

Executive Summary

The practical financial consequences that would result from discontinuing commuter rail service on the South Florida Rail Corridor (SFRC) would total **\$2.5 billion**, which breaks down as follows:

- **\$588.6 million³** in potential State liabilities caused by defaults in Federal Government Grant and Loan agreements;
- **\$1.356 billion¹** in public funds wasted on improvements to the State-owned South Florida Rail Corridor to make it usable for commuter rail service and which, for the most part, would be unrecoverable;
- **\$553 million⁵** in lost property values along Tri-Rail system.

The state will lose \$1.356 billion of public investment to end commuter rail in the SFRC.

The state may see up to \$23.5 million in annual savings, which means the state and the taxpayers won't break even for over 57 years.

In addition, there would be the following miscellaneous financial impacts:

- **\$11.5 millions of dollars** in continuing annual SFRC-related costs the State would incur even without the presence of commuter rail;
- Unknown costs associated with terminating **\$279.1 million** in existing SFRTA contracts;
- Loss of **\$585.6 million** in public funds expended for operations (Comprehensive Annual Financial Report, fiscal years 1990-2010), which supported development of the system.

In return for the above financial consequences, the net savings to the State in dollars contributed for Tri-Rail operations and maintenance of the SFRC would be \$35 million² in current annual expenses less \$11.5 million³ in potential continuing expenses, or approximately **\$23.5 million**. If the Federal government were successful in recovering \$588 million from State for Grant and Loan defaults, the State would not see any savings from discontinuing Tri-Rail for 25 years.

¹ In 2011 dollars. See Attachment A.

² \$30 million statutory pass-through to SFRTA from the State Transportation Trust Fund and FDOT's \$5 million share of SFRC maintenance. FDOT's maintenance cost is offset, in part, by contributions from Amtrak - \$700,000, and revenue it receives from billboards and land leases, which means there could be even less of a net savings to the State.

³ See page10.

These numbers do not take into account the direct costs to the South Florida economy of discontinuing Tri-Rail service, including the loss of 400 jobs, the loss of transportation for 14,500 daily riders, the loss of \$279 million⁴ in economic activity or the cars that would be added on I-95. It also does not address indirect impacts on jobs supported by Tri-Rail, the decline of real estate values estimated at \$556 million along the corridor, lost economic development opportunities around functioning stations, increased energy use, and other lost benefits.

⁴ Less any amounts already expended under the contracts.

⁵ Study prepared by the Center for Transit-Oriented Development for the Federal Transit Administration,

Financial Consequences

Discontinuing a 20-year old commuter rail operation such as Tri-Rail is a rare event with significant known and unknown financial consequences, not to mention direct and indirect impacts to the business community and property values in the SFRC. This paper attempts to identify and quantify the primary direct impacts of ending Tri-Rail service. It doesn't attempt to quantify indirect impacts to the business community with the exception of property values, for which there is substantial literature that allows an educated estimate of fiscal impact.

The following is a more detailed accounting of the financial impacts of discontinuing Tri-Rail service:

1. Miami Intermodal Center (MIC) Central Station

Discontinuing Tri-Rail Service could place FDOT in default of its **\$270 million** MIC TIFIA Loan Agreement with USDOT.

If Tri-Rail service were to be discontinued, there would be little reason for the State to build the portion of the Central Station intended to serve Tri-Rail and Amtrak. Amtrak is unlikely to agree to pay the full costs of the Central Station maintenance (estimated by FDOT's consultants at \$2 million annually), adding to the State's potential on-going funding liabilities.

The Central Station (f/k/a the MIC Core – see Financial Plan Update) is a “major Project element” of the Miami Intermodal Center. [According to the Financial Plan Update, the Central Station is comprised of three pieces: the Central Station/Intermodal Hub, the Earlington Heights Metrorail Station and the MIA Mover Station - total cost \$760 million.]

