

**ITEM #65**

**ADDITIONAL MATERIAL  
REGULAR MEETING**

**MARCH 9, 2021**

**SUBMITTED AT THE REQUEST OF  
COUNTY ADMINISTRATION**



BERTHA W. HENRY, County Administrator

115 S. Andrews Avenue, Room 409 • Fort Lauderdale, Florida 33301 • 954-357-7362 • FAX 954-357-7360

## MEMORANDUM

**DATE:** January 8, 2021

**TO:** Board of County Commissioners

**FROM:** Alan Cohen, Assistant County Administrator *AC*

**SUBJECT:** **BOCC March 9, 2021 Regular Meeting Agenda Item No. 65 - Additional material – RFQ for the JGCC P3 Solicitation and Market Sounding Info**

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In the Summary Explanation/Background section of Agenda Item No. 65, it was explained that the Public Private Partnership (P3) solicitation for the Joint Government Center Campus (JGCC) project would be a two-step process. Please find enclosed a draft Request for Qualifications (RFQ), the first of the two solicitation steps. While the document is almost complete, (City and County staff (Staff) and our consultants are working to refine the document), in the essence of time we wanted to provide you with it so you can have adequate time for review. We do not anticipate substantive changes to be made to the document prior to the Unified Direct Procurement Authority (UDPA) meeting and plan to provide you with a final version this Friday, March 5, 2021.

The structure of the RFQ was informed by a Market Sounding exercise that was conducted by KPMG with Staff. The County's CFO, the City's Director of Finance and I sat in on most of the interview sessions. Please find enclosed a report on the main takeaways from that exercise.

One of the most important results of the exercise is a recommendation from our consultants and Staff that we utilize a Pre-Development Agreement P3 process rather than a Fixed Bid P3 process. Please find enclosed a summary of the pros and cons of both processes, which will be discussed in more detail during your briefings. During those briefings, information will also be provided on other findings related to project stipends and developer shortlisting.

Another result of the exercise is that we will be waiting for the Step Two RFP to ask the shortlisted Developers for information on their Operations and Maintenance (O&M) providers. This is due to the limited number of local and national O&M providers and the potential impact this might have on the ability of one or more Developer Teams to compete for the JGCC project.

Please note that due to the JGCC project including elements that are slated to be co-funded by the Federal Transportation Administration (FTA), both the RFQ and subsequent RFP will

be structured a bit differently than we have traditionally structured them. The Step One RFQ is designed to cover all project elements. As such it does not contain solicitation document sections that are either locally or federally required (e.g. CBE, DBE, Domestic Partnerships, Buy America etc.) because of conflicts between local and federal procurement rules. These sections will be included in the Step Two RFP, which the FTA has agreed we can bifurcate to ensure that all federal requirements are adhered to for the federally funded elements of the project and all local requirements are adhered to for the locally funded elements of the JGCC project.

If the UDPA approves the issuance of the RFQ, it will likely be issued the following day (March 10, 2021), with a 6-week return date of April 21, 2021. Our consultants and Staff will review the submissions during the following month and prepare for the UDPA an informational matrix that summarizes the Developer submissions. Staff will then brief the UDPA members for a meeting in June, at which the UDPA would vote on qualifying and shortlisting Developers. We also plan to have the Step Two RFP document available at this same meeting for UDPA approval of issuance.

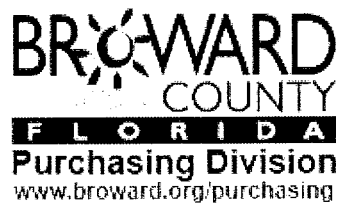
If you have any questions, please contact me at 954-801-0242.

## **Solicitation PNC2122559R1**

**Developer for Joint Government Center Campus (JGCC)  
(Step One)**

**Bid Designation: Public**

**DRAFT**



**Broward County Board of County Commissioners**



## Bid PNC2122559R1 Developer for Joint Government Center Campus (JGCC) (Step One)

Bid Number **PNC2122559R1**  
Bid Title **Developer for Joint Government Center Campus (JGCC) (Step One)**

Bid Start Date **In Held**  
Bid End Date **Apr 21, 2021 2:00:00 PM EDT**  
Question & Answer  
End Date **Apr 2, 2021 5:00:00 PM EDT**

Bid Contact **Connie Mangan**  
**Purchasing Manager**  
**Purchasing Division**  
**cmangan@broward.org**

Bid Contact **Sean O'Donnell**  
**Purchasing Agent**  
**Purchasing**  
**sodonnell@broward.org**

Contract Duration **One Time Purchase**

Contract Renewal **Not Applicable**

Prices Good for **Not Applicable**

Pre-Bid Conference **Mar 18, 2021 3:00 PM EDT**

**Attendance is optional**

**Location: An optional pre-proposal conference virtual conference will be held at at the following date and time. Conference may be attended by: TBD**

**Please do not put call on hold; mute phones during pre-proposal conference.**

**This information session presents an opportunity for Developers to clarify any concerns regarding the solicitation requirements and scope of work. Attendance at the pre-proposal conference is optional.**

**Job site visitation is strongly recommended; response will be construed that the vendor is acquainted sufficiently with the work to be performed.**

Bid Comments **The Broward County Board of County Commissioners (County) and the City of Fort Lauderdale (City) is currently seeking a qualified Developer for the Joint Government Center Campus (Project). The County and the City (Sponsors) are requesting a public-private partnership to develop facilities. Refer to Project Overview for detailed information and available supporting information.**

**Goal Participation: Due to project funding, this procurement has program goals based on two funding sources.**

**Questions and Answers: The County provides a specified time for Vendors to ask questions and seek clarification regarding the requirements of the solicitation. All questions or clarification inquiries must be submitted through Periscope S2G by the date and time referenced in the solicitation document (including any addenda). The County will respond to all questions via Periscope S2G.**

**Note to vendors: If choosing "Download Bid Packet", the packet will not automatically include the following attachments: Design Criteria Package (DCP) (four attachments), and BIM and Electronic Media Submittal Requirements. To download these documents, select download next to the individual file. To select these documents, select them from the list and choose "Generate Zip File".**

**BidSync is now known as "Periscope S2G, Supplier-To-Government" for vendors. Any reference to BidSync in this solicitation shall refer to "Periscope S2G, Supplier-To-Government."**

**Refer to General Information - Request for Qualifications (Step One) Submission of Sealed Submittals for instructions on submitting (electronic and hard copy submittals are required). Developers are encouraged to submit their responses in advance of the due date and time specified in the solicitation document. In the event that the Developers is having difficulty submitting the solicitation document through Periscope S2G, immediately notify the Purchasing Agent and then contact Periscope S2G for technical assistance.**

### Item Response Form

Item **PNC2122559R1-01-01 - Developer for Joint Government Center Campus (JGCC) (Step One)**  
Quantity **1 project**  
Prices are not requested for this item.  
Delivery Location **Broward County Board of County  
Commissioners**  
Refer to scope of work for information.  
N/A  
Broward County FL 33301  
Qty 1

**Description**  
Price will not be considered in Step One responses.

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DEVELOPER FOR  
JOINT GOVERNMENT  
CENTER CAMPUS  
(JGCC) (STEP ONE)

Broward County and City of Fort Lauderdale

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## Introduction

In May 2017, the Broward County Board of County Commissioners (Board) and the City of Fort Lauderdale City Commission (Commission), made a unanimous decision at a joint workshop to support moving forward with the development of a Joint Government Center Campus (JGCC) in downtown Fort Lauderdale. Since that time, the County and the City have worked together to develop, coordinate, and plan for this exciting endeavor.

The new campus is intended to replace the existing Broward County Governmental Center East and City of Fort Lauderdale's City Hall and produce a new joint governmental center, a new bus transit terminal for Broward County's Transportation Department (BCT), administration offices and associated multi-story parking garage. The new JGCC is intended to house each entity's Commission Chambers and administrative service agencies, and to serve as new offices for both the County and the City (Sponsors).

The Sponsors are currently seeking a qualified Developer for the Joint Government Center Campus (Project). The Sponsors are requesting a public-private partnership (P3) pursuant to Section 255.065, Florida Statutes to develop the Project.

Refer to Project Overview for detailed information and available supporting information.

### Part 1: Project Overview

The key component of the new combined facility is anticipated to be a multi-story Class "A" office Administrative tower of approximately 900,073 square feet, inclusive of shared space, of which 332,200 square feet will be for County use and 248,191 square feet for City use [Office Tower]. In addition, there will be a second tower that will include a parking garage structure, office space for the County's Transportation Department and a bus terminal [Transportation Tower].

Detailed information is contained in the **Design Criteria Package (DCP)**, dated November 13, 2020.

#### A. Vision, Goals and Objectives

The JGCC will address the Sponsors' 21st Century needs and challenges. This transformative project will influence the Sponsors' government functions and organization for decades to come. While the focus of the JGCC is to establish a dynamic and vibrant presence in Downtown Fort Lauderdale, it must do so with an understanding of how better planning and design can create more value for the public dollar, resulting in new public gathering spaces, stronger community identity, safer and better transportation alternatives, better environmental outcomes, and better opportunities for businesses.

The Sponsors are seeking to deliver the JGCC with the following goals in mind:

- Meet the Sponsors' needs and space program requirements: Ensure the Sponsors' current and future needs are met through the new government center campus, site, and buildings.
- Link short and long-term physical master planning strategies: Connect the development to Fort Lauderdale goals to attract private development and traditional and non-traditional revenue opportunities in the area around the JGCC project.
- Enhance connectivity through an improved urban campus: Develop connectivity in and around the JGCC between institutional functions and welcome integrated environments to create a unique campus and enhanced urban district inclusive of

adjacent existing and planned transportation amenities, civic open spaces and planned outdoor amenity spaces throughout the building(s) and site to ensure physical and social connectivity for all employees and visitors.

- Drive greater collaboration between the Sponsors: Encourage cooperation and shared space utilization through shared workspaces and other facilities.
- Leverage technology to drive results: Utilize a clear technology vision and strategy to enhance the constituent experience, improve quality and safety, and increase workflow efficiencies.
- Protect the Sponsors' asset and its employees: Deploy intelligent technology, communications infrastructure, sustainable energy and security/health management solutions.
- Support the local community: Support the downtown financial, educational, entertainment, transportation, medical and cultural hubs to create mutually beneficial relationships between the JGCC and the community.
- Employ a holistic approach to resiliency and sustainability: Embody a focused commitment (utilizing LEED, Net Zero Energy and WELL Building standards) to applying sustainability and resiliency principles to the full range of campus and facility planning activities and development.

#### B. Project Site

The Project is located at the current site of the Broward County Central Bus Terminal at 101 NW 1 Street, Fort Lauderdale, FL 33311. The Project Site is bound by Broward Boulevard to the south, NW 1st Avenue/Brickell Avenue to the east, NW 2<sup>nd</sup> Street to the north and to the west the FEC railroad tracks and Fort Lauderdale Brightline Station. The site is located within the Downtown Regional Activity Center - City Center District (RAC-CC), the city's high intensity downtown zoning district. It is also located within two Downtown Character Areas - Downtown Core and Near Downtown. Density, building height and maximum plot coverage is defined by the requirements set forth under the RAC-CC.

Due to planned and committed funding sources identified by the County for the Project, the Project Site shall be subdivided into two sub-areas for development. The Project Site is currently owned by the County with an equity interest by the Federal Transportation Administration (FTA). The County will be buying out the FTA equity interest in the southern half of the property where the Office Tower will be located. The northern half of the property where the Transportation Tower will be located will still include an FTA equity interest. Additionally, the FTA may provide a subsidy for the construction of the Transportation Tower.

Refer to **DCP** Book 1, 2.2 Project Site, 2.3 Site and District Analysis, 3.1 Project Site Limits and Development Sub-Areas, and Book 3, Appendices, including but not limited to, Appendix E, Site Infrastructure Analysis and Appendix H, Site Survey for detailed information.

Additionally, the Sponsors are considering acquiring adjacent parcels for the benefit of the Project but at this time the project is to be considered limited to the boundaries listed above.

#### C. Project Funding

The final funding and financing structure for the Project has not yet been determined. Under consideration are structures whereby the Developer receives availability payments over the term of the Project in return for initial financing and the ongoing operations and maintenance of the Project, and structures whereby the Sponsors provide the funding and financing for



the Project. The Sponsors are also considering a hybrid structure where certain milestone payments are made during the construction period for the Office Tower.

For the Transportation Tower (including bus terminal, parking garage, and Broward County Transportation Department offices), a different deal structure will be utilized if federal funds are used for the project.

A separate proposal will be requested for the Transportation Tower based on funding source restrictions in the Step Two solicitation. Notwithstanding the bifurcation of the solicitation for the Office and Transportation Towers, it is expected that one Developer will develop both sites at the same time.

#### D. Design Criteria Package (DCP)

The UDPA procured an architect-led team to develop a Design Criteria Package (DCP) and awarded the contract to Zyscovich Architects, Inc. (Zyscovich). The Zyscovich Team worked extensively with the various stakeholders of the JGCC to determine the needs of the Sponsors' organizations and the resultant performance requirements for the Project.

The DCP is the product of those efforts. It contains design, construction and some operating performance criteria for the JGCC, including space needs, material quality standards, systems performance standards, specialty uses, shared spaces, sustainability and resiliency requirements, and the security and technology requirements of the City and County. In the Step Two solicitation, additional operating and maintenance performance criteria will be issued.

The DCP does not mandate a specific architectural direction but does include architectural elements important to the Sponsors. All renderings and drawings contained in the DCP were created for illustrative purposes only.

Refer to [Current Projects \(broward.org\)](#) for Computer Animated View and Concept/DCP Animation.

#### E. Previous Action Taken

Refer to previous actions taken by the [Broward County Board of County Commissioners](#) and/or [Unified Direct Procurement Authority](#):

- May 7, 2019 Regular Meeting (Item No. 76);
- June 4, 2019 Regular Meeting (Item No. 74);
- June 11, 2019 Regular Meeting (Item No. 92);
- June 18, 2019 UDPA Meeting;
- October 15, 2019 UDPA 2019 Regular Meeting (Item No. 92);
- June 18, 2019 UDPA Meeting;
- October 15, 2019 UDPA Meeting;
- December 10, 2019 UDPA Meeting,
- October 20, 2020 UDPA Meeting,
- December 15, 2020 UDPA Meeting (Item No. 5)
- March 9, 2021 UPDA Meeting (Item No. --)

Additionally, the City of Fort Lauderdale City Commission (Commission) has taken action at Commission Meetings. Refer to [City of Fort Lauderdale website](#) for any Commission Meeting information.

#### F. Definitions

1. Developer: The responding legal entity for the Project who will execute contracts and is tasked with leading/coordinating the Project. Depending on deal structure, Developer may also serve as fiduciary for Sponsor during pre-development and construction phases.
2. Equity Member:
  - i. each entity with a direct equity interest in the Developer (whether as a member, partner, shareholder, joint venture member or otherwise); and
  - ii. each entity proposed to have a direct equity interest in the Developer.
3. Financially Responsible Party: a parent company, affiliate company or investment fund that provides a guarantee confirming financial support for the Developer or a member of the consortium.
4. General Contractor: the lead contractor (if a consortium, partnership or any other form of a joint venture, all such members) of the Developer responsible for Project's construction.
5. A/E Consultants: include
  - (i) Design Architect: the architect (if a consortium, partnership or any other form of a joint venture, all such members) of the Developer responsible for Project's design.
  - (ii) Architect of Record: the architect licensed by the State who has the contract responsibility for the Project, who designs and prepares the construction documents from which the building is constructed, and who signs the required documents.
  - (iii) Structural Engineer
  - (iv) Mechanical, Electrical, and Plumbing (MEP) Engineer
6. Lead Team Member: Equity Members, Financially Responsible Parties and Major Non-Equity Members.
7. Major Non-Equity Member: the following team members:
  - (i) the Architect of Record;
  - (ii) Design Architect (if separate firm)
  - (iii) General Contractor;
  - (iv) Lead Operation and Maintenance Provider; and
  - (v) "Major Non-Equity Member" means any of them.

## Part 2: Overview of Procurement Process

### A. Unified Direct Procurement Authority (UDPA)

The Sponsors have created a "Unified Direct Procurement Authority" or "UDPA". This entity is comprised of both the Broward County Board of County Commissioners and the City of Fort Lauderdale's City Commission. The UDPA will be fully responsible for evaluating proposals, and selecting the Developer team. This solicitation is a joint effort between each entity.

