

SOUTH FLORIDA
REGIONAL TRANSPORTATION
AUTHORITY
GOVERNING BOARD

REGULAR MEETING AGENDA
December 16, 2011
9:30 a.m.

South Florida Regional Transportation Authority
Board Room
800 NW 33rd Street
Pompano Beach, FL 33064

SFRTA BOARD MEETINGS ARE SCHEDULED ON THE FOURTH FRIDAY OF EACH MONTH AT 9:30 A.M. FOR FURTHER INFORMATION CALL (954)942-RAIL (7245). TIME OF MEETINGS SUBJECT TO CHANGE.

SFRTA Board Members

Commissioner Steven L. Abrams
Marie Horenburger
George Morgan, Jr.

Commissioner Bruno Barreiro
Commissioner Kristin Jacobs, Chair
Gus Pego

James A. Cummings
Felix M. Lasarte
F. Martin Perry

Executive Director

Joseph Giuliatti

GOVERNING BOARD REGULAR MEETING
OF DECEMBER 16, 2011

The meeting will convene at 9:30 a.m., and will be held in the Board Room of the South Florida Regional Transportation Authority, Administrative Offices, 800 NW 33rd Street, Suite 100, Pompano Beach, Florida 33064.

CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL – Additions, Deletions, Revisions

MATTERS BY THE PUBLIC – Persons wishing to address the Board are requested to complete an “Appearance Card” and will be limited to three (3) minutes. Please see the Minutes Clerk prior to the meeting.

REGULAR AGENDA

Those matters included under the Regular Agenda differ from the Consent Agenda in that items will be voted on individually. In addition, presentations will be made on each motion, if so desired.
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R1. **MOTION TO APPROVE:** SFRTA’s Planning and Technical Advisory Committee’s (PTAC) funding recommendations for the Job Access and Reverse Commute (JARC) and New Freedom (NF) applications.

Department: Planning & Capital Development Department Director: Daniel R. Mazza, P.E.
Project Manager: William L. Cross, P.E. Procurement Director: Christopher Bross

R2. **MOTION TO APPROVE:** Resolution No. 11-04, authorizing the South Florida Regional Transportation (SFRTA) staff to submit Fiscal Year 2010/2011 and grant applications to the Federal Transit Administration (FTA) in order to secure \$18,951,000 in funds to support the SFRTA JARC and NF Program of Projects

Department: Finance and Information Technology Department Director: Edward Woods
Project Manager: Carla D. McKeever Procurement Director: Christopher Bross

R3. **MOTION TO APPROVE:** Conflict of interest waiver for Shutts & Bowen, LLP, as stated herein.

Department: Legal Department Director: Teresa Moore
Project Manager: Teresa Moore Procurement Director: Christopher Bross

OTHER BUSINESS

EXECUTIVE DIRECTOR REPORTS/COMMENTS

LEGAL COUNSEL COMMENTS

CHAIR COMMENTS

BOARD MEMBER COMMENTS

ADJOURNMENT

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this proceeding, must at least 48 hours prior to the meeting, provide a written request directed to the Executive Office at 800 NW 33rd Street, Suite 100, Pompano Beach, Florida, or telephone (954) 942-RAIL (7245) for assistance; if hearing impaired, telephone (800) 273-7545 (TTY) for assistance.

Any person who decides to appeal any decision made by the Governing Board of the South Florida Regional Transportation Authority with respect to any matter considered at this meeting or hearing, will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Persons wishing to address the Board are requested to complete an "Appearance Card" and will be limited to three (3) minutes. Please see the Minutes Clerk prior to the meeting.

SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
GOVERNING BOARD MEETING: DECEMBER 16, 2011
AGENDA ITEM REPORT

Consent Regular

FEDERAL TRANSIT ADMINISTRATION JOB ACCESS REVERSE COMMUTE (49 U.S.C. 5316) AND NEW FREEDOM PROGRAMS (49 U.S.C. 5317)

REQUESTED ACTION:

MOTION TO APPROVE: SFRTA's Planning and Technical Advisory Committee's (PTAC) funding recommendations for the Job Access and Reverse Commute (JARC) and New Freedom (NF) applications (see exhibit).

