

**ADDITIONAL MATERIAL
10:00 A.M. REGULAR MEETING**

JANUARY 23, 2018

**SUBMITTED AT THE REQUEST OF
OFFICE OF THE COUNTY ATTORNEY**

Andrew J. Meyers
County Attorney




OFFICE OF THE COUNTY ATTORNEY
115 S. Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301

954-357-7600 · FAX 954-357-7641

MEMORANDUM

TO: Board of County Commissioners

FROM: Andrew J. Meyers, County Attorney 

DATE: January 22, 2018

RE: **Item 41A Alternate Motion Statement for the Board's Consideration**
CAO File: 18-026

Item 41A asks the Board to approve a Third Amendment to the Wave Project Agreement between the County and the Florida Department of Transportation ("FDOT"). Any Board approval thereof may be unconditional (which is how the current motion statement reads), or it may be conditioned upon the City of Fort Lauderdale (the "City") and the City's Downtown Development Authority ("DDA") taking formal action to acknowledge that the changes resulting from the Third Amendment, which would affect the project's scope and various financial obligations, would not diminish or negate the City's and DDA's respective obligations to contribute toward the full local share of project cost overruns.

If desired by the Board, the attached "Alternate Motion A" would insert that condition into the Board's approval of the Third Amendment. The ILA Amendment referenced in "Alternate Motion A" is also attached. This amended motion statement would not impact the "Motion to Authorize" addressed in item 41B.

Please feel free to contact me with any questions or concerns regarding this matter.

AJM/gf
Attachments

c: Bertha Henry, County Administrator
Bob Melton, County Auditor

Alternate Motion A:

A. MOTION TO APPROVE Third Amendment to the Project Agreement between Broward County and the Florida Department of Transportation (FDOT) (the "Third Amendment") addressing updated project milestone dates and schedule, amending the Project Description to include a bid alternate, and authorizing the County to exercise an option to fund the bid alternate, such approval being subject to the City of Fort Lauderdale (the "City") and the Downtown Development Authority of the City of Fort Lauderdale ("DDA") each executing by February 9, 2018, an amendment to the Interlocal Agreement among the County, City, and DDA in substantially the form circulated as additional material (the "ILA Amendment"); approving the ILA Amendment in substantially the form attached hereto and authorizing the County Administrator to execute the ILA Amendment with any nonsubstantive revisions deemed necessary and appropriate by the County Attorney; authorizing County Administrator or designee to take all administrative and budgetary actions allowable under the terms of the initial Project Agreement, the Third Amendment, the initial Interlocal Agreement, or the ILA amendment; and authorizing the County Administrator or designee to execute other project implementation documents consistent with the terms of the Project Agreement as amended.

FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT

among

BROWARD COUNTY

and

CITY OF FORT LAUDERDALE

and

**DOWNTOWN DEVELOPMENT AUTHORITY
OF THE CITY OF FORT LAUDERDALE**

regarding

**Allocation of Funding Responsibility for the Local Share of Capital Cost Overruns for
the Wave Modern Streetcar Project**

This First Amendment to the Interlocal Agreement among Broward County and the City of Fort Lauderdale and the Downtown Development Authority of the City of Fort Lauderdale regarding Allocation of Funding Responsibility for the Local Share of Capital Cost Overruns for the Wave Modern Streetcar Project ("First ILA Amendment") is entered into by and among: BROWARD COUNTY, a political subdivision of the State of Florida ("County"), CITY OF FORT LAUDERDALE, a municipal corporation organized and existing under the laws of the State of Florida ("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 ("DDA") (County, City, and DDA are sometimes individually referred to as a "Party" and collectively referred to as the "Parties").

A. On or about June 16, 2016, the Parties entered into an Interlocal Agreement among Broward County and the City of Fort Lauderdale and the Downtown Development Authority of the City of Fort Lauderdale regarding Allocation of Funding Responsibility for the Local Share of Capital Cost Overruns for the Wave Modern Streetcar Project (the "ILA"). The ILA addressed, among other things, each Party's financial obligations in connection with the June 14, 2016 Wave Project Agreement between the County and the Florida Department of Transportation ("FDOT") ("Wave Project Agreement").

B. The County and FDOT are entering into a Third Amendment to the Wave Project Agreement ("Third Amendment"). The Third Amendment revises certain material aspects of the Project and modifies the respective financial obligations of FDOT and the County including by making the County (vis-à-vis FDOT) solely responsible for the cost of certain elements of the Project.

