Resolution No. 84-M-32

INDUCEMENT RESOLUTION

FOR

SOUTHWEST ORANGE COUNTY RAPID TRANSIT PROJECT

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA, IN CONNECTION WITH THE PROPOSED AUTOMATED, FIXED-GUIDEWAY TRANSIT SYSTEM IN ORANGE COUNTY; PROVIDING FINDINGS AND PREMISES; APPROVING OR RATIFYING A "PRELIMINARY FRANCHISE AGREEMENT" ENTERED OR TO BE ENTERED BY THE COUNTY, OTHER LOCAL GOVERNMENTS, AND A JOINT VENTURE OF CERTAIN FRENCH CORPORATIONS; DECLARING THE COUNTY'S INTENTIONS TO CONSIDER ASSISTING THE JOINT VENTURE IN FINANCING THE PROJECT IF AND WHEN CERTAIN CONDITIONS ARE MET; DEFINING THE PROJECT; PROVIDING OTHER MATTERS IN CONNECTION THEREWITH; PROVIDING AN EFFECTIVE DATE.

PREMISES

1. In cooperation with the City of Orlando and Osceola County, Orange County is interested in and has decided to attempt to implement an automated, fixed-guideway transit system in the county (the "Project", as more fully described below) in order to provide a modern, fast-transportation system for the use and benefit of the citizens, businesses, industries and visitors in the county.

2. Among other benefits, the county expects that the implementation of the Project will reduce congestion on existing and future area transportation networks, reduce pollution generated by vehicle emissions, reduce the dependency on automobiles as a means of transportation, improve property values, and generally enhance the quality of life in the county.

3. The county recognizes the high degree of specialization and expertise necessary for implementation of the financing, construction, administration and operation of the Project and has for some time, in cooperation with the Interim Steering Committee of the Metropolitan Planning Organization, studied the problem of such implementation.

4. The Interim Steering Committee solicited proposals from interested parties, and based on such proposals the county has identified and selected the joint venture of MATRA, S.A. and
SOFRETU, S.A., French corporations (hereafter "MATRA/SOFRETU"), from a field of several interested parties to be the entity which will assist the county in such implementation, all as contemplated in the Preliminary Franchise Agreement, the form of which is attached hereto as Exhibit A.

5. In order to induce MATRA/SOFRETU to undertake the expense and effort necessary to plan and design the Project, the county has negotiated and has executed or will execute the Preliminary Franchise Agreement in substantially the form attached hereto as Exhibit A. The Preliminary Franchise Agreement states in full the rights and obligations of the county and MATRA/SOFRETU, and this Resolution is not intended and shall not be construed to add to or expand such rights or obligations.

6. This Inducement Resolution is being adopted following a public hearing held by the Board of County Commissioners of Orange County ("the Board") pursuant to notice duly published in The Orlando Sentinel no fewer than 14 days prior to the hearing. At the hearing, all interested members of the public were given reasonable opportunity to be heard regarding the Project and the issuance of the Bonds (as defined below). NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Approval/Ratification of Preliminary Franchise Agreement. The Preliminary Franchise Agreement is hereby approved for execution by the Chairman or Vice Chairman of the Board in substantially the form attached hereto as Exhibit A or, if already executed, is hereby ratified, validated and confirmed. This resolution does not and shall not be construed to expand or contract or otherwise affect any rights or obligations of any party under the Preliminary Franchise Agreement.

Section 2. Inducement. If the Board determines in the future that

(i) MATRA/SOFRETU has fulfilled its obligations under the Preliminary Franchise Agreement to the satisfaction of the Board, and
(ii) the issuance by the county of bonds or other certificates of indebtedness (hereafter "the Bonds") is necessary or desirable for the financing of the Project (as defined below), and

(iii) the Bonds necessary for the Project shall not exceed $265,000,000 in the aggregate amount outstanding at any one time, and

(iv) the security and source of payment for the Bonds, as well as all other terms and conditions of the Bonds, the Project, and all instruments, documents, covenants and obligations in connection therewith shall be satisfactory to the Board, then, the county will consider assisting MATRA/SOFRETU in financing the planning, design, construction, operation, and maintenance of and land acquisition for the Project. Such financial assistance shall be in the form and to the extent later specified in the "Franchise Agreement" described in the Preliminary Franchise Agreement.

Section 3. The Project. The Project for which this Inducement Resolution is adopted shall be the "System" as contemplated in the Preliminary Franchise Agreement, which is the first phase of an automated, fixed-guideway transit system in Orange County, Florida, approximately 12 miles in length, originating near the intersection of Kirkman Road and International Drive, following a path generally parallel or proximate to Interstate Highway 4, and terminating either at EPCOT Center in Walt Disney World or in the vicinity of the intersection of Interstate Highway 4 and U.S.
Highway 192 in Osceola County, Florida. The precise route will be presented to the Board for consideration and approval at a date in 1985 to be determined.

Section 4. Miscellaneous.

(A) Notwithstanding anything in this resolution to the contrary, the Board reserves its right to exercise or refuse to exercise any or all of its powers and authority in connection with the Project. This Inducement Resolution constitutes the declaration of the Board's current intentions only, and MATRA/SOFRETU and all other interested parties shall act accordingly. If the county and MATRA/SOFRETU are unable to reach agreement with respect to the terms and details of the Bonds or the Project, as well as all necessary agreements and other instruments in connection therewith, there shall be no resultant liability upon either the county, MATRA/SOFRETU, or any proposed purchaser of the Bonds by virtue of this resolution.