SUMMARY EXPLANATION AND BACKGROUND:

As the Designated Recipient for the JARC and NF Grant Programs, the South Florida Regional Transportation Authority (SFRTA) recently conducted a competitive project selection process for the two grant programs. The selection cycle included funding available from Fiscal Years (FY) 2010 and 2011, as well as carryover funds from FY 2007, due to funded project being cancelled. The total available for this funding cycle was \$12,287,240. The SFRTA received a total of nineteen (19) proposals requesting funding. The proposals were reviewed by SFRTA staff to ensure compliance with JARC and NF program guidelines, and then forwarded to the SFRTA's PTAC. The applications were reviewed by the PTAC and a recommendation for funding is made to the Governing Board for approval.

The Board is responsible for final approval and certification of selected JARC and New Freedom applications for the Miami UZA. Following Board approval, the SFRTA will submit grant applications to the Federal Transit Administration (FTA) on behalf of the sub-recipients. Staff is requesting that the Board approve the PTAC's funding recommendations for the JARC and NF applications

Department: Planning and Capital Development Department Director: Daniel R. Mazza, P.E.
Project Manager: William L. Cross, P.E. Contracts Director: Chris Bross

FISCAL IMPACT: An Administrative Fee of 10% of the amount awarded will be included in the 2012-2013 budget.

EXHIBITS ATTACHED: Exhibit-1-PTAC Recommendations October 19, 2011

FEDERAL TRANSIT ADMINISTRATION (FTA) JOB ACCESS REVERSE COMMUTE (49 U.S.C. 5316) AND NEW FREEDOM PROGRAMS (49 U.S.C. 5317)

Recommended by: Daniel Morgan 12/9/11 Approved by: [Signature] 12/9/11
 Department Director Date Contracts Director Date

Authorized by: [Signature] Approved as to Form by: [Signature] 12/9/11
 Executive Director Date Deputy General Counsel Date

Board Action:

Approved: Yes No

Vote: Unanimous

Amended Motion:

Commissioner Bruno Barreiro Yes No
 Gus Pego, P.E. Yes No
 James A. Cummings Yes No
 Marie Horenburger Yes No
 Commissioner Kristin Jacobs Yes No

Commissioner Steven Abrams Yes No
 Felix M. Lasarte Yes No
 George A. Morgan, Jr. Yes No
 F. Martin Perry Yes No

PTAC Recommendation for Distribution of Job Access & Reverse Commute Funds

Project	Funding Requested in Application	Funding Recommended	% Funding Recommended	PTAC Recommended Funding
Miami Dade Transit - Bus Service Improvements	\$4,828,188	Y	83%	\$4,000,883
City of Opa-Locka - North Route Shuttle	\$168,982	Y	100%	\$168,982
SFRTA - Opa-Locka South Route	\$378,950	Y	100%	\$378,950
City of Lauderhill - JARC Shuttle	\$411,091	Y	100%	\$411,091
SFRTA - FTL Tri-Rail Shuttles	\$273,845	Y	100%	\$273,845
South Florida Urban Ministries - Ways to Work	\$440,661	Y	59%	\$260,661
Ft. Lauderdale Transportation Management Association - Trolleys for NW Link	\$650,000	Y	50%	\$325,000
SFRTA - Boynton Beach Shuttle	\$357,500	Y	50%	\$178,750
City of West Palm Beach - Downtown Commuter Circulator	\$730,000	Y	85%	\$620,500
SFRTA - Additional Tri-Rail Weekend	\$234,639	N	0%	\$0
City of Hallandale - Community Bus	\$363,030	N	0%	\$0
	\$8,836,886			\$6,618,662