C. More specifically, the Parties acknowledge that the Third Amendment affects changes including the following: (i) modifies the Project Description (Exhibit A to the Third Amendment) to remove certain aspects of the Project relating to bridge girders, beams, and a concrete deck; (ii) provides for specified vehicle maintenance facility elements as set forth in Exhibit A-1 to the Third Amendment that, if procured, will be funded solely by the Parties in accordance with the terms of the ILA as modified and/or ratified hereby; and (iii) allocates the financial responsibility for any amounts in excess of \$1,280,000 for the fare collection system, non-revenue vehicles, and general tools identified in Exhibit A-2 to the Third Amendment solely to the Parties in accordance with the terms of the ILA as modified and/or ratified hereby.

D. Because the Third Amendment would, among other things, shift financial responsibility for certain aspects of the Project from a 50/50 split between FDOT and the local funding agencies (the County, City, and DDA) to become the sole responsibility of the local funding agencies, and because the County's willingness to enter into the Third Amendment is conditioned upon the City's and DDA's concurrence therewith, the County, City, and DDA desire to reaffirm and otherwise restate their financial obligations in connection with the ILA.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. Except as expressly modified herein, all terms and conditions of the ILA remain in full force and effect. Amendments made to the ILA by this First ILA Amendment are indicated by use of strikethroughs to indicate deletions and bold/underlining to indicate additions, unless otherwise provided.
3. The City and DDA represent that they have reviewed the Third Amendment approved by the County on January 23, 2018, and that they understand and acknowledge the impact the Third Amendment has on the Wave Project Agreement and the ILA.
4. The Parties acknowledge that the Wave Project Agreement, as amended, utilizes the term "Project Cost Overruns" whereas the ILA utilizes the terms "Capital Cost Overrun" and "Capital Cost Overruns." The Parties agree that, for purposes of the ILA, the terms "Capital Cost Overrun" and "Capital Cost Overruns" include all costs and items that constitute Project Cost Overruns under the Wave Project Agreement regardless of whether or not FDOT is required to participate in any of the costs.
5. The Project Description attached to the Third Amendment as Exhibit A (inclusive of Exhibits A-1 and A-2) is attached hereto as Exhibit C (inclusive of Exhibits C-1 and C-2), incorporated herein, and hereby replaces Exhibit C to the ILA ("Project Scope/Description") in its entirety. The Parties acknowledge and agree that, in accordance with the Wave Project Agreement, as amended, FDOT and County may agree to further modifications to the Project Description including but not limited to those

specified on Exhibit A-1 of the Wave Project Agreement (designated as Exhibit C-1 to this First ILA Amendment). Exhibit C hereto shall be deemed to be automatically amended to reflect any and all such further modifications including but not limited to those specified on Exhibit C-1 to the extent items are included in the final Project Description.

6. Section 2.5 of the ILA is hereby amended as follows:

2.5 Local Share of Capital Cost Overruns – The County's fifty percent (50%) **or other** share of Capital Cost Overruns **under the Wave Project Agreement, as same has been and may be amended** (i.e., 50% of the "Difference" included in Exhibit "D" plus fifty percent (50%) of additional capital cost overruns in excess of the "Difference," **and any other costs that are the responsibility of County under the Wave Project Agreement, as same has been and may be amended**), which must be funded with non-federal and non-state dollars.

7. For avoidance of doubt, and for purposes of any necessary judicial construction of this First ILA Amendment, the Parties hereby agree and acknowledge that the primary intent of this First ILA Amendment is to confirm that, notwithstanding the execution of the Third Amendment and the changes effectuated by the Third Amendment, the Parties remain fully responsible to contribute, in their respective shares identified in Section 4 of the ILA, towards the entire Local Share of Capital Cost Overruns notwithstanding that the County, pursuant to the Third Amendment, is 100% responsible (vis-à-vis FDOT) for the cost of certain elements of the Project. This financial responsibility shall apply to, among other portions of the Project, the costs for the work described in Exhibits C-1 and C-2.

8. The City and DDA also hereby ratify, affirm, and approve of the County's authorization of FDOT "to finalize a new solicitation for the Design-Build Contract," which authorization occurred on January 23, 2018.

9. The effective date of this First ILA Amendment shall be the date of complete execution by all Parties.

10. This First ILA Amendment may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

The remainder of this page is intentionally blank.