As part of the interlocal agreement (ILA) between the City and the County, the County is responsible for administering the solicitation process on behalf of the Sponsors. All requests for additional information, whether from the County and/or City will be requested from the County. Additionally, submittal location is a County location and through County's Periscope S2G (p/k/a). BidSync

B. Two-Step Procurement Process

1. Request for Qualifications (RFQ) (Step One) – Developer and Developer's Teams

Step One solicitation requests each Developer's qualifications, experience, and financial capability and capacity. Additionally, Developer's Team (for identified members) qualifications, experience, and financial capacity is requested.

Refer to **Part 3: Request for Qualifications (Step One) – Instructions**. At the conclusion of Step One, the UDPA will qualify and shortlist Developers for Step Two. The Sponsors' intent is to shortlist three Developers for the Step Two solicitation.

The Step One solicitation complies with requirements of Florida Statutes, 287.055, Consultants' Competitive Negotiation Act (CCNA). Sections addressing CCNA are marked accordingly.

2. Step Two: Request for Letters of Interest or Request for Proposals

The Step Two solicitation requires each shortlisted Developer's detailed design and financial proposals for the Project. Responses may be requested to include, but are not limited to, budget, schedule, 10% design schematics, preliminary concept designs including site plans, floor plans, sections, elevations, renderings, general business terms, innovative features, finance plans, and other information either required by the UDPA or that the Developer believes is material to the UDPA's selection for the Project. The Sponsors' intent is to enter into a pre-development agreement (PDA) with the selected Developer. Design work produced during this stage will become the intellectual property of the sponsors.

C. Cone of Silence

A Cone of Silence is currently in effect. A Cone of Silence means a period of time during which there is a prohibition on communication regarding a particular competitive solicitation [procurement], including Developer and Developers' representatives.

Section 1-266 of the Broward County Code of Ordinances ("Cone of Silence Ordinance") is applicable to this solicitation and extended to include the City. The Cone of Silence shall be in effect for ALL "Affected Persons" (as defined in the Broward County's Cone of Silence Ordinance) beginning upon the UDPA approval of this solicitation (Request for Qualifications).

The Cone of Silence is for all Broward County Board of County Commissioners (County), City of Fort Lauderdale Mayor and Commissioners (City), County and City Commissioners' staff, County Administrator, Deputy County Administrator, Assistant County Administrators, and their respective support staff, and any "Affected Person" (as defined in the Cone of Silence Ordinance), appointed by County to evaluate or recommend selection in this RFQ process, City Manager, Deputy City Manager, Assistant City Manager, and their respective support staff, and any "Affected Person" (as defined in the Cone of Silence Ordinance), appointed by City to evaluate or recommend selection in this RFQ process.

The Cone of Silence for this project is effective immediately upon the approval of this solicitation, with the further restriction that the members serving as the UDPA (County and City Commissioners) may not initiate contact with a Developer or Developer's representative while the Cone of Silence is in effect. However, nothing precludes a Developer or Developer's representative from initiating contact with the County's Director of Purchasing, or designee, or communicating with the person designated in the solicitation. The following are designated persons:

- A. Broward County's Construction Management Division Project Manager
- B. County and City Representatives (each as defined in ILA) [ILA – City Manager and Broward County Assistant County Administrator]

Additionally, Developers may communicate with a representative of the Office of Economic and Small Business Development ("OESBD") at any time regarding a solicitation or regarding participation of Small Business Enterprises, County Business Enterprises, or Disadvantaged Business Enterprises in a solicitation. OESBD may be contacted at (954) 357-6400.

The Cone of Silence shall remain in effect until the contract is awarded by the UDPA or when the UDPA takes other action which ends the solicitation. Refer to **Cone of Silence Requirement Certification**.

D. Notice

This solicitation is not a commitment or offer by the Sponsors to enter into an agreement with a Developer or to pay any costs incurred by or on behalf of a Developer in preparing a response to this solicitation or future solicitation for the Project. Each Developer assumes full responsibility for all costs incurred by and its team in responding to this solicitation. The Sponsors assumes no liability for any costs incurred.

Notwithstanding the above, the Sponsors are considering providing a stipend to the shortlisted Developers that are not awarded to comprehensive development contract, depending on the level of effort called for in the RFP. The stipend cost will be paid by the successful Developer. The stipend costs will be included in the Developer's financial proposals (Step Two). All design work submitted during the solicitation process becomes the intellectual property of the Sponsors.

The Project-related information provided by the Sponsors is for informational purposes only, and without any liability to the Sponsors. In preparing any response or proposal in relation to the Project, the Developer shall rely on its own assumptions, investigations, examinations, studies, interpretations, expertise, and opinions. Developer shall base its submission(s) on its own judgment, analysis, and opinion of the feasibility of the Project.

This Request for Qualifications (RFQ) does not commit the Sponsors to provide any additional studies or designs for the preparation of any future proposal, nor to procure or contract for any articles or services. Developer shall examine the solicitation(s) and the Project site carefully before submitting a solicitation response for the work contemplated. Developer shall investigate and identify the conditions to be encountered as to the character, quality, and quantities of work to be performed and materials to be furnished and as to the requirements in future solicitation steps.

The submission of any solicitation response is prima facie evidence that Developer has made an examination as described in this provision. The County does not guarantee the

details pertaining to geotechnical, environmental reports, and other existing conditions reports, as shown on any documents supplied by the Sponsors or referenced herein, to be more than a general indication of the materials at the site of the work, approximately at the locations indicated. Developer shall examine data, where available, and make its own interpretation of the investigations and other preliminary data, and shall base its proposal on its own opinion of the conditions likely to be encountered.

E. Conflict of Interest

The design-criteria professional, Zyscovich, Inc. (including all of its subconsultants), are precluded from performing any services, as a prime or subconsultant, on the Project's Development team, Public- Private Partnerships, or Design-Build teams, as applicable.

Refer to **DCP**, Book 1, 1.1, Purpose, for list of firms included on Consultant for Joint Government Center Campus.

Additionally, the following consultants have been engaged for this Project:

KPMG LLP for Public-Private Partnership (3) Consultant Services for Joint Government Center Campus project (JGCC)

PFM Financial Advisors LLC/Public Financial Management, Inc. for Broward County and City of Fort Lauderdale (Financial Advisory)

Public Resources Advisory Group (PRA) for Broward County (Financial Advisory)

The Sponsors reserve the right, in their sole discretion, to evaluate any additional potential conflicts of interest that could, from the Sponsors' perspective, present a conflict in the performance of services or work.

F. Agreements

1. Interim Agreement

Draft pre-development agreement (PDA) will be distributed during the Step Two solicitation. It is the intention of the Sponsors to enter into a PDA with the selected Developer and begin the project design process while simultaneously negotiating the final terms of the comprehensive development agreement.

2. Comprehensive Agreement(s):

The Sponsors hope to distribute a draft comprehensive development agreement during the Step Two solicitation.

**Part 3: Request for Qualifications (Step One) - Instructions for Developers**

The Sponsors are requesting that each Developer submit its and/or its Team Member's qualifications in accordance with instructions contained in this Step One solicitation, as part of the two-step procurement process.

**Each Developer is required to submit the following information. If not provided with submittal, the Developer must timely submit upon request of the County. Failure to provide all requested information timely may affect the review of a Developer's qualifications by the Sponsors. If submitting a response as a joint venture, Developer should respond to each criterion for each entity forming the joint venture.**

Developer has a continuing obligation to inform the Sponsors in writing of any material changes to the information it (or its team member) has previously submitted. The Sponsors reserve the right to request additional information from a Developer at any time.

A. Evaluation Criteria - Qualifications Submittal Requirements

1. Developer

Refer to **Evaluation Criteria – Developer (including Financial Qualifications)** for requested information for Developer.

2. Developer's Team (CCNA):

Refer to **Evaluation Criteria – Developer's Team for Architect/Engineer Consultants** for requested information for identified Team members for the Project.

3. Developer's General Contractor:

Refer to **Evaluation Criteria – Developer's Team for General Contractor** for requested information for identified Team members for the Project.

4. Financial Team (for Developer's financial team member and/or Developer):

Refer to **Evaluation Criteria – Developer's Team for Financing** for requested information for the Project.

5. Operation and Management Team (and/or Developer)

The Evaluation Criteria was issued in the Step Two solicitation for Operation and Management (O & M) Team. No request for qualification is requested in the Step One solicitation.

Note that due to the limited number of national companies in the O&M business, Developer teams are prohibited from entering into an exclusivity agreement with an O&M provider.

B. General Submittal Requirements

1. Questionnaire

Refer to **Questionnaire** and submit for each of the following Developer/Developer's Team Members:

- a. Developer
- b. Design Architect
- c. Architect of Record
- d. General Contractor
- e. Financial Team Member
- f. O & M Team Member

2. Standard Certifications

Developer is required to certify to the below requirements. Refer to the **Standard Certifications** and submit as instructed.

- a. Cone of Silence Requirement Certification;

- b. Drug Free Certification;
- c. Lobbyist Registration Requirement;
- d. Non-Collusion Certification;
- e. Public Entities Crimes Certification; and
- f. Scrutinized Companies List Requirement
- g. City of Fort Lauderdale Non-Discrimination Certification

### 3. Submittal Bond Requirement

Refer to **Submittal Bond, Performance and Payment Guaranties, and Qualifications of Surety Requirements (Two-Step)** for submittal requirements and forms. The Submittal Bond's conditions is that if: 1.) Developer is qualified by Sponsors in its Step One process; and 2.) Developer submits a timely response for the Step Two solicitation pursuant to the Request for Proposals; then the Submittal Bond is void.

If the Developer fails to provide a timely response, the Developer and Surety, jointly and severally, shall be liable to the Sponsors for the full sum herein stated which shall be due and payable to the Sponsors immediately upon demand, in good and lawful money of the United States of America; as liquidated damages for failure thereof of said Developer; otherwise the bond shall remain in full force and effect.

If shortlisted, the Developer must submit an original Submittal Bond in the amount \$500,000 within three (3) business days of being designated as a shortlisted team. Failure to provide Submittal Bond in time will affect Developer's shortlisting.

### 4. Additional Requirements

Due to the use of federal funding for the Transportation Tower project, the Step Two solicitation will be truncated to ensure that all federal regulations are complied with during the development of this tower. There will be a Buy America requirement and Disadvantage Business Enterprise goals that will be applied to pre-construction activities and construction activities. Developer will be required to submit a Contractor's Assurance Statement in response to the Step Two solicitation. Additional agreement requirements for the DBE program will be included in the agreement terms.

The funding of the Office Tower will not include State or Federal funding and will comply with local requirements. There will be County Business Enterprise goals for pre-construction activities, construction activities and operations and maintenance activities. There will also be other local requirements including a Living Wage requirement, a Domestic Partnership requirement, Prevailing Wages, and Construction Apprenticeship Program requirements.

Developer will be required to submit a Contractor's Assurance statement in the Step Two solicitation. Additional agreement requirements for the CBE program will be included in the agreement terms.

Due to the limited number of CBE firms in Broward County that are eligible to participate as Developer team members, Developer teams are prohibited from entering into an exclusivity agreement with a CBE firm for the Office Tower portion of the Project.

### 5. Litigation History



Refer to **Litigation History Form** and submit for each of the following Developer/Developer's Team Members:

- a. Developer
- b. Design Architect
- c. Architect of Record
- d. General Contractor
- e. Financial Team Member
- f. O & M Team Member

The above referenced Team Members are required to disclose to the Sponsors all "material" cases filed, pending, or resolved during the last three (3) years prior to the solicitation response due date, whether such cases were brought by or against the Team Member, any parent or subsidiary of the Team Member, or any predecessor organization.

Additionally, each Developer is required to disclose all "material" cases filed, pending, or resolved against any principal of Team Member, regardless of whether the principal was associated with Developer Team Member at the time of the "material" cases against the principal, during the last three (3) years prior to the solicitation response.

A case is considered to be "material" if it relates, in whole or in part, to any of the following:

- a. A similar type of work that the Team Member is seeking to perform for the Sponsors under the current solicitation;
- b. An allegation of fraud, negligence, error or omissions, or malpractice against the Developer Team Member or any of its principals or agents who would be performing work under the current solicitation;
- c. A Team Member's default, termination, suspension, failure to perform, or improper performance in connection with any contract;
- d. The financial condition of the Developer Team Member, including any bankruptcy petition (voluntary and involuntary) or receivership; or
- e. A criminal proceeding or hearing concerning business-related offenses in which the Vendor or its principals (including officers) were/are defendants.

For each material case the Team Member is required to provide all information identified in the **Litigation History Form**. Additionally, the Developer Team Member shall provide a copy of any judgment or settlement of any material case during the last three (3) years prior to the solicitation response. Redactions of any confidential portions of the settlement agreement are only permitted upon a certification by Developer that all redactions are required under the express terms of a pre-existing confidentiality agreement or provision.

If the Team Member is a joint venture, the information provided should encompass the joint venture and each of the entities forming the joint venture.

A Team Member is required to disclose any and all cases(s) that exist between either Sponsor and any of the Developer's subcontractors/subconsultants proposed to work on this Project during the last five (5) years prior to the solicitation response.

The Sponsors will consider a Team Member's litigation history information in its review and determination of shortlisting.

Failure to disclose any material case, including all requested information in connection with each such case, as well as failure to disclose the Team Member's litigation history against either Sponsor, may affect Developer's evaluation.

6. Authority to Conduct Business in Florida

- a. A Developer must have the authority to transact business in the State of Florida and be in good standing with the Florida Secretary of State. For further information, contact the Florida Department of State, Division of Corporations.
- b. The Sponsors will review the Developer's business status based on the information provided in response to this solicitation.
- c. It is the Developer's responsibility to comply with all state and local business requirements.
- d. Developer should list its active Florida Department of State Division of Corporations Document Number (or Registration No. for fictitious names) in the Questionnaire, Question No. 10.
- e. If a Developer is an out-of-state or foreign corporation or partnership, the Developer must obtain the authority to transact business in the State of Florida or show evidence of application for the authority to transact business in the State of Florida, prior to execution of any agreements with Sponsors.
- f. A Developer that is not in good standing with the Florida Secretary of State at the time of a submission to this solicitation may affect Developer's evaluation by the UDPA.
- g. If successful in obtaining a contract award under this two-step procurement, the Developer must remain in good standing throughout the contractual period of performance.

7. Insurance Requirements

The **Insurance Requirement Form** reflects the insurance requirements that may be deemed necessary for this project, under a P3 financing model. It is not necessary for the Developer to have this level of insurance in effect at the time of Step One solicitation submittal, but it is necessary to submit certificates indicating that the Developer currently carries the insurance or to submit a letter from the carrier indicating it can provide such insurance coverages.

Broward County's Risk Management Division, in coordination with City of Fort Lauderdale's Risk Management Division, reserves the right to review and revise any insurance requirements, prior or during the Project, including the operations and maintenance period. Review and revision of insurance requirements includes, and is not limited to, deductibles, limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the project funding and/or scope of work/specifications affecting the applicability of coverage. Other entities requirements, including FEC, FTA, etc. are not reflected and is the Developer's responsibility.

8. Federal Transit Administration (FTA)/US Department of Transportation (USDOT) Funding Supplement

Refer to the **FTA/USDOT Funding Supplement**. This supplement includes FTA and USDOT requirements for the Transportation Tower project portion. Required forms and acknowledgements will be required in the Step Two solicitation, including but not limited to Buy America, Disadvantaged Business Enterprise (DBE) requirements, Davis-Bacon Wage Rate Requirements, etc.

9. Public Art

Public Art and Design Program, Section 1-88, Broward County Code of Ordinances, applies to this project. It is the intent of the County to functionally integrate art, when applicable, into capital projects and integrate artists' design concepts into this improvement project. The Developer may be required to collaborate with the artist(s) on design development within the scope of this request. Artist(s) shall be selected by through an independent process by Sponsor(s).

10. Tie Breaker Criteria

If two (2) or more Developers are tied for **short listing** and it is necessary to break the tie, the tie may be broken by a re-vote of the vendors tied for shortlisting or by other determination by the UDPA.

C. General Information - Request for Qualifications (Step One)

1. Projected Solicitation Schedule

Refer to Periscope SG2/BidSync for information.

2. Pre-Submittal Meeting and Site Visits

Refer to Periscope SG2/BidSync for information.

3. Notification of Advertisement, Addenda, Questions and Answers, Posting of Solicitation Results and Recommendations

Refer to Periscope SG2/BidSync for information.

4. Question and Answers

All questions or clarification inquiries must be submitted through Periscope S2G by the date and time referenced in the solicitation (including any addenda). The County will respond to all questions via Periscope S2G.Addenda

5. Addenda

The County reserves the right to amend this solicitation prior to the due date. Any change(s) to this solicitation will be conveyed **through the written addenda process**. Only written addenda will be binding. If a "must" addendum is issued, Developer must follow instructions and submit required information, forms, or acknowledge addendum, as instructed therein. It is the responsibility of all potential Developers to monitor the solicitation for any changing information, prior to submitting their response.