(B) No covenant, stipulation, obligation, or agreement herein contained or to be contained in the Bonds or in any instrument or document adopted or approved by the county in connection with either the Bonds or the Project shall be deemed to be a covenant, stipulation, obligation, or agreement of any officer, employee, agent, attorney, or consultant of the county, and no officer of the county executing the Bonds or other documents in connection with the Bonds shall be liable personally thereon or be subject to any personable accountability by reason of the issuance thereof.
(C) If any provision of this Inducement Resolution is inconsistent or conflicts with any provision of the Preliminary Franchise Agreement, the latter shall govern.

Section 5. Effect of Resolution. This resolution is intended to and shall constitute, for purposes of Subsections 103(b) and 103(k) of the Internal Revenue Code of 1954, as amended, and all regulations, rulings and court decisions under each, (i) a "bond resolution or some other similar action" of the county and (ii) the approval of the Bonds "by the applicable elected representative of [the county] after a public hearing following reasonable public notice".

Section 6. Application for Private Activity Bond Allocation. The Chairman or Vice Chairman and other appropriate officers and staff of the county are authorized and directed to submit appropriate notice of intent to issue the Bonds and other documentation to the Executive Office of the Governor of the State of Florida to procure a written confirmation of an allocation for the Bonds under the private activity bond volume limitations for calendar year 1984. Also, the Chairman and staff are authorized and directed to take all appropriate action to have such allocation carried forward to 1985 and subsequent years to the extent permitted by Subsection 103(n)(10) of the Internal Revenue Code.

Section 7. Effective Date. This resolution shall take
effect immediately upon its adoption.

ADOPTED THIS 27TH DAY OF DECEMBER, 1984.

ORANGE COUNTY, FLORIDA

By: Thomas H. Locker
Vice Chairman, Board of County Commissioners

Attest: Thomas H. Locker,
Orange County Comptroller and Clerk to the Board of County Commissioners

By: Dorothy E. Lambert
Asst. Deputy Clerk

[SEAL]
PRELIMINARY FRANCHISE AGREEMENT

between

MATRA S.A.
and
SOFRETU S.A.
(A Joint Venture
of French Corporations)

and

ORANGE COUNTY, FLORIDA

December 30, 1984

EXHIBIT A
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Grant of &quot;Preliminary Franchise&quot;</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>Conditions to the Negotiation of the &quot;Franchise Agreement&quot;</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>A. Land Acquisition and Alignment Plan</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>B. Preliminary Construction Plan</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>C. Operational Plans</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>D. Financial Plans</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>E. Form of Franchise Agreement</td>
<td>3</td>
</tr>
<tr>
<td>3</td>
<td>Obligations of the County</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>A. Plans</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>(1) Review of Plans</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>(2) Standard of Review</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>(3) Resubmission of Plans</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>B. Franchise Agreement Negotiations</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>C. Non-Negotiation by County with Third Parties</td>
<td>6</td>
</tr>
<tr>
<td>4</td>
<td>Additional Obligations of the County</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>A. Ultimate Franchisor</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>B. Rights-Of-Way</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>C. Financing</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>D. Legislation</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>E. Land Use Regulations</td>
<td>7</td>
</tr>
<tr>
<td>5</td>
<td>[Intentionally Omitted]</td>
<td>7</td>
</tr>
<tr>
<td>6</td>
<td>Additional Franchisors</td>
<td>7</td>
</tr>
<tr>
<td>7</td>
<td>Mutual Cooperation</td>
<td>8</td>
</tr>
<tr>
<td>8</td>
<td>Term of Agreement</td>
<td>8</td>
</tr>
<tr>
<td>9</td>
<td>Termination for Public Policy</td>
<td>8</td>
</tr>
<tr>
<td>10</td>
<td>Default and Remedies</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>A. Default by MATRA/SOFRETU; Remedies</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>B. Default by the County; Remedies</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>(1) Default</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>(2) Exclusive Remedy</td>
<td>10</td>
</tr>
<tr>
<td>11</td>
<td>Notices and Time Limits</td>
<td>10</td>
</tr>
<tr>
<td>Paragraph</td>
<td>Title</td>
<td>Page</td>
</tr>
<tr>
<td>-----------</td>
<td>-----------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>12</td>
<td>Modifications</td>
<td>10</td>
</tr>
<tr>
<td>13</td>
<td>Governing Law</td>
<td>11</td>
</tr>
<tr>
<td>14</td>
<td>Assignment</td>
<td>11</td>
</tr>
<tr>
<td>15</td>
<td>Expenses</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>A. Generally</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>B. UMTA Grant Funds</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>C. &quot;Contingent UMTA Funds&quot;</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>D. Special Indemnity</td>
<td>13</td>
</tr>
<tr>
<td>16</td>
<td>Status of the Parties</td>
<td>13</td>
</tr>
<tr>
<td>17</td>
<td>Indemnity</td>
<td>13</td>
</tr>
<tr>
<td>18</td>
<td>Public Records and Trade Secrets</td>
<td>14</td>
</tr>
<tr>
<td>19</td>
<td>Authorization</td>
<td>14</td>
</tr>
</tbody>
</table>

**Exhibit A**  
Risks and Costs to be allocated in the Franchise Agreement  
A-1
PRELIMINARY FRANCHISE AGREEMENT

THIS PRELIMINARY FRANCHISE AGREEMENT (the "Agreement") dated this 20th day of December, 1984, is entered by ORANGE COUNTY, FLORIDA (the "County") and a joint venture of MATRA S.A., a French corporation, and SOFRETU S.A., a French corporation ("MATRA/SOFRETU").