IN WITNESS WHEREOF, the Parties hereto have made and executed this First Amendment to the Interlocal Agreement: Broward County, through its Board of County Commissioners, signing by and through its County Administrator, authorized to execute the same by Board action on January 23, 2018; the City of Fort Lauderdale, through its City Commission, signing by and through its Mayor or Vice-Mayor, and the Downtown Development Authority of the City of Fort Lauderdale, signing by and through its Chair or Vice-Chair, each duly authorized to execute same.

BROWARD COUNTY

WITNESS:

BROWARD COUNTY, by and through its County Administrator

(Signature)

By _____
County Administrator

(Print Name of Witness)

____ day of _____, 2018

(Signature)

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

(Print Name of Witness)

By _____
Angela J. Wallace (Date)
Deputy County Attorney

AJW/RDH/MJK
2017-01-19 Wave ILS First Amendment

FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT AMONG BROWARD COUNTY, THE CITY OF FORT LAUDERDALE, AND THE DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF FORT LAUDERDALE REGARDING ALLOCATION OF FUNDING RESPONSIBILITY FOR THE LOCAL SHARE OF CAPITAL COST OVERRUNS FOR THE WAVE MODERN STREET CAR PROJECT.

CITY OF FORT LAUDERDALE, through its City Commission, signing by and through its Mayor or Vice-Mayor, authorized to execute the same by Board action on the ___ day of _____, 2018.

WITNESSES:

CITY

Signature of Witness

By: _____
MAYOR

Print or Type Name of Witness

___ day of _____, 2018.

Signature of Witness

By: _____
City Manager

Print or Type Name of Witness

ATTEST:

City Clerk

Approved as to legal form:

City Attorney

FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT AMONG BROWARD COUNTY, THE CITY OF FORT LAUDERDALE, AND THE DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF FORT LAUDERDALE REGARDING ALLOCATION OF FUNDING RESPONSIBILITY FOR THE LOCAL SHARE OF CAPITAL COST OVERRUNS FOR THE WAVE MODERN STREET CAR PROJECT.

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 the same by Board action on the ___ day of _____, 2018.

WITNESSES:

DDA

Signature of Witness

By: _____
CHAIR

Print or Type Name of Witness

___ day of _____, 2018.

Signature of Witness

Print or Type Name of Witness

Approved as to legal form:

EXHIBIT C

PROJECT DESCRIPTION

Description of Work:

The Wave Streetcar system will operate at-grade on a fixed rail embedded in the street, sharing the existing roadway right-of-way with vehicular traffic, and will be powered by an overhead contact wire system throughout most of the alignment. The alignment is approximately 2.8 miles in length with two fixed rail guideways, one in each direction. The streetcar vehicles will also be powered by an onboard energy storage system (OESS) for a segment of the alignment that crosses the New River over the existing SE 3rd Avenue bascule bridge.

The Wave Phase 1 revenue service alignment extends from the southern terminus at S 16th Street and S Andrews Avenue to NE 6th Street between N Andrews Avenue and NE 3rd Avenue, primarily utilizing Andrews Avenue, SE 3rd Avenue and Brickell Avenue for north/south movement. The alignment utilizes SE 18th Street, SE 6th Street, Las Olas Boulevard, S 2nd Street, N 4th Street, and NE 6th Street for east/ west movement. The Wave Phase 1 requires five (5) modern streetcar vehicles with OESS capability; four (4) vehicles for peak service and one (1) spare.

The project includes guideway, traction power, overhead contact system (OCS), train control, communications, civil, structural, roadway, streetcar vehicles, and a Vehicle Maintenance and Storage Facility (VMSF) located on SW 1st Avenue between SW 18th Street and SW 18th Court, adjacent to the Florida East Coast (FEC) Railroad. The project also includes testing, commissioning, training, and safety certification required for a fully functional streetcar system.

Guideway and Trackwork:

An embedded track slab will be the standard for the mainline track. A reinforced concrete track slab will provide the foundation for this form of track construction. The design of the track slab will be based on automotive vehicle loadings, streetcar vehicles, and soil conditions. Embedded track shall be installed wherever the guideway is shared with rubber tired vehicles, either in mixed traffic or in locations where only emergency and service vehicles will be permitted to travel. All tracks shall be designed in accordance with the current Transit Requirements, included as an attachment to the RFP. The Work includes all drainage required to comply with the permit requirements for water quality and quantity. Track drains will be provided in paved track areas to properly drain the rail flangeways, the pavement surface between the rails, and at track switch locations.