FDOT's \$270 million TIFIA Loan Agreement with USDOT requires FDOT to obtain USDOT's approval “before instituting any deletion of a major Project element (as set forth in the definition of Project)”- as per Section 20(f) of the TIFIA Loan Agreement. The major Project elements of the MIC, as identified in the TIFIA Loan Agreement, are:

"Project" means Phase I of the Miami Intermodal Center (MIC), as described in the Borrower's application dated July 27, 1999, as updated in its application dated July 5, 2007, anticipated to total \$1,463,329,000 and constituting a five-year work program to improve access to Miami International Airport, including land acquisition and environmental remediation, the RCF, a people mover system connecting the airport with the RCF and the MIC core building, initial construction of a new MIC core building and initial roadway access improvements, as amended from time to time in accordance with Section 20(f) hereto to reflect modifications to the Project's scope – as per Section 1 of the TIFA Loan Agreement.

Additionally, the MIC Core is identified in the Financial Plan Update as a “Project Element” with its own Construction Schedule.

USDOT’s approval of an FDOT deletion “may be granted if it is consistent with the provisions of this Agreement, is beneficial to the Project, does not affect the Lender’s security, and is reasonably cost effective.”

It is unlikely that deleting the Central Station would be viewed as “beneficial to the Project” given that rail was to be a major component of the MIC, and regional and intercity rail connections probably helped it earn its designation from USDOT as a “*PROJECT OF NATIONAL SIGNIFICANCE*,” which is necessary to qualify for a TIFIA loan.

Without USDOT’s approval of the deletion, FDOT’s failure to “reasonably prosecute the work relating to the Project” would be an event of default – as per Section 15(j) and Section 18(a)(ii) of the TIFIA Loan Agreement. Discontinuing Tri-Rail could be viewed as an anticipatory default because there would be no reason to construct the Central Station without its major rail user. The inclusion of regional and intercity passenger rail are key elements of FDOT’s TIFIA loan application.

FDOT could argue that, since the MIA Mover station and the Metrorail station were being completed, the integrity of the Central Station (MIC Core) was being preserved. USDOT may not be sympathetic to the State’s argument. The fact that the \$270 million in loan proceeds may have been used only in construction of the Rental Car Center also does not protect FDOT from a default because the decision to grant the TIFIA loan was based on the “Project” and it is the entire “Project” that must be completed to satisfy the terms of the Loan Agreement. Without the rail component, the TIFIA loan essentially becomes a \$270 million low-interest federal loan to the rental car companies.

In the event of a default, remedies include accelerating repayment of the loan balance.

2. Full Funding Grant Agreement

SFRTA entered into a Full Funding Grant Agreement (FFGA) with the Federal Transit Administration to secure \$274.8 million to help fund the double-tracking of the South Florida Rail Corridor, which more than tripled the capacity of the Corridor for both freight and passenger rail.⁵ That project was completed in 2006. The FFGA requires SFRTA to provide for 20-minute headways during peak hours and incorporates by reference documents provided to it by SFRTA showing the operation of a 48 train service to provide these headways (the “Service”). In addition, as is the case with all FFGA’s, SFRTA had to provide FTA with

⁵ Tri-Rail currently maintains a 90+% on-time-performance and has no operating conflicts with freight service on the Corridor.

appropriate evidence that it had sufficient non-federal funding to operate and maintain the Service for 20 years.

In 2009 SFRTA representatives met with the FTA District IV administrator when it appeared SFRTA may default on its FFGA obligations due to a reduction in funding.

The FTA stated that a default of the FFGA could have serious ramifications on future funding requests, not only by SFRTA, but also such requests made by the State and/or the three counties. FTA said that it would have to examine the Financial Plan submitted with the FFGA, and made a part of the contract, to determine what representations were made by the State and counties regarding support of Tri-Rail’s service for the required 20 years. In the event FTA determines that FTA relied upon those assurances and its prior funding relationship with the State and the counties in awarding the FFGA, future requests made to FTA for federal aid would require FTA not only to examine the requesting entity’s ability to maintain and operate the service being funded, but also its ability (or lack thereof) to operate and maintain other existing services funded by federal dollars, i.e. Tri-Rail. The failure to support an existing service would be a serious detriment to any entity requesting future federal funding. FTA was clear that the fact that SFRTA was the only signatory to the FFGA did not preclude potential political ramifications to the State and the three counties if the service was to be reduced.