PREMISES

1. The County is interested in, and has decided to attempt to implement, an automated, fixed guideway transit system in the county (the "System") in order to provide a modern, fast-moving transportation system for the use and benefit of the citizens, businesses, industries, and visitors in and to the county.

2. Among other benefits, the County expects that the implementation of the System will reduce congestion on existing and future area transportation networks, reduce pollution generated by vehicle emissions, reduce dependency on automobiles as a means of transportation, improve property values and, in general, enhance the quality of life in the county.

3. The County recognizes the high degree of specialization and expertise necessary for implementation of the financing, construction, administration and operation of the System and has for some time, through the Interim Steering Committee of the Metropolitan Planning Organization, studied the problem of such implementation.

4. The County, by letter from the Interim Steering Committee, solicited bids from interested parties and has selected MATRA/SOFRETU from a field of several interested parties to be the entity that will assist the County in such implementation in the manner described in this Agreement.

5. In connection with completion of the tasks described in this Agreement the County and MATRA/SOFRETU will commence negotiations for the grant of an exclusive franchise by the County (or its successor agency) for the construction and operation of the System.

6. The County and MATRA/SOFRETU expressly intend and agree that, except as may otherwise be expressly provided herein, there shall be no expense or cost of MATRA/SOFRETU borne by the County, either jointly or separately, under this Agreement, except that its agents, employees, or elected or appointed officials may assist MATRA/SOFRETU, as outlined herein, during the course of the County's normal business activities.
NOW, THEREFORE, the County and MATRA/SOFRETU do hereby agree as follows:

1. Grant of "Preliminary Franchise": The County, as to the territory within its jurisdiction, hereby grants to MATRA/SOFRETU the exclusive right to prepare and submit for approval by the County, all plans necessary and desirable for the design, construction, financing, and operation and maintenance of and land acquisition for the System in accordance with the terms and conditions set forth in this Agreement. This exclusive right may hereafter be referred to as the "Preliminary Franchise".

2. Conditions to the Negotiation of the "Franchise Agreement": Unless the conditions hereinafter set forth have been met by MATRA/SOFRETU to the reasonable satisfaction of the County during the term of this Agreement, the Preliminary Franchise shall expire and be of no further force and effect, and all further obligations of both MATRA/SOFRETU and the County hereunder shall be deemed discharged. If during the term of this Agreement (i) MATRA/SOFRETU fulfills its obligations hereunder to the reasonable satisfaction of the County, and (ii) the form of Franchise Agreement submitted pursuant to Subparagraph 2E is negotiated in final form and approved by the County for execution, the County shall award to MATRA/SOFRETU an exclusive franchise for the construction and operation of the System (the "Franchise Agreement"). If negotiated and executed, the Franchise Agreement will be entered by the County or by some other governmental body either existing now or hereafter created, as the County may determine in its sole discretion.

The conditions, duties and obligations that must be met, completed or discharged by MATRA/SOFRETU during the term of this Agreement are as follows:

A. Land Acquisition and Alignment Plan: Preparation and submission to the County for approval of (i) a legal description of the entire right-of-way for Phase I of the System plus a plan for the acquisition of such right-of-way (to the extent such right-of-way is not now owned or controlled by the County) through eminent domain, negotiated purchases, and/or property owner donation, plus (ii) the legal description of lands necessary or desirable for all stations and ancillary structures or uses for the System, plus a plan for the acquisition of such lands through eminent domain, negotiated purchases, and/or property owner donation. The legal descriptions and acquisition plans required under this subparagraph shall be reasonably satisfactory to the County.

B. Preliminary Construction Plan: Preparation and submission to the County for approval of preliminary design and construction plans for Phase I of the System, which plans shall
be reasonably satisfactory to the County and shall be consistent with the System described in the summary description of MATRA/SOFRETU's proposal submitted to the Interim Steering Committee of the Metropolitan Planning Organization on June 8, 1984. All design and construction plans submitted by MATRA/SOFRETU shall make provisions for and be compatible with all future phases and rail-system extensions or expansions.

C. Operational Plans: Preparation and submission to the County for approval of plans for the operation and maintenance of Phase I of the System, which plans shall be reasonably satisfactory to the County.

D. Financial Plans: Preparation and submission to the County for approval of a comprehensive plan for the financing of the design, construction, operation and maintenance of and land acquisition for Phase I of the System, including a component of such plan for obtaining participation by benefiting property owners in the financing and construction of the several stations to be included in the System, which plan shall be reasonably satisfactory to the County.

The financing plan shall identify its assumptions, all of which shall be reasonably acceptable to the County. Also, the financing plan shall show the aggregate amount to be paid annually by the County (or its successor hereunder or under the Franchise Agreement) for servicing, in whole or in part, the debt to be incurred for all capital costs of the System, including, but not limited to, planning, design, land acquisition, construction, financing, permitting, legal, and other incidental costs of the System properly characterized under generally accepted municipal accounting practices as capital costs. The financing plan shall show that the County (or its successor) shall not be liable for payments for any costs other than the above described capital costs.