Track work is required at the new VMSF. The yard track work will be constructed with embedded track and will consider its access to/ from the mainline track.

The term "special trackwork" designates the trackwork units necessary where tracks converge, diverge, or cross one another. Special trackwork includes turnouts, diamond crossings, crossovers, and expansion joints. A reinforced concrete tub lined with electric isolation material will be constructed for all special trackwork.

Structures:

The Work includes the design and construction of bridge retrofitting within the project limits. The embedded track within bridge retrofitting shall be designed in accordance with the ~~Concept Drawings and Transit Requirements~~ included as an attachment to the RFP.

The construction of the guideway across the SE 3rd Avenue Bridge over the New River requires structural, mechanical, and electrical modifications to the movable span of the bridge and other modifications to the approach spans of the bridge from the north and south. The bridge is comprised of seven spans including pre-stressed concrete spans, steel flanking spans, and a movable steel twin leaf Scherzer rolling lift bridge span with an open grid steel deck. The movable span and the approach spans will be retrofitted for the introduction of the Streetcar. ~~This will require replacement of girders/ beams on the bridge and construction of a concrete deck on the new girders/ beams with the streetcar embedded in that deck.~~

Stations:

The Work includes the design and construction of ~~thirteen (13)~~ fourteen (14) streetcar station stops throughout the alignment, which include ~~eight (8)~~ ten (10) curbside platforms and ~~five (5)~~ four (4) median platforms, and provide level boarding access to the floor of the streetcar. The station platforms are proposed to be not less than 80 feet long, from 10 to 15 feet wide, and have a ramp at one or both ends, depending on the adjacent conditions. Each station stop will have a shelter, benches, public address, passenger information systems, passenger assistance telephone, closed-circuit television, infrastructure for ticket vending machines, trash receptacles, bike racks and other site furnishings. Layover and rest room facilities will be available near at the southern terminus stop at S 16th Street and S Andrews Avenue.

Communications/ Supervisory Control And Data Acquisition (SCADA):

The communications system will provide the necessary functions to support the operational requirements of the streetcar system. The communications systems will include public address, passenger information systems, passenger assistance telephone, internet protocol video (IPV) HD camera system with PTZ (pan, tilt, zoom), remote monitoring capabilities, and recording equipment. A SCADA system will also be provided to allow for monitoring and control of traction power substations (including intrusion detection), communications equipment houses and cases, fire/ life safety equipment, train control components, public address, public information equipment, and other elements.

Signal and Route Control:

Where the streetcar operates in mixed traffic, streetcar movements will be controlled by the traffic signal system. This includes interlocking protection at all control points for trains leaving the VMSF, a train-to-wayside communications (TWC) system, and a traffic signal controller that will communicate with the guideway proximity loops. The streetcar will be equipped with train-to-wayside communications systems that will activate special traffic signals and routing. In areas of on-street running, special streetcar signals will be provided at specific intersections and locations to allow the streetcar to proceed through the intersection or switch lanes independent of auto traffic. These signals will be displayed by wayside streetcar traffic signal controllers when activated by the streetcar train-to-wayside communications system. The train-to-wayside controller will have a provision for the manual setting of predetermined routes. The train-to-wayside controller will then proceed to activate and set wayside powered track switch machines appropriate for the route. Manual switch control will also be possible.

Vehicle Maintenance and Storage Facility:

The Work includes a Vehicle Maintenance and Storage Facility (VMSF) on the property identified as Site K adjacent to the Florida East Coast corridor to accommodate a fleet of five (5) Streetcars. The VMSF will perform daily and routine inspections, maintenance, on-car repairs, and interior/ exterior cleaning of the streetcars. The facility will also serve as a storage and component change-out location. The facility is intended as a light maintenance facility with minor component rebuild, truck overhaul and minor machine shop capabilities. Major machine shop work and sheet metal work may be performed at another location as an outsourced function. The VMSF will house the following functions:

- streetcar storage;
- train operator report area;
- operator and maintenance training;
- streetcar service and inspection;
- streetcar interior and exterior cleaning;
- streetcar air-conditioning, current collector and resistor unit repair;
- fare collection (FC) equipment repair, storage and inspection;
- traction electrification system (TES) service and inspection;
- TES overhead service and inspection;
- facilities maintenance;
- system wide parts storage;
- streetcar operations administration;
- streetcar maintenance administration;
- central control;
- electronic component repair;
- communications equipment repair, storage and inspection;
- storage of streetcar maintenance-of-way (MOW) materials;
- car wash; and
- LAN room for train control and communications.