3. Wind down

a. Contracted Service

All existing contracts would need to be cancelled, including both operational and capital contracts. The tables below show several of the key contracts that would be impacted but are not comprehensive:

Operating	Firm	Contract Life (Years)	Value (in millions)
Rail Operations	Veolia	7	\$64.1
Train Maintenance	Bombardier	7	\$89.9
Security	G4S	5	\$25.8
Station Maintenance	Meridian	5	\$10.6
Office Lease	ProLogis	5	\$2.9
Total			\$193.3

Capital	Firm	Value (in millions)
Locomotives	Brookville	\$44.7
Rolling Stock (cab and trailer cars)	Rotem	\$41.1
Total		\$85.8

All of the operating contracts, with the exception of the Office lease, have termination for convenience provisions. Those provisions allow the vendors to recoup “reasonable termination expenses.” The costs would have to be negotiated with the vendors or litigated if the parties could not reach agreement. These costs cannot be estimated at this time, but the value of the impacted contracts is **\$279.1 million**. The capital contracts would also require payments for any contractual milestones achieved without the benefit of receiving a finished product in many cases. Because Federal ARRA funds are being used to pay for the locomotives, the State may be required to reimburse the FTA for some or all of the **\$16 million** in ARRA dollars.

To preserve the new Ticket Vending Machines (cost **\$19.9 million** with all of the money coming from federal grants) for possible resale, it would be necessary to pay to have them removed from the stations and stored in a leased facility until sold (possible cost **\$1,800** per month). The **\$19.9 million** in grant money expended for the TVMs would be recoverable by the Federal government.

b. Personnel

Approximately 400 direct and indirect (contract) employees would be affected by a discontinuation of commuter rail service in the SFRC. This creates a very large potential liability for the state under **13(c) Liability**.

- *It is possible that – regardless of the merits - the employees of the Operations and Equipment maintenance contractors and others could make 13(c) labor protection claims to the U.S. Department of Labor.*
- *Veolia employees are represented by the United Transportation Union, giving them resources for pursuing such a claim.*
- *Potential 13(c) liability to the state is the cost of annual salaries and benefits for all employees deprived of employment x 6 years⁸*

⁸ “4. Any employee covered by this Agreement who is laid off or otherwise deprived of employment or placed in a worse position with respect to compensation, hours, working conditions, or fringe benefits at any time during his/her employment as a result of the Project, shall be entitled to receive any applicable rights, privileges and benefits as specified in the employee protective arrangements attached hereto and made a part hereof as Exhibit B.

10. The term “Project,” as used in this Agreement, shall not be limited to the particular facility assisted by federal funds, but shall include any changes, whether organizational, operational, technological, or otherwise, which are traceable to the assistance; provided, whether they are the subject of the grant contract, reasonably related thereto, or facilitated thereby. The phrase “as a result of the Project” shall, when used in this Agreement, include events occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto.”

4. Value of Assets

SFRTA is currently in the process of purchasing new rolling stock for its fleet, including 10 locomotives at a cost of **\$44.7 million**, of which **\$16 million** is coming from Federal ARRA funds, and 24 cab cars and trailers at a cost of **\$41.1 million**. In the event Tri-Rail is discontinued, the sale of existing rolling stock in Tri-Rail's fleet could take some time given that there is a limited pool of potential buyers. The locomotives in the fleet are nearing the end of their useful lives so the proceeds of any sale could be nominal.

The Agency has recently completed construction of several station improvements, including construction of a **\$5.2 million** parking garage at the Fort Lauderdale-Hollywood Station at Dania Beach. It has also constructed new parking lots at the West Palm Beach, Cypress Creek and Pompano Beach stations.

In the event Tri-Rail is discontinued, the sale of land owned by SFRTA could also take a long time. To the extent Federal grants funds were used to purchase land, the FTA would claim a continuing financial interest and would have to be reimbursed. SFRTA's records show **\$15.7 million** in federal funds have been used on land acquisitions.