6. Confidential Material/ Public Records and Exemptions

Broward County is a public agency subject to Chapter 119, Florida Statutes. Upon receipt, all submittals become "public records" and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes. Submittals may be posted on the County and City's public website or included in a public records request response unless there is a declaration of "confidentiality" pursuant to the public records law and in accordance with the procedures in this section.

Any confidential material(s) the Developer/Developer Team Member asserts is exempt from public disclosure under Florida Statutes must be labeled as "Confidential", and marked with the specific statute and subsection asserting exemption from Public Records.

To submit confidential material, three hardcopies must be submitted in a sealed envelope, labeled with the solicitation number, title, date and the time of solicitation opening to:

Broward County Purchasing Division  
115 South Andrews Avenue, Room 211  
Fort Lauderdale, FL 33301

Material will not be treated as confidential if the Developer/Developer Team Member does not cite the applicable Florida Statute(s) allowing the document to be treated as confidential.

Any materials that the Developer/Developer Team Member claims to be confidential and exempt from public records must be marked and separated from the submittal. If the Developer/Developer Team Member does not comply with these instructions, the Vendor's claim for confidentiality will be deemed as waived.

Submitting confidential material may impact full discussion of your submittal by the Selection or Evaluation Committee because the Committee will be unable to discuss the details contained in the documents cloaked as confidential at the publicly noticed Committee meeting.

#### 7. Copyrighted Materials

Copyrighted material is not exempt from the Public Records Law, Chapter 119, Florida Statutes. Submission of copyrighted material in response to any solicitation will constitute a license and permission for the County to make copies (including electronic copies) as reasonably necessary for the use by Sponsors staff and agents, as well as to make the materials available for inspection or production pursuant to Public Records Law, Chapter 119, Florida Statutes.

#### 8. Conflict of Interest

Refer to Part 2, Section D regarding Conflict of Interest.

#### 9. Review of Responses

The UDPA is responsible for shortlisting the most qualified Developer(s). The process for this procurement may proceed in the following manner:

- a. Upon receipt of Developers' submissions, the Purchasing Division submits the responses to agency staff/consultants for summarization. Agency staff will prepare a report and present to the UDPA, including a matrix of a summary of responses submitted by the Developers.
- b. County staff will also identify any incomplete responses and request additional information, as applicable.
- c. The UDPA will review each Developer/Developer's Team Members and determine if Developer's Teams are qualified.
- d. The UDPA will then create a short list of the most qualified Developers (and their Teams).
- e. At any time prior to award, the UDPA may find that a Developer (or a Team Member) is not qualified to receive a particular award. The UDPA may consider the following factors, without limitation: debarment or removal from the authorized vendors list or a final decree; declaration or order by a court or administrative hearing officer or tribunal of competent jurisdiction that the Developer (or a Team Member) has breached or failed to perform a contract; claims history of the Developer (or a Team Member); performance history on a Sponsors' contract(s); an unresolved concern or any other cause such as those listed in the Broward County Procurement Code or City of Fort Lauderdale Procurement Ordinance, or Florida law for evaluating/determining the responsibility of a Developer (or a Team Member).

#### 10. Waiver of Irregularities

The UDPA reserves the right to waive minor technicalities or irregularities in response to this solicitation as UDPA determines to be in the best interest of the Project.

#### 11. Rejection of Responses

The UDPA may recommend rejecting all submittals as in the best interests of the Sponsors.

#### 12. Submission of Sealed Submittals

The Sponsors do not require any personal information (as defined under Section 501.171, Florida Statutes), such as social security numbers, driver license numbers, passport, military or bank account or credit card numbers, or any personal pin numbers, in order to submit a response. DO NOT INCLUDE any personal information data in any document submitted in response to this solicitation. If any personal information data is part of a submittal, this information must be redacted prior to submitting a response to this solicitation.

Developer MUST submit its solicitation response electronically and MUST confirm its submittal in order for the Sponsors to receive a valid response through Periscope S2G. It is the Developer's sole responsibility to assure its response is submitted and received through Periscope S2G by the date and time specified in the solicitation.

The Sponsors will not consider solicitation responses received by other means. Developers are encouraged to submit their responses in advance of the due date and time specified in the solicitation. In the event that the Developer is having difficulty submitting the solicitation response through Bid Sync, immediately notify the Purchasing Agent and then contact BidSync for technical assistance.

Developer must view, submit, and/or accept each of the documents in Periscope S2G (through County's account). Web-fillable forms can be filled out and submitted through BidSync.

After all documents are viewed, submitted, and/or accepted in Periscope S2G, the Developer must upload additional information requested by the solicitation (i.e. Evaluation Criteria and Financials Statements) in the Item Response Form in BidSync, under line one.

Developer should upload responses to Evaluation Criteria Microsoft Word, Excel format, or PDF format (that is not scanned/ locked).

**If the Developer is declaring any material confidential and exempt from Public Records, refer to Confidential Material/ Public Records and Exemptions for instructions on submitting confidential material.**

After all files are uploaded, Developer must submit and CONFIRM its offer (by entering password) for offer to be received through BidSync.

Developer is also required to deliver twenty-four (24) hardcopies of response to below address. Hardcopies shall be bound, and cover shall include clearly identify the Developer's name, solicitation name and number. The sponsors will use also use electronic file of Periscope S2G response. This hardcopy submittal is separate from any confidential material (submitted in accordance with item no. C.12).

Broward County Purchasing Division  
115 South Andrews Avenue, Room 200  
Fort Lauderdale, FL 33301

DRAFT

**Evaluation Criteria – Developer (including Financial Qualifications)  
Developer for Joint Government Center Campus (JGCC)**

Refer to General Information - Request for Qualifications (Step One), Section C. 6., **Confidential Material/ Public Records and Exemptions** for instructions if claiming confidentiality on any submitted documents. Additionally, refer to Section C.13, **Submission of Sealed Submittals**.

**1. Project Approach:**

- A. Provide a narrative outlining the Developer's understanding of the Project throughout each anticipated phase of the Project.
- B. Provide a description of key issues or risks that the Project could face and how the Developer would mitigate them.
- C. Describe Developer's management approach to each phase of the Project, including the participation and management approach of the Lead Equity Member(s). Include language discussing:
  - i. Developer(s) approach to leading the consortium through project administration (including changes in ownership/leadership), execution and operations;
  - ii. Coordinating of the efforts of various technical teams;
  - iii. Day-to-day project management and reporting;
  - iv. Schedule and cost management;
  - v. Document management;
  - vi. Contract management;
  - vii. Change management;
  - viii. Construction management;
  - ix. Design management;
  - x. Quality Control/Assurance;
  - xi. Risk management;
  - xii. Operations; and
  - xiii. Lifecycle Maintenance.

**2. Project Financial Approach:**

As described in the solicitation, the Sponsors are contemplating a number of potential financing structures for the Project, including an availability payment structure and a structure whereby the City and County will provide the financing for an integrated Developer and Developer's Team which performs design, build, operations, and maintenance services for the Project.

The Sponsors are also considering a hybrid structure whereby the transaction is structured with availability payments with the Sponsors contributing substantive milestone payments during construction. As the Sponsors structure this transaction, it is seeking to optimize the weighted average cost of capital and the risk transfer associated with long-term performance of the Project.



Based on these preliminary (and non-binding) expectations, describe the Developer's deal/financial approach for the following:

- A. Developer's understanding of the contemplated financial structures for the Project, and the benefits and considerations associated with each;
- B. The role of private lenders and equity providers as a source of capital for the Project, and how the Sponsors might optimize its cost of financing while achieving long-term risk transfer for the Project;
- C. Developer's proposed approach to each of the following scenarios for financing and funding the Project, based on the assumption the Sponsors contribute:
  - i. no milestone payments;
  - ii. approximately 50% of the Project as milestone payments; or
  - iii. 100% of the Project cost as milestone payments
- D. The extent to which the Developer's teaming structure or organization may adjust assuming the Sponsors contribute:
  - i. no milestone payments;
  - ii. approximately 50% of the Project as milestone payments; or
  - iii. 100% of the Project cost as milestone payments
- E. Developer's concepts for innovation in structure and its financial approach to the different project stages (designing, building, opening and maintaining) of the Project, as well as deal/financial structural enhancements the Sponsors should consider.

### 3. Financial Statements:

The requested information must be provided for each Developer and for each of the Developer's Equity Members, each Major Non-Equity Member, and each Financially Responsible Party.

Developer may choose to designate in lieu of itself an alternative Financially Responsible Party in RFQ response that will provide a guarantee covering the performance and financial obligations of the Project.

The Sponsors may, in their discretion based upon the review of the information provided, or the Developer's form of organization, specify that an acceptable Financially Responsible Party is required as a condition precedent prior to shortlisting.

- A. Provide Financial Statements (as defined below) for Developer, each Equity Member, each Major Non-Equity Member and each Financially Responsible Party for the three (3) most recently completed fiscal years. Note: If an entity is a consortium, partnership or any other form of a joint venture, provide the financial statements for all entity's members. If an entity is a fund manager(s) of an investment fund, provide the financial

statements for the fund manager, the limited partnership(s) constituting the investment fund, and the general partner(s) of the investment fund.

- B. The required information for each separate entity shall be packaged separately with a cover sheet identifying the name of the entity and its role in Developer's Team (i.e., Equity Member, Financially Responsible Party, Lead Architect, etc.).
- C. Financial Statements include the following:
- i. Opinion Letter (Auditor's Report) for audited financial statements
  - ii. Balance Sheet
  - iii. Income Statement
  - iv. Statement of Changes in Cash Flow

Footnotes audited by a certified public accountant in accordance with generally accepted accounting principles (GAAP) or International Financial Reporting Standards (IFRS) for audited financial statement.

- D. In addition, Financial Statements must meet the following requirements:
- i. GAAP/IFRS: Financial Statements must be prepared in accordance with U.S. Generally Accepted Accounting Principles (U.S. GAAP) or International Financial Reporting Standards (IFRS). If financial statements are prepared in accordance with principles other than U.S. GAAP or IFRS, a letter must be provided from a certified public accountant discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP or IFRS. A restatement of the financial information in accordance with U.S. GAAP or IFRS is not required.
  - ii. U.S. Dollars: Financial statements should be provided in U.S. dollars if available. If financial statements are not available in U.S. dollars, Respondent must include summaries of the Income Statements, Statement of Changes in Cash Flow and Balance Sheets for the applicable time periods converted to U.S. dollars by a certified public accountant.
  - iii. Audited: Financial Statements must be audited by an independent party qualified to render audit opinions (e.g. a Certified Public Accountant). If audited financials are not available for an entity, the Response shall include unaudited financial statements for such entity, certified as true, correct and accurate by the chief executive, chief financial officer or treasurer (or equivalent position or role) of the entity.
  - iv. English: Financial Statement information must be prepared in English. If audited financial statements are prepared in a language other than English, then translations of all financial statement information must be accompanied with the original financial statement information.
  - v. Newly Formed/Wholly-Owned Subsidiary Entity: If the Respondent, Equity Member, Major Non-Equity Member or Financially Responsible Party is a newly formed entity or a wholly-owned subsidiary entity and does not have independent

financial statements, financial statements for the equity owners of such entity shall be provided (and the entity shall expressly state that the entity is a newly formed entity or a wholly-owned subsidiary entity, as applicable, and does not have independent financial statements). The entity that provides the financial statements shall be a Financially Responsible Party.

- vi. SEC Filings: If any entity for which financial information is submitted hereby files reports with the Securities and Exchange Commission, then such financial statements shall be provided through a copy of their annual report on Form 10K. For all subsequent quarters, provide a copy of any report filed on Form 10Q or Form 8-K which has been filed since the latest filed 10K.

- E. If Financial Statements of a Financially Responsible Party are provided to demonstrate financial capability of the Developer, any Equity Member, Major Non-Equity Member, Lead Contractor, or Developer team, an appropriate letter from the applicable Financially Responsible Party must be provided confirming that it will guarantee all the obligations of the Respondent, any Equity Member, Major Non-Equity Member, Lead Contractor, or Developer Team as applicable, with respect to the Project. This letter must be signed by the chief executive, chief financial officer, treasurer (or equivalent position or role) of the Financially Responsible Party.

#### 4. Additional Financial Information – Material Changes in Financial Condition

- A. Provide information regarding any material changes (as described in this section) in financial condition for the past three years and any material changes in financial condition anticipated for the next reporting period for the Developer, Equity Member, Major Non-Equity Member, and Financially Responsible Party. If a Developer proposes to rely on a single Financially Responsible Party for the obligations of the Developer/Developer's Team, Developer must provide this information for the Financially Responsible Party.

If no material changes have occurred and none are pending, provide a letter so certifying from the applicable chief executive officer, chief financial officer or treasurer (or equivalent position or role).

Illustrative List of Representative Materials Changes: The following list is intended to provide guidance on the types of material changes in financial condition that must be reported. This list is provided for illustrative purposes only and should not be interpreted as being exhaustive.

- o An event of default or bankruptcy involving the affected entity, or the parent corporation of the affected entity;
- o A change in tangible net worth of 10% of shareholder equity;
- o A sale, merger or acquisition exceeding 10% of the value of shareholder equity prior to the sale, merger or acquisition which in any way involves the affected entity or parent corporation of the affected entity;
- o A downgrade in credit rating for the affected entity or parent corporation of the affected entity;

- Non-payment of any debt service;
- Inability to meet material conditions of loan or debt covenants by the affected entity or parent corporation of the affected entity which has required or will require a waiver or modification of agreed financial ratios, coverage factors or other loan stipulations, or additional credit support from shareholders or other third parties;
- In the current and three most recent completed fiscal years, the affected entity or the parent corporation of the affected entity either: (i) incurs a net operating loss; (ii) sustains charges exceeding 5% of the then shareholder equity due to claims, changes in accounting, write-offs or business restructuring; or (iii) involves the disposition of assets exceeding 10% of the then shareholder equity; and
- Other events known to the affected entity which represents a material change in financial condition over the past three years or may be pending for the next reporting period.

In instances where a material change has occurred, or is anticipated, the affected entity shall provide a statement describing each material change in detail, a discussion of how the material change is anticipated to affect organizational and financial capacity, a discussion of how the material change affects the ability to remain engaged in this procurement and submit a responsive Proposal, and a discussion of measures, if any, that would be undertaken to insulate the Project from the material change.

**B. Off-Balance Sheet Liabilities:**

A letter from the chief executive officer, chief financial officer or treasurer (or equivalent position or role) of the entity or the certified public accountant for each entity for which financial information is submitted, (a) identifying all off balance sheet liabilities in excess of \$10 million dollars in the aggregate, or (b) certifying that no such off balance sheet liabilities of \$10 million in the aggregate exist.

**C. Credit Ratings**

The Developer shall provide a list identifying (1) each entity for which financial statements are provided, (2) a statement indicating whether each entity has a credit rating, (3) and, if so, providing a copy of its current credit rating.

**5. Past/Current Performance:**

Provide a description (not to exceed one (1) page per project) of relevant experience (past and current) held by the Developer and other Equity Members (for entities that invest equity through one or more funds or vehicles under common or similar management or ownership, the experience of all such funds and vehicles may be included) on projects where such Equity Member acted in a role as a concessionaire/private partner/equity member in connection with such project that reached financial close. These roles should incorporate the utilization of financing to drive Project performance. Complete **Project Financial Experience** Form.

Relevant experience includes large public-private partnership projects, with an emphasis on social infrastructure public-private partnerships, that involved the Developer and other equity team members sharing substantial risks associated with design, construction, financing, operation and maintenance.

Relevant experience should be from the last seven years in closing financing of at least three design-build-finance, design-build-finance-maintain, or design-build-finance-operate-maintain public-private partnership projects.

Developers should emphasize projects in excess of \$300 million in total project size. Include up to eight (8) projects in the aggregate for all Equity Members, with at least one from each member.

For each project, include a project description, describing the role of the Equity Member on such project, relevance of the project and the entity's experience to the Project and why that experience will provide value to the Sponsors. Include information on the other equity investors (including percentage interests), lenders, equity raised, financing raised and finance structure.

For the Developer only, list all completed and active projects that Developer has managed within the past five years. Also list all projects currently being pursued.

Include evidence of projects with proven experience of having addressed site management issues within an urban location including maintenance of traffic (MOT), addressing temporary traffic control by establishing a work zone, providing related transportation management and temporary traffic control on existing streets and off-way.

## 6. Bonding Capacity:

- A. The Developer or General Contractor is capable of obtaining:
- i. a payment bond or bonds in the aggregate amount of \$750 million from an Eligible Surety, and
  - ii. a performance bond or bonds in the aggregate amount of \$750 million from an Eligible Surety.

