Florida.

"State of Good Repair" means performance of all necessary maintenance, including preventative maintenance, replacement of all infrastructure components on a schedule consistent with their life expectancy, and compliance with all applicable FRA and FTA regulations.

"Station" means a commuter rail passenger station on the Commuter Rail System, including the commuter rail passenger stations listed in Appendices C, D and E of the Interlocal Operating Agreement and any additional commuter rail passenger station added as Extended Service pursuant to Section 4.07 of the Interlocal Operating Agreement. The term "Station" includes the "Station Platform" and the "Station Property."

"Station Platform" means the Station loading platform located within the Corridor, including any improvements made thereto.

"Station Property" means the Station parking area and other Station property located outside the Corridor, including any improvements made thereto, that was acquired with Federal funds, proceeds of the Initial Capital Contributions of the Local Government Partners or as part of the Five-Year Capital Plan. The term "Station Property" does not include any other property acquired by the Local Government Partners with their own funds.

"Station Property Contribution" means, for each Local Government Partner, the amount shown for Phase I and/or Phase II Station Property in Section 4.01(B) of the Interlocal Funding Agreement.

"System Net Revenue Without Farebox" means, for any Fiscal Year, the amount computed by deducting the budgeted Operating Revenue without Farebox from the budgeted Total Operating Cost.

"System Operating Deficit" means, for any Fiscal Year, the amount computed by deducting the Total Operating Revenue from the Total Operating Cost.

"Technical Advisory Committee" means the advisory committee created pursuant to Section 3.07 of the Interlocal Governance Agreement.

"Total Operating Cost" means all expenses incurred in connection with operation and maintenance of the Commuter Rail System including, but not limited to, the following: (A) during the FDOT Funding Period, the cost for FDOT staff and contractors working for the Commuter Rail System, including indirect costs computed in accordance with a cost allocation plan meeting FRA and FTA requirements; (B) payments made to the Contract Operator; (C) the direct cost of Corridor Access Management; (D) the direct cost for Maintenance of Way; (E) the cost to maintain the Commuter Rail System's rolling stock, including the "capital maintenance cost," as defined in the agreement with the Contract Operator; (F) the direct cost to insure and provide risk management for the Commuter Rail System; (G) during the FDOT Funding Period, the cost incurred by FDOT, including indirect costs computed in accordance with an indirect cost allocation plan meeting FRA and FTA requirements; and (H) any other cost directly related to the Commuter Rail System. The term "Total Operating Cost" does not include Debt Service on the FDOT Fixed-Guideway Bonds or expenses related to operation of the Station Property.

During the FDOT Funding Period, the term "Total Operating Cost" does not include any cost associated or incurred by the Local Government Partners or other governmental entities regarding the Commission, Governing Board, Technical Advisory Committee or Customer Advisory Committee.

"Total Operating Revenue" means all revenues arising from the operation of the Commuter Rail System including, but not limited to, (A) revenue generated by and received from freight railroads operating on the Corridor (including the car charge payable pursuant to the Central Operating and Management Agreement, (B) liquidated damages paid by the Contract Operator, (C) financial contributions by other entities in support of Commuter Rail System operations including, but not limited, to Federal grant funds, (D) any other revenues arising as a result of the operation of Commuter Rail System, and (E) interest or investment earnings; provided however, that the term "Total Operating Revenue" does not include Local Station Revenue.