Traction Power Supply and Distribution:

Traction electrification is provided via 750 VDC traction power sub-stations (TPSS) transmitting electric energy from its source to the vehicles. The vehicles will be propelled by electric traction motors. Energy to drive these motors will be supplied to the vehicles by rectifier substations located along the wayside through a system of distribution cables, switches and an OCS installed above each track. A pantograph will be mounted on each vehicle to serve as the interface between the vehicle and the OCS and function as the collector of electrical current for the vehicles. The running rails of each track, bonds, and cabling complete the path of electrical current back to the substation. The sections of the system between the stations, before and after the New River, will be without OCS. Vehicles will travel in these two sections using on-board storage batteries.

Spare Parts and Maintenance Materials

The Work will include the furnishing of spare parts and maintenance materials to operate and maintain the streetcar system for the initial startup period. The spare parts and maintenance materials will include keys, special tools, and test equipment required to access, start, operate, monitor, maintain, and perform essential repairs needed for the continued operations of the initial phase of the streetcar system, and the hand tools and general equipment identified in Exhibit A-2.

Vehicles: (procured by Broward County under separate contract)

The Work includes the design, manufacture, delivery, and testing of five (5) streetcar vehicles. The Work also includes the design and integration of all vehicle systems, as defined in the RFP, such that all specified requirements are achieved without conflict or error within or between systems.

Each vehicle shall be a double articulated, modern urban streetcar with contemporary styling, with the following characteristics:

- At least a three-section vehicle, with the carbody sections configured as A1-C1-B1.
- Not less than 50% low floor. Carbody section C1 shall be low floor.
- Carbody section C1 shall have at least two double wide doorways per side.
- Capable of bi-directional operation, with a fully functional cab at each end. Operating control and performance shall be equal from both cabs.
- Designed for single unit operation with provisions for towing a non-operable Vehicle.
- Heated and air conditioned consistent with the Fort Lauderdale, Florida climate and the Technical Specifications.
- Design shall incorporate the OESS, i.e. a battery and/or capacitor drive system, which shall provide capability for wireless operation in accordance with the Technical Specifications.

EXHIBIT C-1

ADDITIONAL VEHICLE MAINTENANCE FACILITY ELEMENTS

The additional elements for design and construction of the Vehicle Maintenance and Storage Facility (VMSF) not included in Exhibit A are the additional design and construction work required to provide an expanded VMSF to accommodate a fleet of twelve (12) Streetcars. The all-inclusive 12 streetcar VMSF includes:

- Yard track to provide for storage and operations of a 12 streetcar vehicle fleet;
- Non-revenue loop track connecting the yard track at the south end of the VMSF to the two proposed tracks on SW 18th Street leading to the VMSF and the revenue tracks along South Andrews Avenue;
- Concrete or masonry structure for the vehicle and maintenance storage building;
- VMSF building third service bay;
- Provide wheel truing machine infrastructure;
- Complete build out and furnishing of second floor office space;
- Provide power switch machines at all switch locations within the VMSF; and
- Provide infrastructure for standalone car wash.

EXHIBIT C-2

FARE COLLECTION SYSTEM, NON-REVENUE VEHICLES AND GENERAL TOOLS

Fare Collection

Purchase and install the fare collection system, including fourteen (14) ticket vending machines at all streetcar station stops connecting to Project infrastructure, and associated hardware and software.

The available Project budget for the fare collection system is \$280,000.

Non-Revenue Vehicles

Purchase and provide non-revenue eleven (11) vehicles for the purpose of operations and maintenance of the Wave Streetcar system. The vehicles shall be used for:

- Traction Power & Overhead Line Maintenance;
- Trackway Maintenance;
- Signal & System Maintenance;
- Facilities Maintenance; and
- Operations Support.

The available Project budget for the 11 non-revenue vehicles is \$800,000.

General Tools

Purchase standard hand tools, basic electrical tools and test equipment, safety lights, portable generators, spill kits and basic cleaning equipment for the purpose of general maintenance of the Wave Streetcar system.

The available Project budget for the general tools is \$200,000.