

March 3, 2011

The Honorable Rick Scott
Office of Governor Rick Scott
State of Florida
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Dear Governor Scott:

We value the dialogue we have had on high speed rail over the last two weeks. The purpose of this joint letter is to clearly restate and further amplify how each of the concerns you have raised have been resolved by the structure we have proposed to eliminate financial risk to the State of Florida and its taxpayers. Initially you expressed concerns regarding potential state responsibility for:

- Construction cost overruns;
- Shortfalls in operating revenue due to low ridership; and
- Potential repayment of grant funds if the high speed rail Project discontinues operation after operations commence.

We appreciated the opportunity to meet and provide you with information and satisfactory assurances on each of these items. At our recent meeting you articulated three additional concerns:

- Assurances that the Project will be structured in a manner to eliminate risk to the State of Florida;
- The scope of continued involvement by the Florida Department of Transportation (“FDOT”); and
- The test for financial assurance that a successful private sector vendor can meet all obligations for construction and operation of the high speed rail Project.

This letter, while addressing each of these issues, does not change the concept previously presented. It does provide additional detail and clarification of the proposal.

I. Elimination of risk to the State of Florida

A. The non-recourse entity will protect the State of Florida and its taxpayers

The key to protecting the State of Florida from risk is the creation of a “non-recourse” entity to be the sub-recipient of the federal grant funds and construct the Florida high speed rail system. Non-recourse entities are a common business tool used to properly allocate risk in large construction projects. By creating a non-recourse entity that is financially independent from the

State of Florida and the cities creating it, the state and its taxpayers will be protected from financial risk.

The authority exists under state law for the Cities of Lakeland, Miami, Orlando and Tampa (the “Cities”), to create this non-recourse entity through an interlocal agreement between the Cities. Section 163.01, Florida Statutes, allows cities and counties to form various independent regional government entities through interlocal agreements. They are well-accepted by the financial markets, they regularly issue bonds, and the financial independence of these interlocal entities has been validated by the Florida Supreme Court. As you requested, we provided you with a detailed opinion letter from a respected Florida law firm confirming the independent, non-recourse nature of these interlocal entities and how one could be used to protect the State from liability for construction cost overruns, shortfalls in operating revenue due to low ridership, and potential repayment of grant funds if the high speed rail Project discontinues operation after operations commence.

Proof of this model for financing, constructing and operating large infrastructure systems can be found in the multitude of interlocal entities in Florida and the billions of dollars in infrastructure they have developed. Cities and counties throughout Florida have used independent interlocal entities to meet a diverse array of infrastructure needs, including port facilities, water and wastewater systems, transportation and transit systems, and solid waste facilities. One regional interlocal entity has over \$1.5 billion in assets, and a statewide interlocal entity has almost \$2.5 billion in assets.

The new non-recourse interlocal entity to be created by the Cities (the “Interlocal Entity”) will require the private company selected to design, finance, construct, operate, and maintain the Tampa to Orlando leg of the high speed rail system and to accept full financial liability for any cost overruns, without recourse to the State of Florida or the Cities. The independent and non-recourse status of the Interlocal Entity will fully protect the State of Florida (and the Cities) from any construction cost overruns, any operating shortfalls, and potential repayment of grant funds if the high speed rail Project discontinues operation after operations commence.

We envision that the Interlocal Entity could be the vehicle for construction of a statewide high speed rail system that will, in time, connect to an interstate high speed rail system. Tampa to Orlando is only the first leg. The Orlando to Miami corridor will be the critical second leg of the statewide system. Use of the Interlocal Entity to develop the first leg of the Florida high speed rail system will not restrict the ability to construct and operate high speed rail statewide. We fully expect that the Orlando to Miami corridor will be developed in the future and we hope that we and you can work together to secure funds through future appropriations from the U.S. Department of Transportation (“USDOT”) for the Orlando to Miami corridor.

B. USDOT has unambiguously waived its standard repayment obligation

USDOT has explicitly and unambiguously waived the standard condition in Federal Railroad Administration cooperative agreements that requires the State to repay a pro-rata portion of the grant funds in the event high speed rail service is discontinued. This standard

condition was included in the initial draft of the cooperative agreement for the State of Florida, but in a letter dated February 28, 2011, USDOT committed to waive this condition for the State and the Cities in any future cooperative agreements for the Tampa to Orlando high speed rail line.

II. The scope of continued involvement by FDOT

As structured, this project will require no financial support from the State of Florida. To be completed effectively and efficiently, however, the Project will need continued support by FDOT. FDOT's dedication of the necessary technical resources will be indispensable for completion of the Project. Under the proposal advanced by the Cities, the State of Florida would be fully reimbursed for the direct costs of such support, consistent with federal grant law.

To be clear, high speed rail cannot succeed in Florida without full and unfettered cooperation by FDOT of the nature and scope that is customarily provided by FDOT for large transportation projects. Accordingly, to support a successful Florida high speed rail system FDOT will need to participate fully in the Project. A description of the work that we expect from FDOT's participation would encompass:

1. FDOT will need to enter into subgrant and delegation agreement(s) with the Interlocal Entity. This agreement(s) allow pass through of the federal funds, delegate authority for construction and operation of the high speed rail system, and assign all rights and property necessary to allow ingress, egress and construction in the rights-of-way as may be needed in order to fully complete and operate the Project in the manner contemplated. Through this agreement(s) the State of Florida will be relieved of any contractual financial obligation for any construction cost overruns or any operating shortfalls. Moreover, USDOT continues its assurance that Florida will not be obligated to repay grant funds in the event the Project discontinues operation after operations commence.
2. FDOT will need to perform its normal project administrative tasks in accordance with its grant agreement with USDOT.
 - FDOT will have staffing obligations in the same manner as a typical FDOT project, regarding the implementation planning, design, location, procurement, construction, maintenance and operation of the Project and attendant Project Documents. All FDOT work product will be transmitted to the Interlocal Entity.
 - FDOT will need to provide technical assistance and support, and will assign to the Interlocal Entity all items and rights as necessary for carrying out the completion of the Project including but not limited to: design documents, research, contracts, permits obtained and applications submitted.