E. Form of Franchise Agreement: Preparation and submission to County of a first draft of a Franchise Agreement to be negotiated by the County and MATRA/SOFRETU in good faith in accordance with this Preliminary Franchise Agreement. The parties agree that the Franchise Agreement shall include, but not be limited to, provisions concerning the following matters:

(1) Grant of an exclusive, long-term franchise to MATRA/SOFRETU for the purpose of constructing, operating and maintaining Phase I of the System.

(2) Plans and specifications for construction of Phase I of the System.

(3) Plans and schedules for obtaining the required governmental permits for Phase I of the System.
(4) Financial plans for the design, construction, operation and maintenance of and land acquisition for Phase I of the System.

(5) Operation and maintenance plans for Phase I of the System.

(6) The location of the route or corridor over which Phase I of the System will be constructed, a method for implementing necessary changes to such corridor, and the extent to which the County will consider using its respective powers of eminent domain to acquire land for the system.

(7) Designation of the stations that will be constructed as a part of Phase I of the System.

(8) Designation of the phases into which the construction of the System is to be divided, as well as a suggested order in which the phases are to be constructed.

(9) Designation of a construction timetable for Phase I of the System and anticipated schedules for implementation of subsequent phases, including necessary studies of alignments for such phases.

(10) A procedure for establishing initial fares to be charged for access to the System by users, a procedure for increasing or decreasing such fares from time to time as circumstances may warrant, and a projection of fare increases, if any, that may be requested during the first three years of System operation.

(11) A procedure for expansion of the System into subsequent phases, which subsequent phases would be constructed, operated and maintained by MATRA/SOFRETU pursuant to the Franchise Agreement.

(12) Provision for a representative to be appointed by the County (or its successor under this Agreement) to oversee, on behalf of the County (or its successor under this Agreement), the overall implementation and ongoing operation of the System.

(13) Provisions allocating to specific parties, insurors, consultants or contractors all costs and risks of the project, including specifically (but not limited to) those costs and risks identified in Exhibit A to this Agreement.

(14) The conditions, events or circumstances under which MATRA/SOFRETU would forfeit its rights under the Franchise Agreement.
For purposes of this Agreement, "Phase I" shall mean that portion of the System connecting the general vicinity of the northern end of International Drive in the City of Orlando with (i) the EPCOT Center area of Walt Disney World, or, alternatively. (ii) the vicinity of Interstate Highway 4 and U.S. Highway 192, plus points in between. The precise, definitive route of Phase I of the System shall be identified by MATRA/SOFRETU and approved by the County in accordance with Subparagraph 2A of this Agreement. However, nothing in this Agreement prohibits MATRA/SOFRETU from suggesting alterations to the definition of Phase I to ensure the feasibility of the System.

3. Obligations of the County:

A. Plans:

(1) Review of Plans: Upon receipt of each plan submitted by MATRA/SOFRETU under Subparagraphs 2A, 2B, 2C and 2D of this Agreement, the County shall review the submitted plan and transmit to MATRA/SOFRETU as soon as practicable (but in any event no later than 45 days from the receipt of plans submitted pursuant to Subparagraphs 2A and 2D and no later than 60 days from the receipt of plans submitted pursuant to Subparagraphs 2B and 2C) the County's (i) approval, (ii) approval with conditions or minor changes, or (iii) disapproval and the reasons therefor. If the County fails to respond within the required time, the County shall be deemed to have approved the particular plan.

With the written consent of MATRA/SOFRETU, the time for review of a submitted plan by the County may be extended beyond the time limits described above. Also, if a plan required under Subparagraph 2A, 2B, 2C or 2D is submitted fewer than 30 days after submission of any other plan required under those subparagraphs, the County shall have an additional 20 days to review the later-submitted plan.

(2) Standard of Review: The County shall be reasonable in reviewing each plan submitted by MATRA/SOFRETU and shall not arbitrarily demand changes to or disapprove any plan. However, nothing in this Agreement shall be construed to deprive the County contractually of its several governmental powers. Notwithstanding any provision of this Agreement to the contrary, the County reserves the right to disapprove or demand changes to any plan based on its ramifications or effects upon or in light of any plan previously approved by the County.

(3) Resubmission of Plans: Upon disapproval by the County of any plan submitted pursuant to Subparagraphs 2A, 2B, 2C, or 2D of this Agreement, the County shall permit MATRA/SOFRETU at its option to resubmit the disapproved plan no later than 30 days after such disapproval with such changes as MATRA/
SOFRETU shall deem appropriate. Thereafter the County shall review the resubmitted plan and shall transmit to MATRA/SOFRETU as soon as possible, but in any event no later than 30 days after such resubmission, the County's approval, approval with conditions or minor changes, or disapproval and reasons therefor. If the resubmitted plan is again disapproved by the County, this process of resubmission shall be repeated as necessary, except that the County may refuse to accept any further submission after the term of this Agreement has expired.

Notwithstanding anything in this Agreement to the contrary, the parties intend to engage in frequent communication with each other during both the time MATRA/SOFRETU is developing and preparing its plans and the time the County is reviewing MATRA/SOFRETU's submissions.