PTAC Recommendation for Distribution of New Freedom Funds

Project	Funding Requested in Application	Funding Recommended	% Funding Recommended	PTAC Recommended Funding
Volen Center- LIFT	\$786,906	Y	100%	\$786,906
Housing Authority of Ft. Lauderdale - Community Bus	\$176,000	Y	100%	\$176,000
Volen Center- Community Mobility Manager	\$98,080	Y	100%	\$98,080
SFRTA - Green Station Demo Project	\$2,573,005	Y	100%	\$2,573,005
Zuni Transportation- South Dade	\$353,988	Y	100%	\$353,988
Center for Independent Living Options - Getting There	\$100,000	Y	72%	\$71,800
Metro Taxi - Accessible Taxi Program	\$344,304	Y	100%	\$344,304
City of Miramar - Access to Health	\$48,981	No	0%	\$0
	\$4,481,264			\$4,404,083

SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
GOVERNING BOARD MEETING: DECEMBER 16, 2011

AGENDA ITEM REPORT

Consent Regular

AUTHORIZING RESOLUTION NO. 11-04
THE SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
FY 2010-2011 JOB ACCESS AND REVERSE COMMUTE (JARC) AND
NEW FREEDOM (NF) PROGRAM OF PROJECTS

REQUESTED ACTION:

MOTION TO APPROVE: Resolution No. 11-04, authorizing the South Florida Regional Transportation (SFRTA) staff to submit Fiscal Year 2010/2011 and grant applications to the Federal Transit Administration (FTA) in order to secure \$18,951,000 in funds to support the SFRTA JARC and NF Program of Projects.

SUMMARY EXPLANATION AND BACKGROUND:

SFRTA staff is requesting approval of the above referenced resolution (see Exhibit 1) and authorization to submit to the FTA SFRTA's application for: (1) Section 5316 Job Access and Reverse Commute Grant in the estimated amount of \$12,993,572; and (2) Section 5317 New Freedom Grant in the estimated amount of \$5,957,433.

The Section 5316 and 5317 funds will be utilized to financially support the SFRTA's administration of the JARC and NF Program of Projects. Attached is Exhibit 2 which highlights the recipients and award amounts.

Department: Finance and Information Technology
Project Manager: Carla D. McKeever

Department Director: Edward Woods
Procurement Director: Christopher Bross

FISCAL IMPACT: The SFRTA FY 2012-2013 Capital and Operating Budget will incorporate these federal funds.

EXHIBITS ATTACHED: Exhibit 1: Authorizing Resolution No. 11-04 (including Exhibit A to the Resolution)

AUTHORIZING RESOLUTION NO. 11-04
THE SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
FY 2010-2011 JOB ACCESS AND REVERSE COMMUTE (JARC)
AND NEW FREEDOM PROGRAM OF PROJECTS

Recommended by: *P. Woods* 12-9-11
Department Director Date

Approved by: *[Signature]* 12/9/11
Contracts Director Date

Authorized by: *[Signature]*
Executive Director Date

Approved as to Form by: *[Signature]* 12/9/11
Deputy General Counsel Date

Board Action:

Approved: Yes No

Vote: Unanimous

Amended Motion:

Commissioner Bruno Barreiro Yes No
 Gus Pego, P.E. Yes No
 James A. Cummings Yes No
 Marie Horenburger Yes No
 Commissioner Kristin Jacobs Yes No

Commissioner Steven Abrams Yes No
 Felix M. Lasarte Yes No
 George A. Morgan, Jr. Yes No
 F. Martin Perry Yes No

**SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
RESOLUTION NO. 11-04**

RESOLUTION AUTHORIZING THE FILING OF JOB ACCESS AND REVERSE COMMUTE (JARC) AND NEW FREEDOM (NF) APPLICATIONS WITH THE FEDERAL TRANSIT ADMINISTRATION, AN OPERATING ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FOR FEDERAL ASSISTANCE AUTHORIZED BY 49 U.S.C. CHAPTER 53, TITLE 23, UNITED STATES CODE, AND OTHER FEDERAL STATUTES ADMINISTERED BY THE FEDERAL TRANSIT ADMINISTRATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Safe, Accountable, Flexible, Efficient Transportation Act, a Legacy for Users (SAFETEA-LU) was enacted in August 2005 and provides funding for Federal surface transportation programs, including Section 5316 Job Access and Reverse Commute (JARC) and Section 5317 New Freedom (NF) programs (the “Federal Financial Assistance”); and