An "Eligible Surety" is a bonding surety licensed in the State, listed on the U.S. Department of the Treasury's "Listing and Approved Sureties" rated "A" or higher by at least two nationally recognized rating agencies (Fitch Ratings, Moody's Investor Service and Standard & Poor's Ratings Group) or with a Financial Stability Rating of A or A- and a Financial Size Category of XI or higher (A-, XI).

- B. Submit form of a letter from a surety/insurance company indicating that such capacity exists for the Developer. Letters indicating "unlimited" bonding capability are not acceptable.

Note - the specific amount of security that it will required for the Project, which will be based on the Florida Statutes (construction amount for the Project) and/or deal structure. The Sponsors shall delineate such requirements, which will be consistent with applicable law, in the Step Two solicitation.

## Evaluation Criteria – Developer’s Team for Architect/Engineer (A/E) Consultants Developer for Joint Government Center Campus

Proposals should include a completed General Services Administration (GSA) Standard Form (SF). Specific sections are identified for completion, though the entire SF 330 should be completed (i.e. including Part 2). The SF 330 is available at: <https://www.gsa.gov/Forms/TrackForm/32994>

### 1. Ability of Professional Personnel: (Sections C, D and E of the SF 330)

Describe the qualifications and relevant experience of the Project Manager and all key staff and sub-consultants that are intended to be assigned to this project.

- A. Provide the qualifications, relevant experience and resumes for the A/E Consultants and of all sub-consultants' key staff to be assigned to this project. Identify and provide the resumes for Principal-in-Charge, Project Manager, Programmer, Workplace Interior Designer, and BIM Manager for the prime and sub-consultants.
- B. Provide the specific involvement of A/E Consultants key staff and sub-consultants in projects noted in item 3 (Past Performance) below. Identify their role and responsibilities on similar government projects.
- C. Provide an Organizational Chart for the members of the proposed Project Team.
- D. Provide evidence of Florida Professional licensure for individuals of the (A/E) Consultants with copies of any requisite authorizations to provide services in the State of Florida.

#### Joint Venture submittal requirements

If applicable, A Joint Venture should submit satisfactory proof with its submittal that the Joint Venture, or at least one of the Joint Venture partners, shall be required to possess one of the above licenses (including any specified State registration) at the time of submittal. If not submitted with its response, the Joint Venture must submit such proof within three business days of County's written request. A Joint Venture may be deemed non-responsive for failure to comply within stated timeframes.

If a Joint Venture is recommended for contract award, it must either 1) submit satisfactory proof that the Joint Venture holds the specified license (if applicable) or that a licensed contractor has qualified the Joint Venture, or 2) provide satisfactory proof it applied for the specified license (if applicable) or the licensee has applied to qualify the Joint Venture, within three business days of County's written request. The license or qualification, as applicable, in the name of the Joint Venture, must be effective prior to contract execution.

- E. Provide evidence of knowledge and experience with Florida Building Code, Federal and State funded projects and any other related state, local municipal and jurisdictional agencies.

- F. Provide evidence of program, design and construction of Class A high-rise commercial or government building projects accommodating over 1500 occupants and minimum 500,000 SF area. Identify team members, their role and responsibilities on similar government projects. At a minimum, provide evidence of one (1) completed project.
- G. Provide evidence of team knowledge and experience with life-safety occupancy and egress studies in complex mixed-use buildings (including horizontal exit arrangements), and of, and of rational analysis and smoke evacuation design in high-rise buildings.
- H. Provide evidence of team knowledge and experience with IT/Low Voltage System technologies and Physical and Electronic Security systems in complex government building projects. Also include experience with Threat and Risk Assessment (TARA) for site, program and design considerations from a security perspective
- I. Provide evidence of team knowledge and experience with the design of special public assembly areas such as chamber areas, courtroom, etc. In addition, the responder team must include an acoustical consultant.
- J. Provide evidence of experience in Design-Build or Integrated Project Delivery (IPD).

**2. Specialized Experience, Knowledge and Capabilities (LEED and BIM Experience and Knowledge): (Sections E and F of the SF 56)**

- A. Leadership in Energy and Environmental Design (LEED) Experience and Knowledge – the JGCC Design Criteria Package identifies design criteria to meet LEED Silver rating (United States Green Building Council Leadership in Energy and Environmental Design). However, project goal is to attain LEED Gold Certification, at a minimum. The design intent is also to develop a Net-Zero Energy building complex inclusive of WELL Building features and criteria. LEED Platinum certification is anticipated if Net Zero Energy design is implemented.

Describe LEED experience and knowledge, list current and past projects (including certification level) and credential of your LEED accredited professionals on the Project Team. Identify how the team will address energy modeling methodologies in relation to site, massing analysis and building design in order to meet LEED energy modeling and commissioning requirements.

- B. Provide evidence of experience working with LEED Version 4.1 or latest available version for Building Design and Construction (BD+C). Provide evidence of experience working with independent Commissioning Agents.
- C. Provide evidence of knowledge and experience addressing resiliency in the design of similar buildings and landscapes in scope and scale and located in the South Florida region to respond to natural and man-made disasters and disturbances—as well as long-term changes resulting from climate change including high winds and tropical storms, sea level rise; flooding and stormwater management; tidal flooding; storm surge; future rainfall and groundwater elevations for finished floor elevations; etc.



- D. The design intent is to develop a Net-Zero Energy building complex. Describe relevant experience and include knowledge of Net-Zero performance standards, energy strategies and applications for all building components.
- E. Describe relevant experience and include knowledge of WELL Building principles and methodologies.
- F. Provide evidence of projects with mechanical systems that provide for enhanced air exchange and air compartmentalization within tenant spaces in the facility.
- G. BIM Capabilities and Experience: Describe your firm's specific experience in utilization of Building Information Modeling (BIM) software during all phases of design and construction including visualization, scheduling, clash detection, interference management and COBie software. Describe the team's experience in generative and parametric programmatic modelling. Identify your office's predominating BIM software platform and supporting software.
- H. Describe your team's overall project goals and objectives for Virtual Design & Construction (VDC) deployment on the project. Describe how VDC and model use will assist the project team.
- I. Describe how models and model data will be controlled, reviewed and managed.

**3. Past Performance: (Section F of the SF 333)**

Describe A/E Consultants experience on projects of similar nature, scope and duration, along with evidence of satisfactory completion, both on time and within budget, for the past 10 years.

- A. The selected professional consulting Architect-led team shall possess extensive experience in planning, design and construction administration of cutting-edge next-generation civic and government facilities or other similar complex facilities in the United States, including but not limited to needs assessment, forecasting, programming, planning, design and project management.
- B. Describe A/E Consultants' experience on projects of similar nature, scope and duration, along with evidence of satisfactory completion, both on time and within budget, for the past ten years. Describe firm's experience with high-rise building projects that are critical, strategic high-performance buildings or buildings located within an urban district and of similar nature, scope and duration along with evidence of satisfactory completion, both on time and within budget. Identify which projects were completed on a phased-basis.
- C. Provide evidence that the firm achieved outstanding solutions and outcome in new Government facility projects and projects of a similar nature.
- D. Provide evidence of completed projects incorporating parking garage facility and parking management technology.
- E. Provide evidence of completed projects integrating multi-modal mass transit options.

- F. Provide evidence of experience in Design-Build or integrated project delivery.

A/E Consultants should provide references for a minimum of three projects listed in A-F to show evidence of qualifications and previous experience. Refer to **Vendor Reference Verification Form** and submit as instructed. Only provide references for non-Broward County Board of County Commissioners (County) and non-City of Fort Lauderdale (City) contracts. For County and City contracts, the Unified Direct Procurement Authority (UDPA) will review performance evaluations in its database for vendors with previous or current contracts with the Sponsors. The Sponsors will consider references and performance evaluations in the evaluation of A/E Consultants' past performance.

#### 4. Project Approach: (Section H of the SF 330)

Describe the A/E Consultants' approach to the project. Include how the prime Vendor will use sub-consultants in the project.

- A. Describe the overall team's approach to strategically planning this urban development project, taking into consideration occupancy and project typology. Describe your team's design philosophies as it relates to critical regionalism, integrating local context with the proposed building typologies.
- B. Describe your team's approach with integrating facility needs assessments, programming, and the design criteria package in the architectural, interior design and construction for this Project.
- C. Describe a quality-assurance, quality control system within the organization and as it relates to sub-consultants and contractor in order to ensure high-quality design solutions.
- D. Describe how the team will demonstrate a commitment to innovative design excellence, best value practices, quality and resiliency, sustainable environmental stewardship in order to support carbon-neutral building goals.
- E. Describe the team's approach and past successes as a participant in projects using a design-build or public-private partnership.
- F. Describe the team's approach to stakeholder engagement and public outreach, communications and technology to convey civic public benefits of the project to the broader community, should this become the responsibility of the developer.

#### 5. Workload of the Firm:

For the A/E Consultants only, list all completed and active projects that A/E Consultants has managed within the past five years. In addition, list all projected projects that Vendor will be working on in the near future. Projected projects will be defined as a project(s) that A/E Consultants is awarded a contract but the Notice to Proceed has not been issued. Identify any projects that Vendor worked on concurrently. Describe A/E Consultants' approach in managing these projects. Were there or will there be any challenges for any of the listed projects? If so, describe how A/E Consultants dealt or will deal with the projects' challenges.

**6. Willingness to Meet Time and Budget Requirements:**

For A/E Consultants, explain approach to meeting time and budget requirements for project of similar scope and scale. In Step 2, once budget and schedule are established, Developer Team shall confirm commitment to meet project schedule and budget requirements.

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**Evaluation Criteria – Developer’s Team for General Contractor  
Developer for Joint Government Center Campus (JGCC)**

**1. Ability of Professional Personnel**

- A. Provide the qualifications, relevant experience and resumes for the Developer’s General Contractor (GC) and all key staff to be assigned to this Project. Identify roles of: Project Executive/Director, Pre-Construction Manager, Project Manager and General Superintendent. Submit up to a two-page resume for the Project Manager including qualifications, licenses and/or certifications, and relevant experience for the project.

Project Manager is a full-time employee with at least ten (10) years of experience in administration and supervision of similar projects, including the management and direction of subcontractors and their work.

Provide evidence that addresses GC’s safety record and demonstrates the GC’s safety culture within its organization.

- B. Provide the specific involvement of GC’s key staff on projects noted in item 3 (Past Performance) below. Specifically identify their role and responsibilities on projects including Class A high-rise commercial office or government building, multi-level parking structures, multimodal transportation facilities, green sustainable facilities, and other multi-disciplined projects of similar scope and size.
- C. Provide an Organizational Chart for the members of the proposed project team and provide the office location responsible for this project. Provide evidence of knowledge and experience with the Florida Building Code and its accessibility requirements and any other related state, local municipal and jurisdictional agencies.

**2. Licensing**

Submit satisfactory proof of licensing with submittal. General Contractor must be State of Florida Certified General Contractor. If the GC does not currently possess state licenses (issued by the Florida Department of Business and Professional Regulation), for applicable scope of work (Certified General Contractor) confirm the GC’s commitment to apply and obtain state requirements by time of execution of agreement (or prior to any services required under the agreement).

Joint Venture requirements:

If applicable, a Joint Venture as a GC should submit satisfactory proof with its submittal that the Joint Venture, or at least one of the Joint Venture partners, possess one of the above licenses (including any specified State registration) at the time of submittal.

If the GC Joint Venture is recommended for contract award (as part of Developer’s Team), it must either 1) submit satisfactory proof that the Joint Venture holds the specified license or that a licensed contractor has qualified the Joint Venture, or 2) provide satisfactory proof it applied for the specified license or the licensee has applied to qualify the Joint Venture, within three business days of Sponsor’s written request. The license or qualification, as applicable, in the name of the Joint Venture, must be effective prior to contract execution.

Additional submittal requirements (for construction services only):

A Joint Venture proposer should submit satisfactory proof with its submittal that the Joint Venture complies with all applicable legal requirements, including but not limited to, Section 489.119, Florida Statutes and Rule 61G4-15.0022, Florida Administrative Code, at time of submittal. If not submitted with its response, the Joint Venture must submit such proof within three business days of Sponsor's written request.

**3. Specialized Experience, Knowledge and Capabilities (LEED and BIM Experience and Knowledge):**

- A. The Project shall be designed under Leadership in Energy and Environmental Design (LEED) Version 4.1 or latest available version for Building Design and Construction (BD+C). All applicable LEED principles and guidelines to achieve minimum LEED Silver certification will be taken into consideration. The design intent is also to develop a Net-Zero Energy building complex inclusive of WELL Building features and criteria. LEED Platinum certification is anticipated if Net Zero Energy design is implemented.

The design intent is also to develop a Net-Zero Energy building complex inclusive of WELL Building features and criteria. LEED Platinum certification is anticipated if Net Zero Energy design is implemented.

Provide evidence of experience completing LEED projects accredited under "LEED v4.1 for Building Design and Construction" or latest version for projects of similar scope per Section 3B (below.) List current and past projects (including certification level) and credentials of your LEED accredited professionals on the project team. Describe GC's experience with the WELL Building principles and process. Provide evidence of experience working with Independent Commissioning Agents.

- B. Describe how the team will help identify and address potential sustainability strategies during design and construction of a multi-storied, Class A high-rise commercial office or government building with parking garage to achieve LEED goals.
- C. Describe GC's specific experience in utilization of Building Information Modeling (BIM) software during all phases of pre-construction and construction including scheduling, coordination, interference management as well as development and output of Construction Operations Building Information Exchange (COBie) deliverables. Identify BIM Manager and key BIM personnel to be assigned to this project. Identify GC's office's primary BIM software platform and supporting software. Explain GC's approach to meet the requirements of **BIM and Electronic Media Submittal Requirements**.
- D. Describe your team's overall project goals and objectives for Virtual Design & Construction (VDC) deployment on the project. Describe how VDC and model use will assist the Project's team.

**4. Past Performance**

- A. Describe GC's experience on projects of a comparable nature, scope, complexity and duration, along with evidence of satisfactory completion, both on time and within budget, for the past ten (10) years. Describe GC's experience with high-rise building

projects that are critical, strategic high-performance buildings or buildings located within an urban district and of similar nature, scope and duration along with evidence of satisfactory completion, both on time and within budget. Identify which projects were completed on a phased basis, overcoming restrictive urban site constraints.

- B. Provide evidence of experience in Design-Build or Integrated Project Delivery (IPD).
- C. Provide evidence of completed projects integrating multimodal transportation options.
- D. Vendor should provide references for a minimum of three (3) projects listed in 3a, 3b, and 3C (above) to show evidence of qualifications and previous experience. Refer to Vendor **Reference Verification Form** and submit as instructed. Only provide references for non-Sponsor contracts. For Sponsors' contracts, the UPDA will review performance evaluations in its database for vendors with previous or current contracts. The Sponsors will consider references and performance evaluations in the evaluation of GC's past performance.

For each Reference Verification Form, attach the following additional information for each project:

1. Building Area Size (gross square feet)
2. Cost Control and Management
3. LEED certification level
4. Extent of BIM services
5. Master Permitting process and Issues
6. Scheduling, Phasing and Sequencing
7. Company role and responsibility for the project
8. List GC's project manager and other key personnel involved on the referenced project.

## 5. Project Approach

- A. Describe the overall GC's team approach to strategically planning and constructing this urban development project. Describe the GC's project approach to deliver pre-construction services for this specialized building type. Include topics such as cost estimating, value engineering, scheduling, best practices, Building Information Modeling (BIM), constructability review, permitting and bidding.
- B. Describe the GC's project approach to deliver construction services. Include topics such as coordinating and constructing multi-level facilities, including specialized systems, parking garages, in urban settings, and assisting in the accreditation processes, commissioning and transitioning from existing to new facilities.
- C. Describe a quality-assurance, quality control system within the organization and as it relates to sub-contractors and GC in order to ensure high-quality design solutions.
- D. Describe the GC's team's approach to stakeholder engagement and public outreach, communications and technology to convey civic public benefits of the Project to the broader community, should this become the responsibility of the developer.

- E. Describe the team's approach and past successes as a participant in projects using a design-build, IPD or public-private partnership.

**6. Workload of the Firm**

For the Prime Vendor only, list all completed and active projects that Vendor has managed within the past five years. In addition, list all projected projects that Vendor will be working on. Projected projects will be defined as a project(s) that Vendor is awarded a contract but the Notice to Proceed has not been issued. Identify any projects that Vendor worked on concurrently. Describe Vendor's approach in managing these projects. Were there or will there be any challenges for any of the listed projects? If so, describe how Vendor dealt or will deal with the projects' challenges.