B. Franchise Agreement Negotiations: MATRA/SOFRETU and the County shall cause their respective representatives to meet and to commence negotiations of the Franchise Agreement no later than 45 days after submission of the first draft pursuant to Subparagraph 2E. Thus, the parties intend to commence negotiations promptly after receipt of the form of Franchise Agreement, notwithstanding any other provision of this Agreement. The County may cease negotiations upon failure by MATRA/SOFRETU to perform fully its obligations under Subparagraphs 2A through 2D, inclusive, within the term of this Agreement. Upon full and timely performance of MATRA/SOFRETU's obligations under those subparagraphs, the County shall be bound hereunder to negotiate the terms of the Franchise Agreement in good faith, but nothing herein shall obligate the County to accept terms and conditions therein which are reasonably unacceptable to the County.

C. Non-Negotiation by the County with Third Parties: During the term of this Agreement and any proper extensions thereof, the County shall not negotiate with or enter into contracts with any third parties to perform the same or similar services or to receive the same or similar rights as MATRA/SOFRETU under this Agreement or the Franchise Agreement.

4. Additional Obligations of the County: During the term of this Agreement, the County shall accomplish the following:

A. Ultimate Franchisor: The County will determine the most appropriate governmental agency or agencies (whether the County or some other governmental body or bodies existing now or to be established) to act as the ultimate grantor of the exclusive franchise under the Franchise Agreement. In the course of its deliberations, the County will consult with MATRA/SOFRETU to ascertain its judgment as to the most appropriate entity, but the determination will be solely that of the County. At the sole option of the County, the ultimate entity or entities entering
the Franchise Agreement as grantor of the franchise may also be responsible for providing bus service within the County's jurisdiction.

B. Rights-Of-Way: The County shall reasonably cooperate with MATRA/SOFRETU in (i) taking title to rights-of-way which, through the efforts of either the County or MATRA/SOFRETU, property owners benefiting from the System may decide to donate, (ii) granting easements, licenses, right-of-way utilization permits, or other interests, as appropriate, in existing rights-of-way which are owned or controlled by the County and are necessary or useful for the System, and (iii) assisting MATRA/SOFRETU in its negotiations with the departments of transportation of or for state and federal government for use of their respective rights-of-way for the System. Also, the County will in good faith consider using its powers of eminent domain to acquire any additional rights-of-way necessary or desirable for the System, subject to the availability of funds for the payment of just compensation, all as may later be specified in the Franchise Agreement.

C. Financing: The County will consider assisting MATRA/SOFRETU in financing the design, construction, operation, and maintenance of and the land acquisition for the System. Such financial assistance shall be in the form and to the extent later specified in the Franchise Agreement.

D. Legislation: The County will prepare for submission to the Florida Legislature all legislative changes which the County may deem necessary or desirable for implementing the System.

E. Land Use Regulations: The County will consider changes to zoning and other land use regulations which are recommended by MATRA/SOFRETU and which the County deems necessary or desirable for construction of the System. Also, the County shall give due and punctual consideration to changes requested by MATRA/SOFRETU in the zoning of any lands needed for the System.

5. [Intentionally Omitted].

6. Additional Franchisors: At the sole option of the County, new or additional governmental entities or authorities may become parties to this Agreement as additional "franchisors" at any time, and from time to time, provided that they (i) agree
to be bound by the terms hereof which bind the County and (ii) have jurisdiction over lands within or near the proposed route for the initial or subsequent phases of the System.

7. Mutual Cooperation: The parties hereto agree to cooperate in good faith with each other in order to maximize the opportunities for successful implementation of the System. In furtherance of the foregoing, the County and MATRA/SOFRETU hereby (i) agree to meet monthly during the term hereof at a mutually acceptable time and place to review the progress of the parties in fulfilling their various obligations hereunder and (ii) designate the following employees, each of whom shall have the duty to attend and participate in such monthly progress meetings and otherwise generally to communicate and coordinate with each other in order to facilitate the cooperation between the parties during the term hereof:

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<thead>
<tr>
<th>Party</th>
<th>Designated Employee</th>
<th>Title</th>
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<tr>
<td>Orange County</td>
<td>Michael J. Tako, P.E.</td>
<td>Orange County Transportation Director</td>
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<td>MATRA/SOFRETU</td>
<td>Jean-Marie Aubriot</td>
<td>President, MATRA U.S., Inc.</td>
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8. Term of Agreement: This Preliminary Franchise Agreement shall have a term of twelve (12) months from the date hereof. Unless MATRA/SOFRETU has fulfilled its obligations under Paragraph 2 within the term of this Agreement, the Preliminary Franchise shall terminate, and all obligations of the parties hereunder shall be deemed discharged. Notwithstanding the foregoing, MATRA/SOFRETU and the County may agree in writing to an extension of the term. Also, MATRA/SOFRETU may, at any time after twelve (12) months from the date hereof, terminate this Agreement, with or without cause, upon delivery of written notice to the County.

9. Termination for Public Policy: Notwithstanding anything in this Agreement to the contrary, until the Franchise Agreement is executed by the County or its successor agency, the County may terminate this Agreement or the negotiations for the Franchise Agreement if the governing body of the County finds that further action hereunder or in such negotiations is contrary to the interests of the County and its citizens. However, upon such termination, the County shall use the Contingent UMTA Funds described in Subparagraph 15C of this Agreement to reimburse MATRA/SOFRETU for the actual expenses incurred by MATRA/SOFRETU under this Agreement on or before the date MATRA/SOFRETU receives notice of such termination, all as contemplated under Subparagraph 15C. Notwithstanding this or any other paragraph of this
Agreement, the County shall not be deemed in default solely by reason of exercising its right of termination under this Paragraph 9.