WHEREAS, the South Florida Regional Transportation Authority (SFRTA), is the agency responsible for overseeing and administering the JARC/NF programs in the Miami Urbanized Area, i.e., the urbanized areas of Broward, Miami-Dade and Palm Beach counties; and

WHEREAS, SFRTA duly noticed the availability of the Federal Financial Assistance for FY10 and FY11 within the urbanized area and, as a result, received 19 applications (11 JARC and 8 NF): and

WHEREAS, SFRTA’s Planning Technical Advisory Committee (PTAC) reviewed applications on October 19, 2011, and has recommended to the SFRTA Governing Board that 16 applications (the “Program of Projects”) be funded in the amounts of \$6,238,433 (NF) and \$12,993,576 (JARC), which includes both Federal Financial Assistance and local matching requirements; and

WHEREAS, the grant or cooperative agreement for Federal Financial Assistance will impose certain obligations upon SFRTA for the approved applications for which SFRTA will receive an administration fee not to exceed 10% of the grant amount; and

WHEREAS, four applications submitted by SFRTA have been recommended for funding, which will require local matching funds; and

WHEREAS, SFRTA must make application to the Federal Transit Administration to obtain the Federal Financial Assistance for the Program of Projects if approved by the Governing Board¹;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY THAT:

Section 1. RECITALS. The recitals contained in the preamble to this Resolution are incorporated by reference herein.

Section 2. RECOMMENDATION AND AUTHORIZATION. The Program of Projects as recommended by the PTAC and as attached to and made part of this resolution as Exhibit 1 is hereby approved. SFRTA's Executive Director, or the Executive Director's Designee, is authorized to execute and file the application for Federal Financial Assistance on behalf of SFRTA with the Federal Transit Administration as authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration.

Section 3. PROGRAM COSTS. The Program of Projects is estimated to cost \$6,238,433 (NF) and \$12,993,576 (JARC) in federal and local funding for a total of \$18,951,005.

Section 4. PROJECTS. SFRTA's projects in the Program of Projects include the following: Boynton Beach, Opa-Locka and Fort Lauderdale Shuttle Service and the ADA portion of the Pompano Beach Green Station Demonstration project and are estimated to cost \$4,879,346.00 in Federal and local funding of which \$1,474,796.00 is local matching funds. The Governing Board hereby confirms that SFRTA has the required matching funds for these projects.

Section 5. AUTHORIZATION. The Executive Director, or Executive Director Designee, is authorized to: (1) execute and file with its application the annual certifications and assurances and other documents the Federal Transit Administration requires before awarding a Federal Financial Assistance grant or cooperative agreement; and (2) execute grant and cooperative agreements with the Federal Transit Administration on behalf of SFRTA.

Section 6. SEVERABILITY. If any section, sentence, clause, or phrase of this Resolution is held to be invalid or unconstitutional by any court or competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

Section 7. CERTIFICATION. The undersigned duly qualified the Executive Director, or Executive Director Designee, acting on behalf of the South Florida Regional Transportation Authority, certifies that the forgoing is a true and correct copy of a resolution

¹ As an FTA designated recipient, Miami-Dade County files its own application for its approved project funds and executes the grant agreement, although SFRTA retains its oversight role as the region's administrator of the JARC/NF program.

adopted at a legally convened meeting of the South Florida Regional Transportation Authority Board of Directors held on December 2, 2011.

Section 8. EFFECTIVE DATE. This Resolution shall become effective upon its adoption, and any provision of any previous resolutions in conflict with the provisions herein are hereby superseded.

The foregoing resolution was offered by Board Member _____, who moved its adoption. The motion was seconded by Board Member _____, and upon being put to vote, the votes were as follows:

- Member
- Chair

The Chair thereupon declared the resolution duly passed and adopted this _____ day of _____, 2011.