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## Developer for Joint Government Center Campus

<b>Vendor Questionnaire</b>	<b>[Fill in Firm Name Here]</b>
1. Legal business name:	
2. Doing Business As/ Fictitious Name (if applicable):	
3. Federal Employer I.D. no. (FEIN):	
4. Dun and Bradstreet No.:	
5. Website address (if applicable):	
6. Principal place of business address:	
7. Office location responsible for this project:	
8. Telephone no. Fax no.	
9. Type of business (check appropriate box):  <input type="checkbox"/> Corporation (specify the state of Incorporation) <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Limited Liability Company (LLC) <input type="checkbox"/> Limited Partnership <input type="checkbox"/> General Partnership (State and County Filed In) <input checked="" type="checkbox"/> Other - Specify	9. Type of business (check appropriate box):  <input checked="" type="checkbox"/> Corporation (specify the state of Incorporation) <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Limited Liability Company (LLC) <input checked="" type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> General Partnership (State and County Filed In) <input type="checkbox"/> Other - Specify
10. List Florida Department of State, Division of Corporations document number (or registration number if fictitious name):  <a href="https://dos.myflorida.com/sunbiz/">https://dos.myflorida.com/sunbiz/</a>	
11. List name and title of each principal, owner, officer, and major shareholder:	11. List name and title of each principal, owner, officer, and major shareholder:
12. Authorized Contact(S) For Your Firm: <b>Your Firm:</b> Name: Title: E-mail: Telephone No.:  Name: Title: E-mail: Telephone No.:	12. Authorized Contact(S) For Your Firm: <b>Your Firm:</b> Name: Title: E-mail: Telephone No.:  Name: Title: E-mail: Telephone No.:

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**Developer for Joint Government Center Campus**

<b>Vendor Questionnaire</b>	<b>[Fill in Firm Name Here]</b>
<p>13. Has your firm, its principals, officers or predecessor organization(s) been debarred or suspended by any government entity within the last three years? If yes, specify details in an attached written response.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>13. Has your firm, its principals, officers or predecessor organization(s) been debarred or suspended by any government entity within the last three years? If yes, specify details in an attached written response.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>14. Has your firm, its principals, officers or predecessor organization(s) ever been debarred or suspended by any government entity? If yes, specify details in an attached written response, including the reinstatement date, if granted.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>14. Has your firm, its principals, officers or predecessor organization(s) ever been debarred or suspended by any government entity? If yes, specify details in an attached written response, including the reinstatement date, if granted.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>15. Has your firm ever failed to complete any services and/or delivery of products during the last three (3) years? If yes, specify details in an attached written response.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>15. Has your firm ever failed to complete any services and/or delivery of products during the last three (3) years? If yes, specify details in an attached written response.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>16. Is your firm or any of its principals or officers currently principals or officers of another organization? If yes, specify details in an attached written response.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>16. Is your firm or any of its principals or officers currently principals or officers of another organization? If yes, specify details in an attached written response.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>17. Have any voluntary or involuntary bankruptcy petitions been filed by or against your firm, its parent or subsidiaries or predecessor organizations during the last three years? If yes, specify details in an attached written response.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>17. Have any voluntary or involuntary bankruptcy petitions been filed by or against your firm, its parent or subsidiaries or predecessor organizations during the last three years? If yes, specify details in an attached written response.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

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## Developer for Joint Government Center Campus

Vendor Questionnaire	[Fill in Firm Name Here]
<p>18. Has your firm's surety ever intervened to assist in the completion of a contract or have Performance and/or Payment Bond claims been made to your firm or its predecessor's sureties during the last three years? If yes, specify details in an attached written response, including contact information for owner and surety.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>18. Has your firm's surety ever intervened to assist in the completion of a contract or have Performance and/or Payment Bond claims been made to your firm or its predecessor's sureties during the last three years? If yes, specify details in an attached written response, including contact information for owner and surety.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>19. Has your firm ever failed to complete any work awarded to you, services and/or delivery of products during the last three (3) years? If yes, specify details in an attached written response.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>19. Has your firm ever failed to complete any work awarded to you, services and/or delivery of products during the last three (3) years? If yes, specify details in an attached written response.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>20. Has your firm ever been terminated from a contract within the last three years? If yes, specify details in an attached written response.</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>20. Has your firm ever been terminated from a contract within the last three years? If yes, specify details in an attached written response.</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

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### STANDARD CERTIFICATIONS

Developer should complete and acknowledge the standard certifications and submit with the solicitation response. If not submitted with solicitation response, it must be submitted within three business days of Sponsors' request. Failure to timely submit may affect Developer's evaluation.

**If a response requires additional information, the Developer should upload a written detailed response with submittal; each response should be numbered to match the question number.** The completed and attached responses will become part of the procurement record. It is imperative that the person completing the Developer Standard Certification Form be knowledgeable about the proposing Developer's business and operations.

#### **Cone of Silence Requirement Certification:**

The Cone of Silence Ordinance, Section 1-266, Broward County Code of Ordinances prohibits certain communications among Developers, Board of County Commissioners, County staff, City Commissioners, City staff, and Unified Direct Procurement Authority (UDPA) members.

Identify on a separate sheet any violations of this Ordinance by any members of the responding firm or its joint ventures.

After the application of the Cone of Silence, inquiries regarding this solicitation should be directed to the County's Director of Purchasing or designee (or those listed in the solicitation). The Cone of Silence terminates when the Unified Direct Procurement Authority (UDPA) takes action which ends the solicitation.

The Developer hereby certifies that: (check each box)

- The Developer has read Cone of Silence Ordinance, Section 1-266, Broward County Code of Ordinances; and
- The Cone of Silence is currently in effect for this solicitation for all Broward County Board of County Commissioners (County), City of Fort Lauderdale Mayor and Commissioners (City), County and City Commissioners' staff, County Administrator, Deputy County Administrator, Assistant County Administrators, and their respective support staff or any "Affected Person" (as defined in the Cone of Silence Ordinance), appointed by County to evaluate or recommend selection in this RFQ process, City Manager, Deputy City Manager, Assistant City Manager, and their respective support staff, or any "Affected Person" (as defined in the Cone of Silence Ordinance), appointed by City to evaluate or recommend selection in this RFQ process, with the further restriction that the members serving as the UDPA (County and City Commissioners), may not initiate contact with the Developer or Developer's representative while the Cone of Silence is in effect.
- The Developer agrees to comply with the requirements of the Cone of Silence Ordinance.

#### **Drug-Free Workplace Requirements Certification:**

Awards of all competitive solicitations may only be made to firms certifying the establishment of a drug free workplace program. The program must consist of:

1. Publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the offeror's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
2. Establishing a continuing drug-free awareness program to inform its employees about:
  - a. The dangers of drug abuse in the workplace;
  - b. The offeror's policy of maintaining a drug-free workplace;
  - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
  - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Giving all employees engaged in performance of the contract a copy of the statement required by

subparagraph 1;

4. Notifying all employees, in writing, of the statement required by subparagraph 1, that as a condition of employment on a covered contract, the employee shall:
  - a. Abide by the terms of the statement; and
  - b. Notify the employer in writing of the employee's conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or of any state, for a violation occurring in the workplace NO later than five days after such conviction.
5. Notifying Sponsors' in writing within 10 calendar days after receiving notice under subdivision 4.b above, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
6. Within 30 calendar days after receiving notice under subparagraph 4 of a conviction, taking one of the following actions with respect to an employee who is convicted of a drug abuse violation occurring in the workplace:
  - a. Taking appropriate personnel action against such employee, up to and including termination; or
  - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency; and
7. Making a good faith effort to maintain a drug-free workplace program through implementation of subparagraphs 1 through 6.

The Developer hereby certifies that: (check box)

- The Developer certifies that it has established a drug free workplace program in accordance with the above requirements.

**Non-Collusion Certification:**

Developer shall disclose, to their best knowledge, any Sponsors' officer or employee, or any relative of any such officer or employee as defined in Section 112.313(1)(c), Florida Statutes, who is an officer or director of, or has a material interest in, the Developer's business, who is in a position to influence this procurement. Any Sponsors' officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement.

The Developer hereby certifies that: (select one)

- The Developer certifies that this offer is made independently and free from collusion; or
- The Developer is disclosing names of officers or employees who have a material interest in this procurement and is in a position to influence this procurement. Developer must include a list of name(s), and relationship(s) with its submittal.

**Public Entities Crimes Certification:**

In accordance with Public Entity Crimes, Section 287.133, Florida Statutes, a person or affiliate placed on the convicted Developer list following a conviction for a public entity crime may not submit on a contract: to provide any goods or services; for construction or repair of a public building or public work; for leases of real property to a public entity; and may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for Category Two for a period of 36 months following the date of being placed on the convicted Developer list.

The Developer hereby certifies that: (check box)

- The Developer certifies that no person or affiliates of the Developer are currently on the convicted Developer list and/or hasnot been found to commit a public entity crime, as described in the statutes.

**Scrutinized Companies List Certification:**

Any company, principals, or owners on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List is prohibited from submitting a response to a solicitation for goods or services in an amount equal to or greater than \$1 million.

The Developer hereby certifies that: (check each box)

- The Developer, owners, or principals are aware of the requirements of Sections 287.135, 215.473, and 215.4275, Florida Statutes, regarding Companies on the Scrutinized Companies with Activities in Sudan List the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List; and
- The Developer, owners, or principals, are eligible to participate in this solicitation and are not listed on either the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List; and
- If awarded the Contract, the Developer, owners, or principals will immediately notify the Sponsors' in writing if any of its principals are placed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List.

I hereby certify the information provided in the Standard Certifications.

<input type="text"/>	<input type="text"/>	<input type="text"/>
*AUTHORIZED SIGNATURE/NAME	TITLE	DATE

Developer Name:

\* I certify that I am authorized to sign this solicitation response on behalf of the Developer as indicated in Certificate as to Corporate Principal, Designation letter by Director/Corporate Officer, or other business authorization to bind on behalf of the Developer. As the Developer's authorized representative, I attest that any and all statements, oral, written, or otherwise, made in support of the Developer's response, are accurate, true and correct. I also acknowledge that inaccurate, untruthful, or incorrect statements made in support of the Developer's response may be used as a basis for rejection, rescission of the award, or termination of the contract by the UDPA and may also serve as the basis for debarment of Developer pursuant to of the Broward County Procurement Code and City of Fort Lauderdale Ordinance. I certify that the Developer's response is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a response for the same items/services, and is in all respects fair and without collusion or fraud. I also certify that the Developer agrees to abide by all terms and conditions of this solicitation, acknowledge and accept all of the solicitation pages as well as any special instructions sheet(s).

**Appendix – Project Financial Experience Form**

PROJECT 1 of [ ]	
Project Name	
Project Address	
Owner/Developer	
City and State	
Owner's Contact Name, Email, and Phone	
<b>Other Key Personnel from your Overall Team who worked on the Referenced Project</b>	
Key Individual	Role on Project
If not already listed, name of the Architect	
PROJECT DATA	
Project Gross Square Footage	
Total Project Cost	
Type of Project	
Project Delivery Method	
If team provided operations and maintenance on Project, provide annual value and nature of the services provided	
Construction Type	
Occupancy Classification	
Level of LEED Certification	
Number of Stories	
Design Start Date	
Construction Documents Completion Date	
Construction Start Date, Substantial Completion Date, or Current Status	
Was the project completed on time? If not, why?	
Client/User Initial Construction Budget	
Final Construction Cost	
Was the project completed within budget? If not, why?	
<b>INSTRUCTIONS: At least one reference must be provided for each Project. Proposed Team members for this RFQ cannot be used as references for the above Project.</b>	
Name	
Current Address of Reference	
Current Phone Number of Reference	
Reference's Employer	
Reference's Title/Position	
Role of the Named Reference in the Project	
Email Address of Reference	
<b>Address the following issues on the above referenced project</b>	
Provide a brief summary of primary responsibilities for the referenced project	
Describe how the referenced project was similar in scale and complexity to the applicable Project scope.	

### **Vendor Reference Verification Form**

Vendor is required to submit completed Reference Verification Forms for previous projects referenced in its submittal. Vendor should provide the **Vendor Reference Verification Form** to its reference organization/firm to complete and return to the Vendor's attention. Vendor should submit the completed Vendor Reference Form with its response by the solicitation's deadline. The County will verify references provided as part of the review process. Provide a minimum of five (5) non-Broward County Board of County Commissioners' references.

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**Vendor Reference Verification Form**

Broward County Solicitation No. and Title:

Reference for:

Organization/Firm Name providing reference:

Contact Name:

Title:

Reference date:

Contact Email:

Contact Phone:

Name of Referenced Project:

Contract No.

Date Services Provided:

Project Amount:

to

Vendor's role in Project:  Prime Vendor  Subconsultant/Subcontractor

Would you use this vendor again?  Yes  No If No, please specify in Additional Comments (below).

**Description of services provided by Vendor:**

Please rate your experience with the referenced Vendor:	Needs Improvement	Satisfactory	Excellent	Not Applicable
1. Vendor's Quality of Service				
a. Responsive	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Accuracy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Deliverables	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Vendor's Organization:				
a. Staff expertise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Professionalism	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Turnover	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Timeliness of:				
a. Project	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Deliverables	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Project completed within budget	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Cooperation with:				
a. Your Firm	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Subcontractor(s)/Subconsultant(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Regulatory Agency(ies)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Additional Comments:** (provide on additional sheet if needed)

\*\*\*THIS SECTION FOR COUNTY USE ONLY\*\*\*

Verified via:  EMAIL  VERBAL Verified by: \_\_\_\_\_ Division: \_\_\_\_\_ Date: \_\_\_\_\_



**INSURANCE REQUIREMENTS**

Project: Joint Government Center Campus Project (Developer and/or Team)

TYPE OF INSURANCE	ADDL INSD	SUBR WVD	MINIMUM LIABILITY LIMITS		
				Each Occurrence	Aggregate
<b>GENERAL LIABILITY - Broad form</b> <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Premises-Operations <input checked="" type="checkbox"/> XCU Explosion/Collapse/Underground <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Broad Form Property Damage <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <b>Per Occurrence or Claims-Made:</b> <input checked="" type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <b>Gen'l Aggregate Limit Applies per:</b> <input type="checkbox"/> Project <input type="checkbox"/> Policy <input type="checkbox"/> Loc. <input type="checkbox"/> Other _____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$2,000,000	\$4,000,000
			Personal Injury		
			Products & Completed Operations		
<b>AUTO LIABILITY</b> <input checked="" type="checkbox"/> Comprehensive Form <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Any Auto, If applicable <i>Note: May be waived if no driving will be done in performance of services/project.</i>			Bodily Injury (each person)		
			Bodily Injury (each accident)		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$1,000,000	
<input checked="" type="checkbox"/> <b>EXCESS LIABILITY / UMBRELLA</b> <b>Per Occurrence or Claims-Made:</b> <input type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <i>Note: May be used to supplement minimum liability coverage requirements.</i>			Each Occurrence:	\$10,000,000	\$10,000,000
<input checked="" type="checkbox"/> <b>WORKER'S COMPENSATION</b>	N/A	<input checked="" type="checkbox"/>	Each Accident	STATUTORY LIMITS	
<input checked="" type="checkbox"/> <b>EMPLOYER'S LIABILITY</b>			Each Accident	\$1,000,000	
<input checked="" type="checkbox"/> <b>PROFESSIONAL LIABILITY (ERRORS &amp; OMISSIONS)</b> All engineering, surveying and design professionals.	N/A		Each Claim:	\$5,000,000	
			*Maximum Deductible:	\$100,000	
<input checked="" type="checkbox"/> <b>CONTRACTORS ENVIRONMENTAL LIABILITY</b>			Each Claim:	\$5,000,000	
			*Maximum Deductible:	\$10,000	
<input checked="" type="checkbox"/> <b>BUILDER'S RISK</b> Note: Coverage must be "All Risk", Completed Value.			*Maximum Deductible (Wind and/or Flood):	Not to exceed 5% of completed value	Completed Value
			*Maximum Deductible:	\$10,000	

*Note: Property is adjacent to a Railroad; therefore, Railroad Protective Liability insurance may be required by the Railroad Owner.*

"Broward County" and City of Fort Lauderdale shall be listed as Certificate Holder and endorsed as an additional insured for liability, except as to Professional Liability. County shall be provided 30 days written notice of cancellation, 10 days' notice of cancellation for non-payment. Contractors insurance shall provide primary coverage and shall not require contribution from the County, self-insurance or otherwise. Any self-insured retention (SIR) higher than the amount permitted in this Agreement must be declared to and approved by County and may require proof of financial ability to meet losses. Contractor is responsible for all coverage deductibles unless otherwise specified in the agreement.