10. Default and Remedies:

A. Default by MATRA/SOFRETU; Remedies: A default by MATRA/SOFRETU shall occur only if MATRA/SOFRETU shall default in the performance of its obligations under Paragraph 2 of this Agreement. Upon discovery of such an event of default by MATRA/SOFRETU, the County shall deliver to MATRA/SOFRETU notice of the default, and MATRA/SOFRETU shall immediately take steps to cure it. If the default is continuing thirty (30) days after delivery of such notice, the County may terminate this Agreement, provided that if the default is incapable of being cured within the thirty (30) day period and MATRA/SOFRETU commences action within the thirty (30) day period which is reasonably calculated to cure the default within a reasonable time, then MATRA/SOFRETU shall be deemed no longer in default so long as it continues such action diligently until the default is cured.

The remedy of termination shall be the sole remedy for the County for any default by MATRA/SOFRETU hereunder or other cause of action arising in connection herewith, except that this limitation of remedies in this Paragraph 10A shall not abridge, reduce, or nullify the obligation of indemnity under Paragraph 17 of this Agreement.

B. Default by the County; Remedies:

1. Default: A default by the County hereunder shall be deemed to occur only if the County shall default in the due and punctual performance of its obligations under Paragraph 3 of this Agreement. Promptly after discovery of such an event of default by the County, MATRA/SOFRETU shall deliver to the County notice of the default, and the County shall immediately take steps to cure it. If the default is continuing thirty (30) days after delivery of such notice, MATRA/SOFRETU may terminate this Agreement and sue for its damages in an appropriate court of law, provided that if MATRA/SOFRETU prevails on the merits in any such suit for damages, MATRA/SOFRETU shall be entitled only to liquidated damages in an amount not exceeding the legally available Contingency UMTA Funds, if any, described in Subparagraph 15C or the aggregate of its unreimbursed expenses incurred in connection with this Agreement, whichever is less.

MATRA/SOFRETU shall be entitled to and shall be awarded no other remedies or damages of any nature whatsoever for any other cause of action which MATRA/SOFRETU may have against the County, whether at law or in equity, arising out of or in connection with this Agreement or the performance by the parties here-
under (including expressly, but not limited to, damages arising from default by the County under Paragraph 18 hereof).

2. **Exclusive Remedy:** Upon determination either by the County or by a court of competent jurisdiction that the County has defaulted under this Agreement, the County shall use the Contingent UMTA Funds described in Subparagraph 15C, to the extent legally and actually available, to reimburse MATRA/SOFRETU for its actual expenses incurred in connection with this Agreement, less any amounts received by MATRA/SOFRETU under Subparagraph 15B. Such reimbursement shall constitute full liquidated damages for any default by or other claim against the County in connection with this Agreement and a full release and discharge of all claims and damages. MATRA/SOFRETU shall have no further action for damages, specific performance or any other legal or equitable relief against the County.

11. **Notices and Time Limits:** Any notices permitted or required hereunder shall be in writing and shall be considered delivered upon hand delivery or seven (7) days after deposit in the United States Mail postage-paid, registered, return receipt requested, to the affected party, at the addresses indicated below:

**Orange County**

**Mail Delivery:**
Orange County, Florida  
c/o Orange County Administrator  
P.O. Box 1393  
Orlando, Florida 32802

**Hand Delivery:**
Orange County, Florida  
c/o Orange County Administrator  
201 S. Rosalind Avenue  
Orlando, Florida 32801

**MATRA/SOFRETU**

**Hand or Mail Delivery:**
MATRA/SOFRETU  
c/o Jean-Marie Aubriot, President  
MATRA-U.S., Inc.  
20 North Orange Avenue  
Suite 1400  
Orlando, Florida 32801

Such addresses may be changed from time to time by written notice to the other party sent in accordance with the provisions hereof.

12. **Modifications:** This Agreement represents the entire understanding of the parties hereto with respect to the matters
set forth herein and may not be modified except by an agreement in writing and executed by the parties to be charged. All previous agreements and communications, oral or written, between the County and MATRA/SOFRETU with respect to the System are hereby superseded.

13. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

14. Assignment: MATRA/SOFRETU may not assign its rights and obligations hereunder to any other person or entity without the written consent of the County, and such consent may be granted or withheld at the County's option.

15. Expenses:

A. Generally: Except as otherwise provided expressly herein, each party shall bear its own expenses in connection with this Agreement, and no party shall receive or be entitled to any compensation or reimbursement from the other.

B. UMTA Grant Funds: The County has begun to negotiate with, and shall continue negotiating with, the United States Urban Mass Transportation Administration ("UMTA") for a grant of federal funds to pay all or part of the cost of necessary studies and work relating to the financing alternatives and plans for implementation of the System. If such a grant is offered by UMTA and accepted by County, the County shall disburse and expend such funds only to reimburse MATRA/SOFRETU for direct expenses incurred by MATRA/SOFRETU in connection with its obligations hereunder, but only to the extent such expenses of MATRA/SOFRETU are legally eligible for such reimbursement therefrom and only up to an aggregate amount not exceeding $350,000.

At the request of either the County or MATRA/SOFRETU within a reasonable time after such grant funds are offered by UMTA and accepted by the County, the parties shall negotiate a supplement to this Agreement in which shall be set forth the scope of activities and expenses for which MATRA/SOFRETU shall be reimbursed with such grant funds. The provisions of the supplemental agreement shall be consistent with the terms of both this Agreement and the contract entered by the County and UMTA in connection with the grant.