ATTEST

South Florida Regional Transportation Authority

BY _____
Joseph Giulietti
Executive Director

BY _____
Commissioner Kristin Jacobs
Chair

_____ day of December, 2011.

(SFRTA seal)

Approved as to form and legal sufficiency by:

Teresa J. Moore
General Counsel

<u>Name</u>	<u>Total Project Cost</u>	<u>Federal Request</u>	<u>Match</u>	<u>Program</u>
CILO	\$ 143,600.00	\$ 71,800.00	\$ 71,800.00	NF Operating
Housing Authority-Ft. Lauderdale	\$ 220,000.00	\$ 176,000.00	\$ 44,000.00	NF Capital
Mae Volen (LIFT)	\$ 1,663,112.74	\$ 786,906.37	\$ 595,206.37	NF Capital and Operating
Mae Volen (Mobility Mgmt)	\$ 122,600.00	\$ 98,080.00	\$ 24,520.00	NF Capital
Metro Taxi	\$ 430,379.76	\$ 344,303.81	\$ 86,075.95	NF Capital
SFRTA (ADA Pompano Station)	\$ 3,216,256.00	\$ 2,573,005.00	\$ 643,251.00	NF Capital
Zuni Transportation	\$ 442,485.00	\$ 353,988.00	\$ 88,497.00	NF Capital
	\$ 6,238,433.50	\$ 4,404,083.18	\$ 1,553,350.32	

<u>Name</u>	<u>Total Project Cost</u>	<u>Federal Request</u>	<u>Match</u>	<u>Program</u>
City of Lauderhill	\$ 822,182.00	\$ 411,091.00	\$ 411,091.00	JARC Operating
City of Opa-Locka North Route	\$ 337,965.00	\$ 168,982.00	\$ 168,982.00	JARC Operating
City of West Palm Beach	\$ 1,241,000.00	\$ 620,500.00	\$ 620,500.00	JARC Operating
Downtown TMA	\$ 406,250.00	\$ 325,000.00	\$ 81,250.00	JARC Capital
Miami Dade Transit	\$ 8,001,766.00	\$ 4,000,883.00	\$ 4,000,883.00	JARC Operating
SFL Urban Ministries	\$ 521,323.00	\$ 260,660.00	\$ 260,660.00	JARC C & O
SFRTA (Boynton Beach Shuttle)	\$ 357,500.00	\$ 178,750.00	\$ 178,750.00	JARC Operating
SFRTA (Ft.Lauderdale Rts.)	\$ 547,690.00	\$ 273,845.00	\$ 273,845.00	JARC Operating
SFRTA (Opa-Locka S.)	\$ 757,900.00	\$ 378,950.00	\$ 378,950.00	JARC Operating
	\$ 12,993,576.00	\$ 6,618,661.00	\$ 6,374,911.00	

<u>Name</u>	<u>Total Project Cost</u>	<u>Federal Request</u>	<u>Match</u>	<u>Program</u>
Projects Not Funded				
City of Miramar	\$ 61,680.00	\$ 48,981.00	\$ 12,245.25	NF NOT FUNDED
City of Hallandale Beach	\$ 726,060.00	\$ 363,030.00	\$ 363,030.00	JARC NOT FUNDED
SFRTA (Additional Train Service)	\$ 644,099.00	\$ 234,639.00	\$ 234,639.00	JARC NOT FUNDED

SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY
GOVERNING BOARD MEETING: DECEMBER 16, 2011

AGENDA ITEM REPORT

Consent Regular

MARINA MILE YACHTING CENTER LAWSUIT AND ASSOCIATED CONFLICT OF INTEREST WAIVER

REQUESTED ACTION:

MOTION TO APPROVE: Conflict of interest waiver for Shutts & Bowen, LLP, as stated herein.