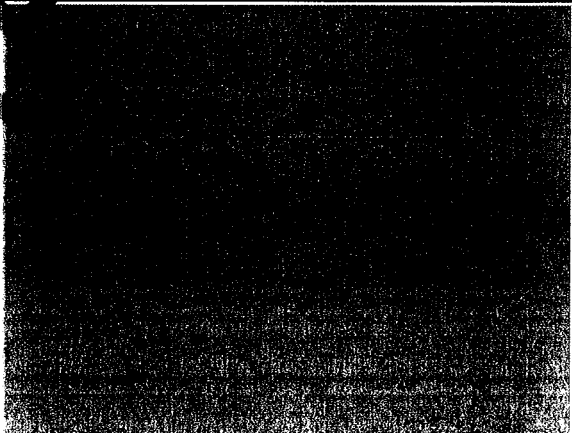
**CERTIFICATE HOLDER:**  
  
 Broward County and City of Fort Lauderdale  
 115 South Andrews Avenue  
 Fort Lauderdale, Florida 33301

\_\_\_\_\_  
 Risk Management Division



**Federal Transit Administration (FTA)  
United States Department of Transportation (USDOT)  
Funding Supplement**

**DRAFT**



**Broward County  
TRANSPORTATION  
DEPARTMENT –  
TRANSIT DIVISION**

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Solicitation No. \_\_\_\_\_

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## AUTHORITY

This solicitation, purchase order, or Contract (all of which shall be referred to hereinafter as the "Contract" or "underlying Contract") is funded in part by funds received from the Federal Transit Administration (FTA) of the United States Department of Transportation. The award of this Contract is subject to the requirements of financial assistance agreements between Broward County, a political subdivision of the state of Florida (hereinafter referred to as "County"), and the United States Department of Transportation (USDOT). This Contract is subject to the conditions herein and which are set forth in greater detail in 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"; Federal Transit Administration (FTA) Circular 4220.1F, "Third Party Contracting Guidance," as may be amended from time to time; and other laws and regulations governing procurement activities for Broward County programs and projects. Conditions imposed by the FTA are also described in Appendix A to FTA's "Best Practices Procurement Manual," available at:

<https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual> References to the Code of Federal Regulations (CFR) website are available at: <http://www.ecfr.gov>.

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## DEFINITIONS

As used in this document, "Board" means the Board of County Commissioners of Broward County, Florida. "Contract" means any binding agreement, regardless of how called, for the procurement or disposal of supplies, services, or construction awarded by any officer or agency of County. "Contractor" means the person, firm, or corporation or business entity that enters into a Contract with County and includes all partners and all joint ventures of such person with whom County has contracted and who is responsible for the acceptable performance of the work and for the payment of all legal debts pertaining to the work. "Subcontractor" means a person, firm or corporation or combination thereof having a direct Contract with Contractor for all or any portion of the work or who furnishes material worked into a special design according to the plans and specifications for such work, but not those who merely furnish equipment or materials required by the plans and specifications.

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## FURTHER INFORMATION

If you have any questions or need clarification as to the applicability of any term, condition, or requirement as contained in Part A, General Conditions – Applicable to All Contracts, and Part B, Additional Requirements – Conditional, of this Contract, contact The Safety and Compliance Section, Broward County Transit Division, at 954-357- 8300.

**PART A: GENERAL CONDITIONS – APPLICABLE TO ALL CONTRACTS**

**1. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES.**

- a) County and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to County, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the underlying Contract.
- b) Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to its provisions.

**2. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.**

- a) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA-assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
- b) Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a Contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on Contractor, to the extent the Federal Government deems appropriate.
- c) Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the Subcontractor who will be subject to the provisions.

**3. FEDERAL CHANGES.**

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in the Master Agreement between County and the FTA, as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to so comply shall constitute a material breach of this Contract. Contractor agrees to include this language in each Subcontract financed in whole or in part with Federal assistance provided by FTA.

**4. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS.**

The provisions contained in this FTA/USDOT Funding Supplement include, in part, standard terms and conditions required by the U.S. Department of Transportation (USDOT), whether or not expressly set forth in the Contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, and as may be amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Broward County requests which would cause the County to be in violation of the FTA terms and conditions. Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA.

**5. ACCESS TO RECORDS AND REPORTS**

- a) Contractor agrees to provide County, the FTA Administrator, the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17, to provide the FTA Administrator or his authorized representatives including any Project Management Oversight ("PMO") Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- b) In the event that County, which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a), enters into a Contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, Contractor shall make available records related to the Contract to County, the Secretary of Transportation and the Comptroller General or any authorized officer, agent, or employee of any of them for the purposes of conducting an audit and inspection.
- c) Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

- d) Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until County, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

**6. CIVIL RIGHTS REQUIREMENTS**

- a) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

b) Equal Employment Opportunity

- (1) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq. (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

- (2) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.



(3) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

(4) Equal Employment Opportunity Requirements for Construction Activities: In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Contractor agrees to comply, and assures the compliance of each subcontractor, with:

(a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq.,

(b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity."

c) Contractor also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance provided by FTA, modified only if necessary to identify the affected parties.

#### **7. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

a) This Contractor is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Financial Assistance Programs.

b) The Contractor agrees that it shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of Contract, which may result in the termination of the Contract or such other remedy as County may deem appropriate. Each subcontract the Contractor signs with a Subcontractor must include the assurance in this paragraph.

c) The Disadvantaged Business Enterprise (DBE) regulation (49 CFR Part 26) establishes requirements for setting an overall goal for DBE participation in federally-funded contracts. This rule requires recipients of federal funds to use a methodology based on demonstrable data of relevant market conditions and is

designed to reach a goal County would expect DBEs to achieve in the absence of discrimination.

- d) Since this project is funded in part using federal funds, it is the policy of the Broward County Office of Economic and Small Business Development to ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, are afforded maximum opportunity to receive and participate as Subcontractors and suppliers on all Contracts awarded by County; therefore, good-faith efforts must be made to provide DBEs an opportunity to participate in the project in accordance with the DBE Program Plan.
- e) County fully supports the Federal government's Disadvantaged Business Enterprises Program.
  - i. The overall goal setting provisions of 49 CFR Part 26 require that the County, as a recipient of federal funds, set overall goals based on demonstrable evidence of the relative availability of ready, willing and able DBEs in the areas from which the County obtains contractors. In this regard, the County has established DBE participation goals, and said goals have been established based primarily on the availability of certified DBE firms that are ready, willing, and able to participate in the project.

The Office of Economic and Small Business Development will review all forms to determine bidders'/proposers' responsibility:

1. Letter of Intent to Utilize a DBE Subcontractor/Subconsultant – Exhibit 1.
2. DBE Good Faith Effort Evaluation Report only required if goals were not met – Exhibit 2.

These forms are included herein as Exhibits 1 and 2. **All forms may be downloaded from the Small Business Development Division website.** <http://www.broward.org/ECONDEV/SMALLBUSINESS/Pages/compliance.aspx>

**IF DBE PARTICIPATION HAS BEEN TARGETED THROUGH RACE-NEUTRAL MEANS (NO DBE NUMERICAL PARTICIPATION GOAL), EACH BIDDER/RESPONDER IS STRONGLY ENCOURAGED TO SUBMIT THE FORMS SET FORTH ABOVE PRIOR TO AWARD OF YOUR BID, OFFER, OR PROPOSAL.**

**Letter of Intent (Exhibit 1):** Letter of Intent must be executed by the Bidder and countersigned by all DBE Subcontractors.

Each DBE listed on the Letter of Intent must be certified prior to bid opening as DBE in order to be eligible for award.

For further information regarding DBE submittals, contact the Office of Economic and Small Business Development Division at (954) 357-6400.

**Application for Evaluation of Good Faith Effort (Exhibit 2):** Bidder that submits an **Application for Evaluation of Good Faith Effort**, Exhibit 2, must be able to demonstrate through proper documentation its reasonable good-faith efforts to meet the goal, if Bidder wishes to remain eligible for award.

Reasonable efforts as determined by the Office of Economic and Small Business Development to meet the DBE Participation goals may include, but are not limited to:

- Attendance at any scheduled pre-bid meeting concerning DBE participation.
- Timely advertisement in general circulation media, trade association publications, and minority-focus media.
- Timely notification of minority business or Contractor groups and associations of solicitation for specific sub-bids.
- Proof of written solicitations to DBE firms.
- Efforts to select portions of the work proposed to be performed by DBE in order to increase the likelihood of achieving the stated goal.
- Efforts to provide DBEs that need assistance in obtaining bonding or insurance required by the Bidder or County.
- A report submitted by the Bidder to the Small Business Development Division prior to award explaining the Bidder's efforts to obtain DBE participation. The report shall include the following:
  - A detailed statement of the timely efforts made to negotiate with DBEs including, at a minimum, the names, addresses and telephone numbers of DBEs who were invited to bid or otherwise contacted;
  - A description of the information provided to DBE regarding the plans and specifications for portions of the work to be performed; and a detailed statement of the reasons why additional Contracts with DBE, if needed to meet the stated goal, were not reached.
  - A detailed statement of the efforts made to select portions of the work proposed to be performed by DBE in order to increase the likelihood of achieving the stated goal.
  - As to each DBE that bids on a subcontract but declared "unqualified" by the Bidder, a detailed statement of the reasons for the Bidder's conclusion.
  - As to each DBE invited to bid, but the Bidder considers to be unavailable because of a lack of bid response or submission of a bid which was not the low responsible bid, an Unavailability of DBE Certificate signed by the Bidder.

For the purposes of goal achievement, the County requires the successful Bidder to use firms certified as DBEs in accordance with Federal Guidelines.

The Florida Department of Transportation (FDOT) maintains a directory of certified DBE firms that are eligible to participate on DBE contracts within the state of Florida.

A listing of these DBEs can be viewed at the following Unified Certification Program (UCP) Website:

<http://www3b.dot.state.fl.us/equalopportunityofficebusinessdirectory/>

**IF DBE PARTICIPATION HAS BEEN TARGETED THROUGH RACE-NEUTRAL MEANS, THE FORMS SET FORTH ABOVE NEED NOT BE SUBMITTED.**

For purposes of this section, the term, "DBE Race-Neutral Participation," means the Office of Economic and Small Business Development Division (OESBD) has determined that because federal funds are available for this project, DBE participation has been targeted through the use of RACE-NEUTRAL means. Race-Neutral does not mean that no efforts are made to facilitate DBE participation. Race-Neutral DBE participation occurs when a DBE wins a contract or subcontract that was not assigned numerical DBE goals, or when the DBE status was not considered in making the award. Some-examples of Race-Neutral means can be found in 49 CFR 26.51.

Although there are no numerical goals assigned to DBE race-neutral participation projects, bidders/responders are highly encouraged to utilize the services of DBE-certified firms as much as possible.

- f) Contractor agrees that throughout the term of this Contract, the services as provided by the firms listed on Exhibit 1 (Letter of Intent) shall remain at least at the percentage levels set forth herein.
- g) Contractor shall pay its subcontractors and suppliers within ten (10) days for a construction Contract or within thirty (30) days for a non-construction Contract following receipt of payment from the County for such subcontracted work or supplies. Contractor agrees that if it withholds an amount as retainage from its Subcontractors or suppliers, that it will release such retainage and pay same within ten (10) days for a construction Contract or within thirty (30) days for a non-construction Contract following receipt of payment of retained amounts from County, or within ten (10) days for a construction Contract or within thirty (30) days for a non-construction Contract after the Subcontractor has satisfactorily completed its work, whichever shall first occur.
- h) Contractor agrees that nonpayment of a Subcontractor or supplier shall be a material breach of this Contract and that County may, at its option, increase allowable retainage or withhold progress payments unless and until Contractor demonstrates timely payments of sums due to such Subcontractors or suppliers. Contractor agrees that the presence of a "pay when paid" provision in a subcontract shall not preclude County's inquiry into allegations of nonpayment. The foregoing remedies shall not be employed when Contractor demonstrates that failure to pay results from a bona fide dispute with its Subcontractor or supplier.

- i) Contractor agrees to complete and submit a monthly report to the Office of Economic and Small Business Development, with copy to the using department project manager, on DBE participation, which should contain a record of payments made to its DBE Subcontractors during the current reporting period. Contractor shall utilize the form attached as **Exhibit 3 – Monthly DBE Utilization Report**.
- j) Contractor agrees to complete and submit a Final Monthly DBE Participation Report containing the total amount paid to its DBE Subcontractors. This report must be submitted with the Contractor's request for final payment and release of retainage, if applicable. Contractor shall utilize the form attached as **Exhibit 4- Final Monthly DBE Utilization Report**.
- k) Contractor shall certify to County the amounts paid to each DBE involved in the project as either a joint venture partner or pursuant to a subcontract with the disadvantaged businesses. All such certifications shall be signed by both Contractor and DBEs. One of the main purposes of these provisions is to make sure that DBEs actually perform work committed to them at Contract award.
- l) Contractor agrees that failure to provide appropriate certification as to the payment of DBEs and participants in the Contract and provide certification in a form acceptable to County that disadvantaged business participation requirements of the Contract have been met, notwithstanding any other provisions of this Contract, shall be cause for County to withhold further payments under the Contract until such time as such certification is received and accepted by County, and shall not entitle Contractor to terminate the Contract, to cease work to be performed, or to be entitled to any damages or extensions of time, whatsoever, due to such withholding of payment or delay in work associated thereto.
- m) If Contractor fails to comply with the requirements herein, County shall have the right to exercise any right or remedy provided in the Contract or under applicable law, with all such rights and remedies being cumulative.
- n) Contractor shall not terminate a DBE subcontract for convenience and then perform the work with its own forces or its affiliate without the County's prior written consent. Contractor shall inform County immediately when a DBE firm is not able to perform or if Contractor believes the DBE firm should be replaced for any other reason, so that the Office of Economic and Small Business Development may review and verify the good faith efforts of Contractor to substitute the DBE firm with another DBE firm. Whenever a DBE firm is terminated for any reason, including cause, Contractor shall make good faith efforts to find another DBE firm to perform the work required of the original DBE firm.

#### **8. CONTRACT COMPLIANCE MONITORING.**

- a) Compliance monitoring is conducted to determine if Contractor and/or Subcontractors are complying with the requirements of the DBE Program. Failure of the Contractor to comply with this provision may result in the County imposing

penalties or sanctions pursuant to the provisions of the DBE regulation, 49 CFR Part 26.

- b) Contract compliance will encompass monitoring for Contract dollar achievement and DBE Contractor utilization. The Office of Economic and Small Business Development staff will have the authority to audit and monitor all Contracts and Contract-related documents related to County projects. The requirements of the DBE Program are applicable to all Contractors, general Contractors, and Subcontractors.
- c) Contractor shall be responsible for ensuring proper documentation with regard to its utilization and payment of DBE Subcontractors.

#### **9. ENERGY CONSERVATION**

Contractor agrees to comply with mandatory standards and policies related to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. Contractor further agrees to include this provision in each subcontract financed in whole or in part with federal assistance provided by FTA.

#### **10. TERMINATION.**

This Contract may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach. This Contract may also be terminated for convenience by the Board. Termination for convenience by the Board shall be effective on the termination date stated in written notice provided by County, which termination date shall be not less than thirty (30) days after the date of such written notice. This Contract may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances, in the event the County Administrator determines that termination is necessary to protect the public health or safety. The parties agree that if County erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

This Contract may be terminated for cause for reasons including, but not limited to, Contractor's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Contract. This Contract may also be terminated by the Board:

Upon the disqualification of Contractor as a DBE by County's Director of the Office of Economic and Small Business Development Division if Contractor's status as a DBE was a factor in the award of this Agreement and such status was misrepresented by Contractor;

Upon the disqualification of Contractor by County's Director of the Office of Economic and Small Business Development due to fraud, misrepresentation, or material misstatement by Contractor in the course of obtaining this Contract or attempting to meet the DBE contractual obligations;

Upon the disqualification of one or more of Contractor's DBE participants by County's Director of the Office of Economic and Small Business Development if any such participant's status as a DBE firm was a factor in the award of this Contract and such status was misrepresented by Contractor or such participant;

a. Upon the disqualification of one or more of Contractor's DBE participants by County's Director of the Office of Economic and Small Business Development if such DBE participant attempted to meet its DBE contractual obligations through fraud, misrepresentation, or material misstatement; or

b. If Contractor is determined by County's Director of the Office of Economic and Small Business Development to have been knowingly involved in any fraud, misrepresentation, or material misstatement concerning the DBE status of its disqualified DBE participant;

Notice of termination shall be provided in writing except that notice of termination by the County Administrator, which the County Administrator deems necessary to protect the public health, safety, or welfare, may be verbal notice that shall be promptly confirmed in writing.