To the extent such grant funds are not legally available for reimbursing MATRA/SOFRETU as contemplated above, the County may use the grant funds for any permissible purpose. No later than sixty (60) days after termination of this Agreement, MATRA/SOFRETU shall deliver to the County proof of any of its expenses which are eligible for reimbursement but which remain unreimbursed.
The County shall promptly reimburse MATRA/SOFRETU upon receiving such proof and may thereafter apply any remaining grant funds for any permissible purpose.

MATRA/SOFRETU may be required, as a condition to receiving reimbursement, to submit any proof and documentation of its expenses which the County may reasonably request. Nothing in this subparagraph prohibits the parties from negotiating terms and conditions in the Franchise Agreement which may alter or supersede the provisions of this subparagraph.

The right of MATRA/SOFRETU to reimbursement of its expenses incurred hereunder is limited strictly to the extent that the grant funds described herein are legally and actually available for such reimbursement. Otherwise, except as provided in Paragraphs 9 and 10, above, MATRA/SOFRETU shall be entitled to and shall receive no other reimbursements or payments whatsoever from the County under this Agreement. The UMTA funds described in this Subparagraph 15B are deemed by the parties to be separate and distinct from the Contingent UMTA Funds described in Subparagraph 15C.

C. "Contingent UMTA Funds": As soon as necessary after execution of this Agreement, the County shall apply under the Urban Mass Transportation Act of 1964, as amended, for a Fiscal Year 1985-86 grant of any reasonably available federal funds which the County otherwise would not apply for and use in its transportation facilities and operations (such grant funds hereafter referred to as the "Contingent UMTA Funds"). If offered by UMTA and accepted by the County, such funds may be used by the County for the costs incurred by it in connection with this Agreement. However, upon termination of this Agreement by the County under Paragraph 9 or by MATRA/SOFRETU under Subparagraph 10B, the County shall promptly cease any further expenditure of the Contingent UMTA Funds and shall, instead, hold such funds in reserve for reimbursement of MATRA/SOFRETU under Paragraph 9 or for payment of liquidated damages under Subparagraph 10B, as follows:

If the termination described above has occurred under Paragraph 9, the County shall reimburse MATRA/SOFRETU for all expenses actually incurred by MATRA/SOFRETU in connection with this Agreement up to and including the date of termination, less any amounts received under Subparagraph 15B. MATRA/SOFRETU shall have 45 days after such termination to present evidence satisfactory to the County of its unreimbursed expenses, and the County shall make reimbursement promptly after such evidence is presented. After the 45 day period has expired and after all expenses of MATRA/SOFRETU properly presented for payment have been reimbursed, the County may use the Contingent UMTA Funds for any lawful purpose.
If the termination described above occurs under Paragraph 10, the County shall hold such funds in reserve until all liability which they may incur under legal action brought by MATRA/SOFRETU or any negotiated agreement settling such legal action or threat of such legal action is paid in full. Thereafter, the County may use the Contingent UMTA funds for any lawful purpose.

The right of MATRA/SOFRETU under Paragraphs 9 and 10 to reimbursement or damages is limited strictly to the extent the Contingent UMTA Funds are legally and actually available for such purposes. The County shall be obligated to pay such reimbursement or damages solely from the Contingent UMTA Funds, and from no other source. Nothing in this Agreement grants or shall be construed to grant MATRA/SOFRETU a pledge of or lien upon any source of revenue or property (real or personal) of the County as security for its obligations hereunder, and MATRA/SOFRETU shall have no right to compel the County to levy or appropriate taxes or other sources of revenue under any circumstances.

D. Special Indemnity: MATRA/SOFRETU shall indemnify the County for any losses which it may incur as a result of payments made to MATRA/SOFRETU from the grant funds described in Subparagraphs 15B and 15C and later disallowed by UMTA or any other agency of the United States, and this obligation of indemnity shall survive termination of this Agreement.

16. Status of the Parties: The parties hereto intend that MATRA/SOFRETU act as an independent contractor, not as an agent of the County. MATRA/SOFRETU shall not hold itself out as an agent of the County and shall not take or omit to take any action and shall not make or omit any statement in the course of its performance hereunder which would cause third parties reasonably to believe that MATRA/SOFRETU has any authority to act on behalf of or as agent for the County.

17. Indemnity: To the fullest extent permitted by law, MATRA/SOFRETU shall indemnify and hold harmless the County and its agents and employees from and against all damages, losses and expenses, including but not limited to reasonable attorneys fees and costs (in connection with settlement negotiations and all trial and appellate proceedings), arising out of or resulting from claims brought by third parties in connection with the performance or actions of MATRA/SOFRETU under this Agreement, without limitation as to the nature of or legal grounds for such claims, damages, losses, and expenses, but only if such claims, damages, losses, or expenses are caused in whole or in part by any act or omission of MATRA/SOFRETU, any subcontractor of MATRA/SOFRETU, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether it is caused in part by the County. Such obligation shall not be construed to negate, abridge, or otherwise reduce
any other right or obligation of indemnity which would otherwise exist under law for the benefit of the County, or any party or person described in this paragraph.