The Agency is currently completing the installation of storage tracks at Hialeah Yard at a cost of **\$1.693 million**. The tracks could be used to store rolling stock until it could be resold after which it is unclear whether the tracks would have any use or value.

Although used almost exclusively by SFRTA, the New River Bridge, completed at a cost of **\$78.5 million**, is an FDOT asset that would not be used, except by Amtrak, if Tri-Rail is discontinued. CSXT has refused to use the bridge because it was built to FDOT's and not CSXT's construction standards.

5. Future Maintenance Responsibilities

a. Corridor

FDOT, as the owner of the SFRC, would continue to be obligated to maintain the corridor. The required contribution from FDOT would continue to be at least 49% (**\$5 million or more** if CSX decides to give the State maintenance and dispatching responsibilities for the Corridor⁶), as the double-tracking and signalization of the highway intersections were not intended to directly benefit CSX. CSX could reasonably argue that it is not responsible for the maintenance costs associated with those improvements. It is unlikely the CSX would agree to assume a greater share of the cost for maintenance of the corridor when it is already paying approximately **\$2 million** more than it could be paying under SFOMA.⁷

⁶ See the Bergmann Corridor Maintenance Cost Study January 2011.

⁷ Based on current freight rail traffic estimates.

b. Stations

Some level of station maintenance would be required in the absence of commuter rail service. Some of the stations are not visible from major roads, providing a sense of isolation (Mangonia Park being a prime example). Without the daily presence of passengers and Agency personnel at all but the five stations also used by Amtrak, the platforms and station structures could become subject to vandalism as well as becoming hangouts for youths and the homeless. This could result in the need for some form of security. Meridian now budgets **\$40,000** per year to address vandalism, storm damage and third-party damage. It is possible that this cost would increase if the stations are no longer in use.

Station parking lots would still need to have the landscaped areas maintained to meet local city code requirements. Although leases that currently provide for parking at some stations could be terminated – Mangonia Park, West Palm Beach, Delray Beach - most of the station parking lots are owned by either FDOT or SFRTA. Maintenance of FDOT-owned lots would revert to FDOT. Tri-Rail-owned lots would need to be maintained as well, including Boca Raton, Boynton Beach, Cypress Creek, Pompano Beach, Deerfield Beach (west lot) and the Fort Lauderdale Airport Station east lot and west lot parking garage, which was recently completed at a State-funded cost of **\$5.2 million**. Given its location, there likely would be no other user for the parking garage. The closing of the station does not terminate the lease with the City, but any attempt to sell the garage would require City approval.

Tri-Rail currently spends \$2.4 million a year to maintain its 18 stations. Approximately **\$215,000** is spent on station landscaping and irrigation systems maintenance at FDOT and Tri-Rail-owned stations not served by Amtrak (see below).

FDOT will have to continue to maintain the stations used by Amtrak – Hollywood, Fort Lauderdale, Deerfield Beach, Delray Beach and West Palm Beach. Based on Meridian's Price Schedule, the annual cost to maintain the Amtrak stations is as shown in the following table:

Description	Annual Cost
Hollywood Station	\$96,478
Fort Lauderdale Station	\$116,396
Deerfield Beach Station	\$128,199
Delray Beach Station	\$97,070
West Palm Beach Station	140,887
Landscaping/irrigation - other stations	\$215,000
Vandalism – all stations	\$40,000
Total Annual Cost	\$834,030

Amtrak's compensation to FDOT for use of the corridor has remained fixed at \$700,000 since 1997.

It is very possible that – like any other unused structure - the pedestrian overpasses and other station facilities would deteriorate over time and become eyesores due to the lack of programmed maintenance (e.g. cleaning, painting, minor repairs, which are now part of the Meridian contract. The deteriorating condition of the station structures could create conflicts with the host cities, which could only be addressed through their demolition.⁸

c. Insurance

The State would still be required to obtain \$125 million in liability insurance (**\$1.27 million**) and \$15 million in property insurance (**\$300,000⁹**) insurance to the terms of OMAPA.

d. New River Bridge Drawbridge and Railroad Crossings

SFRTA currently pays 50% of the electric to operate the drawbridge and the railroad crossings on the Corridor. It also pays 50% of the cost for a bridge tender to operate the bridge. This cost is approximately \$20,000 per month or **\$240,000** per year.

e. New River Bridge

Amtrak also uses the New River Bridge (4 trains per day). It is unlikely that FDOT would continue to pay for the maintenance of track and dispatching over the bridge at a cost of **\$1.3 million** for just Amtrak's use. This would leave the State with a **\$78.5 million** non-utilized bridge.