In the event this Contract is terminated for convenience, Contractor shall be paid for any services properly performed under the Contract through the termination date specified in the written notice of termination. Contractor acknowledges and agrees that it has received good, valuable and sufficient consideration from County, the receipt and adequacy of which are hereby acknowledged by Contractor, for County's right to terminate this Agreement for convenience.

**In the event that the underlying Contract contains a termination provision which conflicts with the termination provision above, the termination provisions set forth in the underlying Contract shall prevail over the termination provision set forth in this FTA/USDOT Funding Supplement.**



**PART B: ADDITIONAL REQUIREMENTS – CONDITIONAL**  
**(Please read each qualifying condition carefully.)**

**11. RECYCLED PRODUCTS**

If this Contract is for items designated in Subpart B, 40 CFR Part 247 by the EPA, and County or Contractor procures \$10,000 or more of one of these items during the fiscal year or has procured \$10,000 or more of such items in the previous fiscal year using federal funds, the Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 USC 6962), including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

**12. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION**

If this Contract has a value of \$25,000 or more, this procurement is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor s, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor agrees to comply with 49 CFR 29, Subpart C, and must include the requirement to comply 49 CFR 29, Subpart C in each Subcontract financed in whole or in part with federal assistance provided by FTA. **(The form for certifying compliance, Government-wide Debarment and Suspension, is attached as Exhibit 5.)**

**13. BUY AMERICA**

If this Contract exceeds \$150,000, the Contractor agrees to comply with 49 USC §5323(j)(13) and 49 CFR Part 661, which provide that federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the products subject to a general waiver. General waivers are listed in 49 CFR 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j) (2) (C) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have more than 65 percent domestic content.

A Bidder or offeror must submit to County the appropriate Buy America certification, **the certification form is attached as Exhibit 6**, with all bids or proposals on FTA-funded Contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America Certification must be rejected as nonresponsive.

**14. RESOLUTION OF DISPUTES**

Disputes – Unless the Contract provides otherwise, disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the County Project Manager for the Contract. This



decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the County Contract Administrator. In connections with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position.

The decision of the Contract Administrator shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute – Unless otherwise directed by County, Contractor shall perform under the Contract while matters in dispute are being resolved.

Unless the Contract provides otherwise, jurisdiction of any controversies or legal problems arising out of this Contract, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Contract shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. BY ENTERING INTO THIS CONTRACT, CONTRACTOR AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

#### 15. LOBBYING

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 2. "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal Contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the County. **A Restrictions on Lobbying Certification is attached as Exhibit 7.**

#### 16. CLEAN AIR

The Clean Air requirements apply to all Contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year.

- a) Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §7401, et seq. Contractor agrees to report each violation to Broward County and agrees that County will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

- b) Contractor further agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

**17. CLEAN WATER REQUIREMENTS**

If this Contract is valued at \$100,000 or more, Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq.

- a) Contractor agrees to report each violation to County and agrees that County will, in turn, report each violation as required to assure notification to the FTA and the appropriate EPA Regional Office.
- b) Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

**18. BONDING REQUIREMENTS**

Contractor agrees to comply with the terms and conditions relating to bid guaranty, performance bond and payment bond ("Bonding Requirements") as set forth in the underlying Contract to which this FTA/USDOT Funding Supplement is attached. In the event that the underlying Contract involves a construction or facility improvement exceeding \$100,000 and the underlying Contract: (1) does not contain specific Bonding Requirements or (2) the Bonding Requirements do not meet the minimum requirements set forth below, the following Bonding Requirements shall apply:

Contractor shall provide a bid guarantee from each Bidder equivalent to five percent (5%) of the bid price, a performance bond on the part of the Contractor for 100 percent (100%) of the Contract price and a payment bond on the part of the Contractor for 100 percent (100%) of the Contract price in the form and of a type acceptable by County.

**19. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS**

If this purchase order or Contract involves a construction project over \$2,000, the Contractor agrees to comply with Davis-Bacon and Copeland Act requirements at 40 USC 3141, et seq., and 18 USC 874. The requirements of both Acts are incorporated into a single clause (see 29 CFR 3.11) and are set forth in 29 CFR 5.5(a). Section 29 CFR 5.5(a) is reproduced in its entirety below:

- a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to

make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in §5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency; provided, that such modifications are first approved by the Department of Labor):

**(1) Minimum wages.**

- (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3) ), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any Contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(7) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- (ii) a) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contracting Officer shall

approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

b) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the thirty (30) day period that additional time is necessary.

c) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within thirty (30) days of receipt and so advise the Contracting Officer, or will notify the Contracting Officer within the thirty (30) day period that additional time is necessary.

d) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

- (iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

- (iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

**(2) Withholding.**

County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal Contract with the same prime Contractor, or any other federally-assisted Contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any Subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, Broward County may, after written notice to the Contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

**(3) Payrolls and basic records.**

- (i) Payroll and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractor s employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- (ii) a) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to County if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all Subcontractors. Contractors and Subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Federal Transit Administration if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit them to the applicant, sponsor, or owner, as the case may be for transmission to the County, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Contractor to require a Subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.
- c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
- d) The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- (iii) The Contractor or Subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of County or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or Subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment advance or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **(4) Apprentices and Trainees--**

- (i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor

Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with



the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate, who is not registered and participating in a training plan approved by the Employment and Training Administration, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.
- (5) Compliance with Copeland Act requirements.** The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.
- (6) Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any Subcontractors or lower tier Subcontractor with all the Contract clauses in 29 CFR 5.5.
- (7) Contract termination: debarment.** A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a Contractor and a Subcontractor as provided in 29 CFR 5.12.
- (8) Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.
- (9) Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its Subcontractors) and the Contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**(10) Certification of eligibility.**

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government Contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government Contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

If this purchase order or Contract involves a construction project in excess of \$100,000 or more, the Contractor shall comply with the Contract and Work Hours Safety Act, 40 USC 3701 and 29 CFR 5.5 (b) are reproduced below.

As used in the paragraphs below, the terms laborers and mechanics include watchmen and guards.

- a) **Overtime requirements.** No Contractor or Subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times (1½) the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.
- b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (a) of this section, the Contractor and any Subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under Contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of ten dollars (\$10.00) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.
- c) **Withholding for unpaid wages and liquidated damages.** County shall upon its own action or upon written request of an authorized representative of the

Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such Contract or any other Federal Contract with the same prime Contractor, or any other federally-assisted Contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.

- d) **Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.

## 21. TRANSIT EMPLOYEE PROTECTIVE CONTRACTS

If this Contract involves transit operations performed by employees of a Contractor recognized by FTA to be a transit operator:

- a) Contractor agrees to comply with the applicable transit employee protective requirements, as follows:

- 1) **General Transit Employee Protective Requirements** - To the extent that FTA determines that transit operations are involved, Contractor agrees to carry out the transit operations work on the underlying Contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying Contract. Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements this subsection 1., however, do not apply to any Contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections 2. and 3. of this clause.
- 2) **Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities** - If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and

if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying Contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth in the Grant Contract or Cooperative Contract with the state. Contractor agrees to perform transit operations in connection with the underlying Contract in compliance with the conditions stated in that U.S. DOL letter.

- 3) **Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas** - If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

- b) Contractor also agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

## 22. FLY AMERICA

Contractor agrees to comply with 49 USC 40118 (the "Fly America" Act) in accordance with the General Services Administration regulations at 41 CFR part 301-10, which provide that recipients and subrecipients of federal funds and their Contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier is used, an appropriate certification or memorandum adequately explaining why service by a U.S. Flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

## 23. CARGO PREFERENCE

The Cargo Preference requirements apply to all Contracts and subcontracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Cargo Preference - Use of United States-Flag Vessels - Contractor agrees:

- a) to use privately-owned United States-Flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b) to furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill of lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the County (through Contractor in the case of a Subcontractor's bill of lading.);
- c) to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

#### 24. DRUG AND ALCOHOL TESTING

If this Contract involves a safety-sensitive function on behalf of County, the Contractor agrees to participate in Broward County Transit Division's drug and alcohol testing program or agrees to establish and implement its own drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the USDOT or its operating administrations, the State Oversight Agency, or County, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process.

In the event Contractor subcontracts all or part of the transit service to a third party, a similar requirement including review and approval by the County's Contract Administrator must be included in any Contract.

Contractor further agrees to certify, prior to the commencement of services under this Contract or purchase order and annually thereafter, compliance with current FTA regulations, and to submit the Management Information System (MIS) reports before March 15 to the Director, Transit Division (**a model form for certifying compliance, Drug and Alcohol Testing Program Compliance Certification, is attached as Exhibit 8**). To certify annual compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Contracts," which is published annually in the Federal Register.

## 25. PATENT AND RIGHTS IN DATA

If this Contract involves patent and rights in data requirements for federally-assisted research projects in which FTA finances in whole or in part the development of a product or information, Contractor agrees to be bound by the terms and conditions specified below.

### CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

a) **Rights in Data** - The following requirements apply to each Contract involving experimental, developmental or research work:

- 1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.
- 2) The following restrictions apply to all subject data first produced in the performance of the Contract to which this Attachment has been added:
  - A) Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any Contract with an academic institution.
  - B) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the

Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that Contract, whether or not a copyright has been obtained; and
2. Any rights of copyright purchased by the County or Contractor using Federal assistance in whole or in part provided by FTA.

C) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the County and Contractor performing experimental, developmental, or research work required by the underlying Contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying Contract, is not completed for any reason whatsoever, all data developed under that Contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the County or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

D) Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that Contract. Contractor shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

E) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

- F) Data developed by the County or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the County or Contractor identifies that data in writing at the time of delivery of the Contract work.
- G) Unless FTA determines otherwise, Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.
- 3) Unless the Federal Government later makes a contrary determination in writing, irrespective of Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), Contractor agrees to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts," 37 C.F.R. Part 401.
- 4) Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.
- b) **Patent Rights** - The following requirements apply to each Contract involving experimental, developmental, or research work:
- 1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the underlying Contract, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the County and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.
- 2) Unless the Federal Government later makes a contrary determination in writing, irrespective of Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the County and Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts," 37 C.F.R. Part 401.



- 3) Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

## **26. PRIVACY ACT**

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any Contract:

- a) Contractor agrees to comply with, and assures the compliance of its employees with, information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC 552a.

Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of the Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Contract.

- b) Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with federal assistance provided by FTA.

## **27. CHARTER BUS**

If this is an Operational Service Contract, Contractor agrees to comply with 49 USC 5323(d) and 49 CFR Part 604, which provide that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR Part 604.

## **28. SCHOOL BUS REQUIREMENTS**

If this is an Operational Service Contract, pursuant to 49 USC 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally-funded equipment, vehicles, or facilities.

## **29. BUS TESTING**

**The Bus Testing requirements pertain only to the acquisition of Rolling Stock/Turnkey.** If this Contract pertains to the acquisition of rolling stock/turnkey,

the Contractor manufacturer agrees to certify, prior to commencement of services under this Contract, to comply with 49 USC A5323(c) and FTA's implementing regulations at 49 CFR Part 665, and shall perform the following:

- a) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to County at a point in the procurement process specified by County which will be prior to County's final acceptance of the first vehicle.
- b) A manufacturer who releases a report under paragraph a. above shall provide notice to the operator of the testing facility that the report is available to the public.
- c) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to County prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- d) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988 and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

**A Bus Testing Compliance Certification is attached as Exhibit 9.**

### **30. PRE-AWARD AND POST-DELIVERY AUDIT REQUIREMENTS**

If this Contract pertains to the acquisition of rolling stock, the Contractor agrees to comply with 49 USC §5323(m) and FTA's implementing regulation at 49 CFR Part 663 and to submit the following certifications:

- a) Buy America Requirements. The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists: 1) component and subcomponent parts of the rolling stock to be purchased, identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
- b) Solicitation Specification Requirements. Contractor shall submit evidence that it will be capable of meeting the bid specifications.

- c) Federal Motor Vehicle Safety Standards (FMVSS). Contractor shall submit: 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS; or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

**A Pre-Award and Post-Delivery Audit Requirements Certification is attached as Exhibit 10.**

**31. SEISMIC SAFETY**

If this Contract pertains to the construction of new buildings or additions to existing buildings, Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations at 49 CFR Part 41, and will certify compliance to the extent required by the regulation. Contractor also agrees to ensure that all work performed under this Contract, including work performed by a Subcontractor, is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

**32. TRANSIT VEHICLE MANUFACTURER (TVM) CERTIFICATION**

If this Contract involves the procurement of transit vehicles, the Contractor must obtain from each Transit Vehicle Manufacturer (TVM), distributor, or dealer, and submit with its bid, a TVM certification stating that, as a condition of being authorized to bid on transit vehicle procurements funded by FTA, the TMV certifies that it has complied with the requirements of 49 CFR 26.49, by submitting a current annual DBE Goal to the FTA. **A Transit Vehicle Manufacturer (TVM) Certification of Compliance is attached as Exhibit 11.**

**33. NATIONAL ITS ARCHITECTURE**

If this Contract involves an Intelligent Transportation System project (ITS), Contractor agrees to conform, to the extent applicable, to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA LU Section 5307, Chapter, 23 U.S.C. section 512 note, and comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects, " 66 Fed. Reg. 1455 et seq., January 8, 2001, and to any subsequent further implementing directives, except to the extent FTA determines otherwise in writing.

**34. ACCESS FOR INDIVIDUALS WITH DISABILITIES**

Contractor agrees to comply with 49 U.S.C. § 5301(d), which acknowledges that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation, and that special efforts must be made to plan and assure that they do have similar access. Contractor also agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended,

42 U.S.C. §§ 12101, et. seq., which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151, et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, Contractor agrees to comply with applicable implementing Federal regulations and any later amendments thereto, and agrees to follow applicable Federal implementing directives. Among these regulations and directives are:

- a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F. R. Part 37;
- b) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- c) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- d) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- f) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the American with Disabilities Act," 29 C.F.R. Part 1630;
- h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;
- i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;
- j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

- k) Federal civil rights and nondiscrimination directives implementing those Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

### 35. VETERANS EMPLOYMENT

If this purchase order or Contract involves a capital project, Contractor agrees to comply with 49 U.S.C. 5325(K):

- a. To the extent practicable, Contractor agrees that it:
  - 1. Will give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, and 2. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee, and
- b. Contractor also assures that its sub-recipients will:
  - 1. Will give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third-party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, to the extent practicable, and
  - 2. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

**DRAFT**

FTA/USDOT Funding Supplement

Solicitation No. \_\_\_\_\_

**EXHIBIT 1: Letter of Intent**  
**OFFICE OF ECONOMIC AND SMALL BUSINESS DEVELOPMENT**

**LETTER OF INTENT BETWEEN BIDDER/OFFEROR AND DISADVANTAGED BUSINESS ENTERPRISE (DBE) /  
AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) SUBCONTRACTOR/SUPPLIER**  
**(Form to be completed and signed for each DBE/ACDBE firm)**

<b>Solicitation Number:</b> _____	<b>Project Title:</b> _____
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Bidder/Offeror Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_ Phone: \_\_\_\_\_

DBE/ACDBE Subcontractor/Supplier Name: \_\_\_\_\_

Check one: Address: \_\_\_\_\_

DBE City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

ACDBE Authorized Representative: \_\_\_\_\_

- A. This is a letter of intent between the bidder/offeror on this project and a DBE/ACDBE firm for the DBE/ACDBE to perform subcontracting work on this project, consistent with Title 49 CFR Parts 26 or 23 as applicable.
- B. By signing below, the bidder/offeror is committing to utilize the above named DBE/ACDBE to perform the work described below.
- C. By signing below, the above-named DBE/ACDBE is committing to perform the work described below.
- D. By signing below, the bidder/offeror and DBE/ACDBE affirm that if the DBE/ACDBE subcontracts any of the work described below, it may only subcontract that work to another DBE/ACDBE if it wishes to receive DBE/ACDBE credit for said work.

**Work to be performed by DBE/ACDBE Firm**

Description	NAICS*	DBE/ACDBE Contract Amount†	DBE/ACDBE Percentage of Total Project Value

**AFFIRMATION:** I hereby affirm that the information above is true and correct.

**Bidder/Offeror Authorized Representative**

\_\_\_\_\_  
(Signature) (Title) (Date)

**DBE/ACDBE Subcontractor/Supplier Authorized Representative**

\_\_\_\_\_  
(Signature) (Title) (Date)

\* Visit <http://www.census.gov/eos/www/naics/> to search. Match type of work with NAICS code as closely as possible.

† To be provided only when the solicitation requires that bidder/offer include a dollar amount in its bid-offer.