3. FDOT will, of course, continue to act in its role as regulator of the State's transportation system and rights-of-way in the customary manner it does with all local and regional transportation projects (i.e., the I-4 Connector and the Wekiva Parkway).
 - FDOT will have to process fully and expedite any and all necessary reviews and approvals, including but not limited to, any plans, documents, agreements, permits, and any other actions required or convenient for use of rights-of-way, access to rights-of-way, maintenance of traffic, and relocation of utilities.
 - FDOT will have to make available to the Interlocal Entity all rights-of-way access necessary to construct in the rights-of-way as may be needed in order to fully complete and operate the Project in the manner contemplated.

III. Financial assurance the vendor can meet all obligations

If permitted to go forward we expect the Interlocal Entity would issue an RFQ in much the form as prepared by FDOT, including the Project Information Memorandum. Upon receipt of proposals responsive to the RFQ, the proposals shall be evaluated for financial assurance using methodologies as stated in the existing draft RFQ.

In addition, we will apply all available tools for financial assurance that are standard in the industry for the issuance of construction surety and completion bonds, including but not limited to audited financial reviews and when necessary the posting of additional liquid security in the form of irrevocable letters of credit or other forms of direct financial assurance.

Finally, the USDOT will make the full amount of the grant funds awarded to the State available for all stages of the Tampa to Orlando high-speed rail project under the applicable grant agreement. In the event that the initial vendor selected by the Interlocal Entity is unable to complete the project, the USDOT will dedicate the remaining funds to complete the project with a new vendor selected by the Interlocal Entity. The Interlocal Entity will enforce the requirements of any performance bond issued on the project. The grant agreement will also provide that, in the event that the project cannot be completed, the costs of repairing and remediating any incomplete construction will be eligible for reimbursement through any unexpended portion of the \$2.4 billion awarded to Florida by the USDOT, consistent with federal grant law.

IV. Conclusion

We wish to emphasize that it will never be possible to eliminate all conceivable risk associated with any significant and worthwhile investment. Every investment entails risk, and if we seek to avoid all such risk, we will make no further investments in the future of our State, which would be regrettable. With every investment, we must weigh the benefits against the risks and consider how we can manage and mitigate the risks.

In the case of this project, the potential benefits are enormous. This would create thousands of jobs in Florida in the short term and in the long term. The project would help support our State's indisputable need to grow its economy, drive innovation, build 21st Century infrastructure, and attract and retain talent. We have incredible assets across Central Florida, including world-class airports; international seaports; the Medical City in Orlando comprising a growing cluster of top health care, educational, life-science, and bio-tech enterprises driving innovation and attracting top talent; the High Tech Corridor supporting hundreds of developing high-tech companies; University of South Florida's ("USF") Poly-Tech Campus in Lakeland; USF's new Innovation Corridor in Tampa; University of Central Florida's Modeling and Simulation Center; NASA; numerous top educational, health care, life science, aerospace, and bio-tech organizations across Central Florida; world-renown tourist attractions; and burgeoning metropolitan areas. The proposed high speed rail system would create a powerful link among all of these high-potential assets across this Super Region driving growth and continued success. And this would only be the start of a system linking other major metropolitan centers in Florida, including the Greater Miami Metropolitan area as the next stop, rich in so many additional resources and opportunities. We firmly believe that taking such a critical step toward developing a world-class, modern transit system would provide an important, and even necessary, advantage as we continue to compete globally for commerce and talent.

Under the structure and terms we have proposed and the USDOT has approved, any remaining risks are limited in the way you requested. Those risks have been anticipated and mitigated to the extent these can ever be reasonably mitigated in any significant and worthwhile investment. Although the USDOT does request that the FDOT assist in this project (subject to reimbursement by the federal government for time and costs) we should not resist this. We should welcome it as a means to provide even greater assurances to Florida taxpayers that this project will be well managed and highly successful. This can only benefit Florida taxpayers.

Finally, we must not overlook the inescapable fact that if we do not go forward with this project, this decision will not contribute one bit to reducing the federal deficit or lowering the federal taxes Floridians pay. Instead, and quite ironically, we will simply be forced to stand by and watch the federal tax dollars Floridians have paid be diverted to other states to help build their high speed rail systems, putting Florida at an increasing competitive disadvantage.

In view of all these considerations, we strongly encourage you to support this project. We may never have the opportunity again in Florida to build a project of this scale, impact, and significance with 90% federal funding. We have had every reasonable indication that the balance of construction costs and operating costs will be funded by the private sector. This provides a remarkable combination of resources for a project promising so many benefits to our region and our State.

Letter to Governor Scott

March 3, 2011

Page 6 of 6

It is our sincere belief that this letter fully addresses all of your concerns and that there is no reasonable risk to the State of Florida or any other impediment to moving forward with this worthwhile project.

Sincerely,

City of Lakeland:

Gow Fields, Mayor

City of Miami:

Tomas Regalado, Mayor

City of Orlando:

Buddy Dyer, Mayor

City of Tampa:

Pam Iorio, Mayor