Future state maintenance, without commuter rail, will cost the state approximately \$11.5 million annually with no public benefit as summarized in the table below:

⁸ Costs for demolition were not developed as part of this analysis, but would have to be included in any complete cost estimate.

⁹ Premium includes \$35 million in excess insurance.

Recurring Cost	Annual Cost
Corridor Maintenance	\$5,000,000
MIC CS Common Area Maintenance	\$2,000,000
SFRC Liability Insurance	\$1,270,000
Property Insurance	\$300,000
Station Maintenance	\$834,030
Office Lease	\$579,000
New River Bridge Dispatch/Maintenance	\$1,300,000
New River Bridge/RR Crossings	\$240,000
Vandalism, etc.	\$40,000
TVM Storage	\$21,600
Total Annual Costs	\$11,584,630

6. Potential Liabilities

Potential liabilities for the State if Tri-Rail is discontinued include approximately **\$274.8 million** provided through a Full-Funding Grant Agreement with the Federal Transit Administration, **\$270 million** loan balance for the TIFIA loan made to FDOT by USDOT for the MIC, **\$19.9 million** in federal grants for new TVMs at Tri-Rail stations, **\$7.9 million** in federal grants for Tri-Rail's Miami Airport Station land and improvements and **\$16 million** in ARRA grant funds for new locomotives. Additional federal grant funds have been provided for other corridor improvements, which could increase the potential liability to the Federal government.

7. Economic Impact to Property Values

Property within ½ mile of the existing 18 Tri-Rail stations has a value of over \$5.5 billion (South Florida Regional Planning Council, August 25, 2009). The National Association of Realtors' publication entitled, "Transportation and Real Estate: Making the Connections," discusses the impact of "premium" (i.e., rail) public transportation on property values. Positive impacts on property values are documented through case studies and can range up to 167% for retail, 120% for office and 45% for residential. Using a highly conservative transit premium of 10% for the SFRC, the discontinuation of commuter rail service will **reduce property values by about \$553 million**.

Conclusion

The practical financial consequences that would result from discontinuing commuter rail service on the South Florida Rail Corridor (SFRC) would total **\$2.5 billion** of taxpayer money. The State will continue to incur \$11.5 million in annual expenses associated with maintaining the SFRC, managing Tri-Rail's assets and liabilities; one-time payments for costs associated with terminating various contracts; expose the state to \$588.6 million in potential repayment liabilities to the federal government; and potentially cost the Florida taxpayers significant costs (both in legal fees and large claims) under the U.S. Department of Labor 13(c) Labor Protection Act.

After considering the on-going costs of the SFRC to be borne by the state, the net savings of discontinuation of commuter rail is about \$23.5 million annually.