SUMMARY EXPLANATION AND BACKGROUND:

Marina Mile Yachting Center has filed suit against FDOT, CSX and SFRTA regarding its potential loss of access to a portion of its marina (located just west of I-95 in Broward County and adjacent to the rail corridor) allegedly due to the construction of the New Bascule Bridge across the New River. The complaint seeks to stop construction of the new bascule bridge. FDOT committed to CSXT to fund and reconstruct this bascule bridge in the SFOMA agreement (regardless of whether SFRTA approved SFOMA or not).

According to the complaint, since the 1960s, the boatyard has had access to the marina across an approximately 800-foot-long and 30-foot wide north-south strip of FDOT-owned land that parallels the tracks. When Marina Mile acquired the property from the prior owner of the boatyard in 2007, it attempted to negotiate an access agreement with FDOT. Apparently, having failed to reach agreement, the lawsuit alleges that FDOT now plans to erect a “fence” to prevent Marina Mile’s use of the strip of land used to access the marina.

This has led to Marina Mile filing suit against not only FDOT, but CSX and SFRTA as well. One of its main allegations is that SFOMA (which provides for construction of the new bascule bridge) will result in Marina Mile losing its access to the marina. The suit alleges that SFOMA is unenforceable due to a lack of consideration paid by CSXT for FDOT’s agreement to fully fund its construction.

(Continued on page 2)

Department: Legal

Department Director: Teresa Moore

Project Manager: Teresa Moore

Procurement Director: Christopher Bross

FISCAL IMPACT: Funds are available in the 2012 legal budget.

EXHIBITS ATTACHED: None

MARINA MILE YACHTING CENTER LAWSUIT AND ASSOCIATED CONFLICT OF INTEREST WAIVER

SUMMARY EXPLANATION AND BACKGROUND: (continued)

The lawsuit contains allegations regarding the history of construction of the high-level bridge, CSXT's objections to using the bridge allegedly resulting in the need to replace the existing bascule bridge, which Marina Mile claims will cause it to lose access to the marina. It also incorrectly states that SFRTA has already approved SFRTA.

FDOT District IV counsel will be representing FDOT in this matter. SFRTA needs to retain litigation counsel to represent it as this is not a tort claim covered under OMAPA (which would be handled by FDOT and the State Attorney's Office). General Counsel is proposing to retain Shutts & Bowen LLP ("Shutts"), and specifically Sidney Calloway to assist in the litigation.

Shutts is currently concluding its representation of FDOT in the real estate purchases associated with Sun Rail. SFRTA is adverse to FDOT as FDOT we will be asserting that FDOT, not SFRTA, is the party that the Marina has a claim against.

Under the applicable ethical rules, Shutts would be precluded from representing SFRTA in a matter technically adverse to FDOT unless SFRTA and FDOT each waive the potential conflict of interest.

Such a conflict of interest is waivable only if (i) the potential conflict is fully disclosed to both parties; (ii) Shutts's exercise of independent professional judgment in the proposed representation of one client would not materially limit its responsibilities to the other client; (iii) Shutts reasonably believes that its representation will not be adversely affected by the conflict and (iv) its representation does not violate any other ethical requirements.

At this time, Shutts is in the process of confirming if its representation of FDOT is still ongoing and therefore, this waiver is being sought in the event that is the case. Shutts will also make such a request for wavier to FDOT if the representation is determined to be ongoing.

General Counsel is therefore recommending that the SFRTA the Governing Board waive the conflict as stated herein.

MARINA MILE YACHTING CENTER LAWSUIT AND ASSOCIATED CONFLICT OF INTEREST WAIVER

Recommended by: _____
Department Director Date

Approved by: _____
Contracts Director Date

Authorized by: _____
Executive Director Date

Approved as to form by:  _____ 12-16-11
General Counsel Date

Board Action:

Approved: Yes No

Vote: Unanimous

Amended Motion:

Commissioner Steven L. Abrams Yes No
Commissioner Bruno Barreiro Yes No
James A. Cummings Yes No
Marie Horenburger Yes No
Commissioner Kristin Jacobs Yes No

Felix M. Lasarte Yes No
George A. Morgan, Jr. Yes No
Gus Pego, P.E. Yes No
F. Martin Perry Yes No