The foregoing obligation to indemnify the County shall be limited to the amount of proceeds available to MATRA/SOFRETU under its policies of insurance so long as (i) MATRA/SOFRETU causes the County to be named as an additional insured on each of the policies upon which MATRA/SOFRETU intends to rely, (ii) MATRA/SOFRETU delivers certificates of such insurance to the County showing (a) that the County has been named as an insured and (b) that such policy of insurance cannot be cancelled by the insurer or MATRA/SOFRETU until the County has at least 30 days' prior written notice of the pending cancellation, and (iii) MATRA/SOFRETU obtains and continues in force any insurance required by law plus, at a minimum, broad form comprehensive liability insurance with coverage of $1,000,000 for bodily injury and property damage combined, or the equivalent, including coverage for premises and operations, contractual, and personal injury.

18. Public Records and Trade Secrets: The County shall endeavor not to make any reproduction, publication, distribution or disclosure of information identified by MATRA/SOFRETU as its trade secrets so long as (i) MATRA/SOFRETU has previously informed the County in writing of precisely what information in its submissions under Paragraph 2 of this Agreement constitute the trade secrets which are not to be reproduced, published, distributed, or disclosed, and (ii) the trade secrets identified by MATRA/SOFRETU are exempt from the provisions of the Florida Public Records Act (Chapter 119 of Florida Statutes (hereafter, the "Act"). The foregoing obligation of the County is limited only to those trade secrets expressly identified by MATRA/SOFRETU in writing as contemplated above.

The County shall endeavor to notify MATRA/SOFRETU immediately when a demand is made upon the County pursuant to the Act or other applicable law for disclosure or inspection of MATRA/SOFRETU's identified trade secrets, and the County shall consent to intervention by MATRA/SOFRETU in any judicial or administrative proceedings governing the demand for disclosure or inspection. MATRA/SOFRETU shall indemnify and hold harmless the County for all damages, losses, costs and attorneys' fees arising out of or in connection with any demand for disclosure or inspection of such trade secrets. Nothing in this Agreement requires the County either to assert or to maintain a legal position with respect to disclosure or inspection of such trade secrets which, in the County's judgment, is contrary to law.

19. Authorization: By their execution hereof, each of the parties hereto represents and warrants to the other that it has
the requisite power and authority to enter into this Agreement, that all required actions that are a prerequisite to such power and authority have been duly taken, and that this Agreement is legal, valid and binding against it, enforceable in accordance with its terms (except to the extent enforcement may be limited by laws affecting the rights of creditors, by general principles of equity, or by the valid exercise of the sovereign police powers of the State of Florida).

IN WITNESS WHEREOF, the parties hereto have executed this Preliminary Franchise Agreement as of the day and year first above written.

MATRA/SOFRETU

By: Jean Plais Aubert
Title: Authorized Agent

ORANGE COUNTY, FLORIDA

By: Joe Chapman
Vice Chairman, Board of County Commissioners
Exhibit A
to
Preliminary Franchise Agreement

The following risks and costs are to be allocated between the parties in the Franchise Agreement:

(a) **Design.**
   
   (i) Cost of design fees;

   (ii) Cost of soil samples and other design studies;

   (iii) Legal fees and other costs in connection with design contract preparation;

   (iv) Risk of design changes requested by a party or required by change in law.

   (v) Risk of design error.

   (vi) Risk of disclosure of trade secrets.

(b) **Permitting.**

   (i) Cost of legal and engineering studies, reports and services in connection with all permitting;

   (ii) Cost of judicial/administrative/appellate proceedings (legal fees, witness fees, etc.)

   (iii) Risk of failure to obtain required permits (e.g., caused by citizen opposition, disapproval by regulatory agencies, etc.)

(c) **Right of Way Acquisition.**

   (i) Cost of land acquisition;

   (ii) Cost of legal fees, appraisal fees, etc.;

   (iii) Risk of substantial portions of right-of-way not being dedicated, thus requiring condemnation and unexpected payments of just compensation.

(d) **Station Costs.**

   (i) Risk of benefiting property owners not agreeing to donate land and bear substantial construction costs;
(ii) Cost of organizing and implementing the "participation" by benefiting property owners in station and system costs;

(iii) Risks of direct and indirect costs caused by litigation brought by affected property owners (e.g., opposition to special assessments, impact fees, etc.)

(e) Construction.

(i) Cost of construction;

(ii) Risk of inadequate performance by contractor and subcontractors;

(iii) Risk of inadequate performance by design engineer in contract administration;

(iv) Risk of acts of God, fire, hurricane, etc.

(v) Risk of court injunctions, civil disturbance or other similar disruption;

(vi) Risk of labor disputes;

(vii) Risk of change in law.

(f) Operation.

(i) Cost of operation and maintenance;

(ii) Patron and operating personnel liability;

(iii) Risk of higher-than-expected Operation and maintenance costs;

(iv) Risk of failure in system performance;

(v) Risk of energy price increases;

(vi) Risk of change in law;

(vii) Risk of acts of God, etc.;

(viii) Risk of labor disputes;

(ix) Risk of increase in taxes;

(x) Risk of increase in insurance costs;

(xi) Risk of poor management;

(xii) Risk of overestimation of fares and other system revenues.
(g) Financing.

(i) Cost of servicing debt.

(ii) Risk of interest rate escalation before bond purchase agreement is executed;

(iii) Other risks of unavailability of financing (change in tax law, change in arbitrage regulations, deterioration of commercial paper market, bank failures, legal challenges, etc.);

(iv) Cost of preparing financial plan, including feasibility study, financial advisors, legal fees, etc.

(v) Risk of default.