Attachment A

Impacts and Costs of Eliminating Tri-Rail Service

Category/Item	Impact Value in 2011*		Project Cost		State		Federal		Construction Year		Comment/Methodology
	Value in 2011*	YOY	YOY	YOY	YOY	YOY	YOY	YOY	Year	Year	
Past Capital Expenditures for Tri-Rail Passenger Rail Service											
State of Florida Purchase of CSX Rail Corridor	\$476,813,386		284,000,000		284,000,000	476,813,386				1988	May 1988 Purchase
Original Tri-Rail System Capital Costs (Includes 5 locomotives, 18 railcars, & 15 stations)	\$101,518,935		59,631,675		59,631,675	101,518,935				1980	Per 1980 Rankin/FDOT report "Evolution of a Commuter Rail System in South Florida"
Tri-Rail Double Tracking-Segment 5	\$390,103,639		357,000,000		82,110,000	89,723,814		274,890,000	300,379,725	2005	Total Segment 5 Project Cost, including stations and rolling stock (2005 Peak Const Year)
Tri-Rail Double Tracking- Segment 1 (FLaud-Pompano)	\$63,524,424		41,570,983		18,953,192	28,728,907		23,003,936	34,755,517	1994	8.2 miles. Includes design and construction. Dan says 1994 was peak year.
Miami Airport Extension- (Phase 2)	\$26,990,730		18,930,755		5,079,348	7,241,936		13,851,407	19,748,794	1996	Includes design and construction. Dan says 1996 was peak year.
Tri-Rail Double Tracking- Phase 3 (Pompano-Boca)	\$46,603,353		31,735,914		7,463,821	10,641,624		25,222,833	35,961,729	1996	7.15 miles. Includes design and construction. Dan says 1996 was peak year.
Tri-Rail Double Tracking- Phase 4 (Hialeah-Plantation)	\$51,401,706		40,576,981		8,443,607	10,686,109		32,133,374	40,705,587	2000	6.9 miles. Includes design and construction. 2000 peak year.
East Rail Project (79th St-Hialeah Market)	\$5,043,688		3,537,541		3,537,541	5,043,688				1996	1.46 miles. Includes design and construction. Dan says 1996 was peak year.
Remote Control IRIS Interlocking	\$1,461,336		1,055,700		1,055,700	1,461,336				1987	Includes design and construction. Dan says 1987 was peak year.
Opa-Locka Siding Extension	\$3,477,481		2,665,200		2,665,200	3,477,481				1999	2.2 miles. Includes design and construction. Dan says 1999 was peak year.
New River Bridge	\$83,333,695		78,550,000		78,550,000	83,333,695				2006	Total capital cost including contributions from all partners (2006 Peak Const Year)
Railcars and Locomotives (Other than system start-up and Segment 5)	\$3,636,265		2,200,000		2,200,000	3,636,265				1991	FDOT Spreadsheet (Larry Merritt, dated Oct 2009)
Railcars and Locomotives (Other than system start-up and Segment 5)	\$4,814,119		3,000,000		3,000,000	4,814,119				1992	FDOT Spreadsheet (Larry Merritt, dated Oct 2009)
Railcars and Locomotives (Other than system start-up and Segment 5)	\$7,789,837		5,000,000		5,000,000	7,789,837				1993	FDOT Spreadsheet (Larry Merritt, dated Oct 2009)
Railcars and Locomotives (Other than system start-up and Segment 5)	\$11,632,623		7,921,250		7,921,250	11,632,623				1995	FDOT Spreadsheet (Larry Merritt, dated Oct 2009)
Railcars and Locomotives (Other than system start-up and Segment 5)	\$972,959		472,000		472,000	672,959				1996	FDOT Spreadsheet (Larry Merritt, dated Oct 2009)
Cypress Creek Parking Capital Improvements	\$47,090,000		85,977,180		10,000,000	10,000,000		37,060,000	37,060,000	2011	Combined Roten railcars and Brookville locomotive purchase cost
Hialeah Yard Lay up Tracks	\$1,578,707		1,578,707					1,578,707	1,578,707	2010	
Ticket Vending Machines	\$1,683,000		1,693,000					1,693,000	1,693,000	2011	
Dania Parking Deck	\$19,723,009		19,945,009		37,000	37,000		19,866,009	19,866,009	2011	
West Palm Beach (West) Parking Improvements	\$4,467,000		5,300,000		4,467,000	4,467,000				2010	
Pompano Beach West and Lake Worth Parking Improvements	\$1,139,618		1,139,618					1,139,618	1,139,618	2009	
Subtotal	\$1,956,002,389		\$1,035,004,513		\$965,150,334	\$863,253,693		\$430,259,884	\$492,748,696	2009	

\$1.356 BILLION

IMPACT

* Notes: Conversion to 2008 Dollars calculated using annual 3% inflation
Conversion from 2008 to 2011 uses a factor of 1.0 (0% inflation) based upon FDOT construction cost factors.