In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

FTA/USDOT Funding Supplement

Solicitation No. \_\_\_\_\_

**EXHIBIT 2: Application for Evaluation of Good Faith Effort**

APPLICATION FOR EVALUATION OF GOOD FAITH EFFORT  
PURSUANT TO TITLE 49 CFR PARTS 23 AND 26

SOLICITATION NO.: \_\_\_\_\_

Please check one of the following to indicate the program goal on this solicitation:  ACDBE  DBE

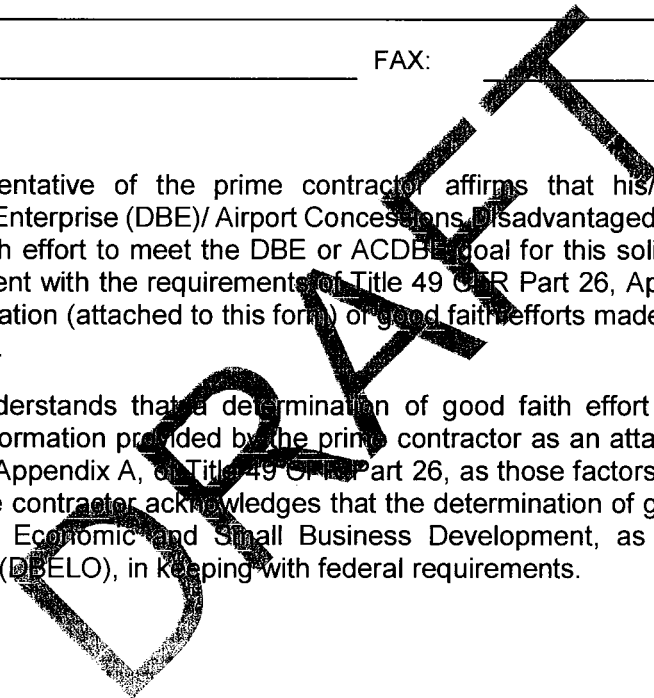
PROJECT NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

The undersigned representative of the prime contractor affirms that his/her company has contacted Disadvantaged Business Enterprise (DBE)/ Airport Concessions Disadvantaged Business Enterprise (ACDBE) certified firms in good faith effort to meet the DBE or ACDBE goal for this solicitation but has not been able to meet the goal. Consistent with the requirements of Title 49 CFR Part 26, Appendix A, the prime contractor hereby submits documentation (attached to this form) of good faith efforts made and requests to be evaluated under these requirements.

The prime contractor understands that a determination of good faith effort to meet the contract goal is contingent on both the information provided by the prime contractor as an attachment to this application and the other factors listed in Appendix A, of Title 49 CFR Part 26, as those factors are applicable with respect to this solicitation. The prime contractor acknowledges that the determination of good faith effort is made by the Director of the Office of Economic and Small Business Development, as the Disadvantaged Business Enterprise Liaison Officer (DBELO), in keeping with federal requirements.



SIGNATURE: \_\_\_\_\_

PRINT NAME/ TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

OESBD Compliance Form DBE/ACDBE GFE 031413

FTA/USDOT Funding Supplement

Solicitation No. \_\_\_\_\_

**EXHIBIT 3: Monthly DBE Utilization Report**

**OFFICE OF ECONOMIC AND SMALL BUSINESS DEVELOPMENT  
MONTHLY DBE UTILIZATION REPORT**

Report No. \_\_\_\_\_

<b>CONTRACT#:</b>		<b>CONTRACT AMT:</b>		<b>DATE FROM SUBMITTED:</b>	
<b>PROJECT TITLE:</b>				<b>PROJECT COMPLETION DATE:</b>	
<b>PRIME CONTRACTOR:</b>			<b>PERIOD ENDING:</b>		<b>AMT. PAID TO PRIME:</b>
<b>CONTRACT PERSON:</b>			<b>TELEPHONE#: ( )</b>		<b>FAX#: ( )</b>

**SUBCONTRACTING INFORMATION  
TO BE SUBMITTED MONTHLY TO BROWARD COUNTY OFFICE OF ECONOMIC AND SMALL BUSINESS DEVELOPMENT**

DBE Subcontractor	Address	Description Of Work	Original Agreed Price	Revised Agreed Price	% of Work Completed To Date	Amt. Paid This Period	Amt. Paid To Date	Gender		Ethnic Category					
								M	F	B	H	A	NA	W	
<b>Total Amt. Paid to DBE Firms</b>															
DBE Subcontractor	Address	Description Of Work	Original Agreed Price	Revised Agreed Price	% of Work Completed To Date	Amt. Paid This Period	Amt. Paid To Date	Gender		Ethnic Category					
								M	F	B	H	A	NA	W	
<b>Total Amt. Paid to DBE Firms</b>															

*Black American – B; Hispanic American – A; Native American – NA; Non-Minority Woman – W*

*I attest that the information submitted in this report is in fact true and correct to the best of my knowledge*

<i>Signature</i>	<i>Title</i>	<i>Date</i>
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Note: The information provided herein is subject to verification by the Office of Economic and Small business Development.

OESBD Compliance Form DBEMUR 02113



FTA/USDOT Funding Supplement

Solicitation No. \_\_\_\_\_

**EXHIBIT 4: Final DBE Utilization Report**

**OFFICE OF ECONOMIC AND SMALL BUSINESS DEVELOPMENT  
FINAL DBE UTILIZATION REPORT  
(To be submitted with the final invoice)**

Report No. \_\_\_\_\_

<b>CONTRACT#:</b>		<b>CONTRACT AMT:</b>	<b>DATE FROM SUBMITTED:</b>
<b>PROJECT TITLE:</b>			<b>PROJECT COMPLETION DATE:</b>
<b>PRIME CONTRACTOR:</b>		<b>PERIOD ENDING:</b>	<b>AMT. PAID TO PRIME:</b>
<b>CONTRACT PERSON:</b>		<b>TELEPHONE #:</b>	<b>FAX#: ( )</b>

**SUBCONTRACTING INFORMATION**

DBE Subcontractor	Address	Description Of Work	Original Agreed Price	Revised Agreed Price	% of Work Completed To Date	Amt. Paid This Period	Amt. Paid To Date	Gender		Ethnic Category							
								M	F	B	H	A	NA	W			
<b>Total Amt. Paid to DBE Firms</b>																	
DBE Subcontractor	Address	Description Of Work	Original Agreed Price	Revised Agreed Price	% of Work Completed To Date	Amt. Paid This Period	Amt. Paid To Date	Gender		Ethnic Category							
								M	F	B	H	A	NA	W			
<b>Total Amt. Paid to DBE Firms</b>																	

*Black American – B; Hispanic American – A; Native American – NA; Non-Minority Woman – W*

*I attest that the information submitted in this report is in fact true and correct to the best of my knowledge*

<i>Signature</i>	<i>Title</i>	<i>Date</i>
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Note: the information provided herein is subject to verification by the Office of Economic and Small Business Development.

OESBD Compliance Form DBEMUR 02113

FTA/USDOT Funding Supplement

Solicitation No. \_\_\_\_\_

**EXHIBIT 5: Government-Wide Debarment and Suspension (Nonprocurement)  
Certification**

**IF THIS CONTRACT OR PURCHASE ORDER HAS A VALUE OF \$25,000 OR MORE, THIS PROCUREMENT IS A COVERED TRANSACTION FOR PURPOSES OF 49 CFR PART 29.**

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier-covered transaction it enters into.

By signing and submitting its bid or proposal, the Bidder or proposer certifies as follows:

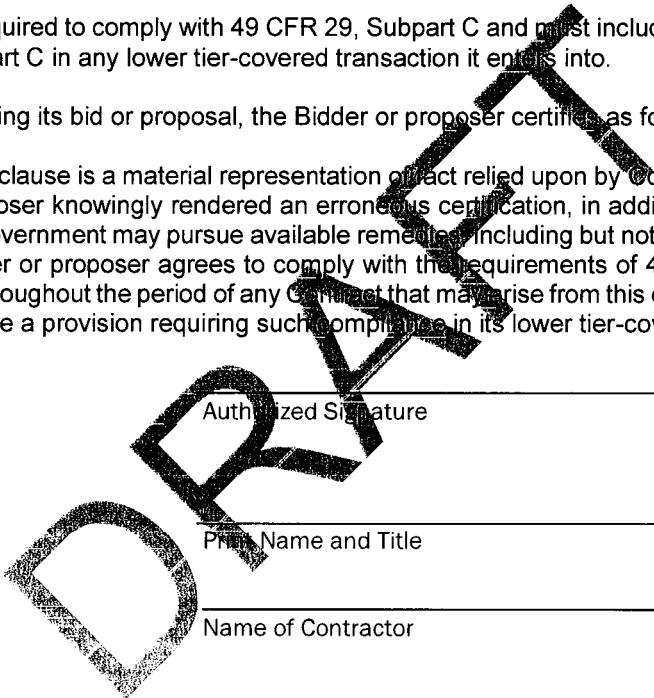
The certification in this clause is a material representation of fact relied upon by County. If it is later determined that the Bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C, while this offer is valid and throughout the period of any Contract that may arise from this offer. The Bidder or proposer further agrees to include a provision requiring such compliance in its lower tier-covered transactions.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Name of Contractor



FTA/USDOT Funding Supplement

Solicitation No. \_\_\_\_\_

**EXHIBIT 6: Buy America Certification**

**FOR PROCUREMENTS OF STEEL, IRON, AND MANUFACTURED PRODUCTS (INCLUDING CONSTRUCTION CONTRACTS, MATERIALS AND SUPPLIES, AND ROLLING STOCK ) OVER \$150,000**

**A. STEEL, IRON OR MANUFACTURED PRODUCTS**

If this Contract or purchase order is valued in excess of \$150,000 and involves the **procurement of steel, iron, or manufactured products**, the Bidder or offeror hereby certifies that it:

- Will meet the requirements of 49 USC 5323(j)(1) and the applicable regulations in 49 CFR part 661.5.
- Cannot meet the requirements of 49 USC 5323(j)(1) and 49 CFR part 661.5, but it may qualify for an exception pursuant to 49 USC 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 CFR 661.

**B. BUSES, OTHER ROLLING STOCK, AND ASSOCIATED EQUIPMENT**

If this Contract or purchase order is valued in excess of \$150,000 and involves the **procurement of buses, other rolling stock, and associated equipment**, the Bidder or offeror certifies that it:

- Will comply with the requirements of 49 USC 5323(j)(2)(C) and the regulations at 49 CFR part 661.11.
- Cannot comply with the requirements of 49 USC 5323(j)(2)(C) and 49 CFR 661.11, but may qualify for an exception pursuant to 49 USC 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 CFR 661.7.

DRAFT

\_\_\_\_\_  
(Date) Authorized Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Name of Contractor

**Note:** This Buy America certification must be submitted to Broward County with all bids or offers on FTA-funded Contracts involving construction or the acquisition of goods or rolling stock, except those subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$150,000) made with capital, operating, or planning funds.

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**EXHIBIT 7: Restrictions On Lobbying Certification**

**For Procurements of \$100,000 or More**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal Contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal Contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence to an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions as amended by "Government-wide Guidance for New Restrictions on Lobbying."
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 USC A3801, et seq., apply to this certification and disclosure, if any.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Name of Contractor

FTA/USDOT Funding Supplement

Solicitation No. \_\_\_\_\_

**EXHIBIT 8: Drug and Alcohol Testing Program Compliance Certification**

**FOR TRANSIT OPERATIONAL SERVICE CONTRACTS INVOLVING THE OPERATION OF A TRANSIT SERVICE, OR MAINTAINING, REPAIRING, OVERHAULING, AND REBUILDING REVENUE SERVICE VEHICLES OR EQUIPMENT (ENGINES AND PARTS) USED IN REVENUE SERVICE, OR BODY WORK, OR CONTRACTS FOR SECURITY PERSONNEL THAT CARRY FIREARMS.**

The undersigned certifies that Contractor, and its Subcontractors as required, has established and implemented an anti-drug and alcohol prevention program in accordance with 49 CFR Part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations."<sup>1</sup>

The undersigned further agrees to produce any documentation necessary to establish its compliance with 49 CFR Part 655, and to permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency (the Florida Department of Transportation), or County, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and to review the testing process.

The undersigned further agrees to certify annually its compliance with Part 655 before March 15 and to submit the Management Information System (MIS) reports no later than February 15) to County.

To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

**DRAFT**

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Name of Contractor

<sup>1</sup> The Federal Transit Administration (FTA) – mandated drug and alcohol testing program is separate from and in addition to the provisions of the Drug-Free Workplace Act (DFWA).  
Rev. 2/1/2017

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**EXHIBIT 9: Bus Testing Compliance Certification**

**FOR ALL PROCUREMENTS OF BUSES/ROLLING STOCK/TURNKEY**

The undersigned (Contractor /manufacturer) certifies that the vehicle offered in this procurement complies with 49 USC A5323(c) and FTA's implementing regulation at 49 CFR Part 665.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with federal financial assistance may subject the undersigned to civil penalties as outlined in the U.S. Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Name of Contractor

**DRAFT**

FTA/USDOT Funding Supplement

Solicitation No. \_\_\_\_\_

**EXHIBIT 10: Pre-Award and Post-Delivery Audit Requirements Certification**

**FOR PROCUREMENTS OF BUSES, OTHER ROLLING STOCK, OR  
ASSOCIATED EQUIPMENT OVER \$150,000**

Check one:

- The Bidder hereby certifies that it **will comply** with the requirements of 49 USC 5323(j) (2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 CFR 661.11.
- The Bidder hereby certifies that it **cannot comply** with the requirements of 49 USC 5323(j)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 USC Sections 5323(j)(2)(B) or 5323(j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act of 1982 as amended, and regulations in 49 CFR 661.7.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Name of Contractor

Note: This certification must be submitted with each bid or offer exceeding the small purchase threshold for federal assistance programs, currently set at \$150,000.

**DRAFT**

FTA/USDOT Funding Supplement

Solicitation No. \_\_\_\_\_

**EXHIBIT 11: Transit Vehicle Manufacturer (TVM) Certification of Compliance with Sub  
Part D, Part 26**

**FOR ALL BUSES/ROLLING STOCK PROCUREMENTS**

This procurement is subject to the provisions of Section 26.49 of 49 CFR Part 26. Accordingly, as a condition of permission to bid, the following certification must be completed and submitted with the bid. A bid which does not include the certification will not be considered.

**Transit Vehicle Manufacturer (TVM) CERTIFICATION**

\_\_\_\_\_, a TVM, hereby certifies that it has complied with the  
*(Name of Firm)*  
requirements of Section 26.49 of 49 CFR Part 26 by submitting a current LRF Goal to the FTA. The goals apply to  
fiscal year \_\_\_\_\_ and have been approved or not disapproved by the FTA.  
*(Date of Fiscal Year)*

\_\_\_\_\_, hereby certifies that the manufacturer of the transit vehicle  
*(Name of Firm)*  
to be supplied \_\_\_\_\_ has complied with the above- referenced  
*(Name of Manufacturer)*  
requirements of Section 26.49 of 49 CFR Part 26.

\_\_\_\_\_  
(Authorized Signature)

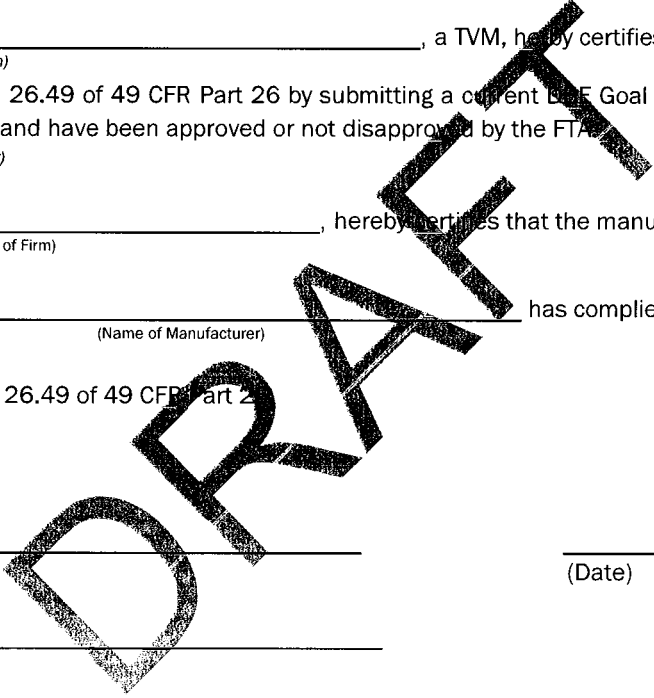
\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Print Name and Title

Company: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_





## Question and Answers for Bid #PNC2122559R1 - Developer for Joint Government Center Campus (JGCC) (Step One)

### Overall Bid Questions

There are no questions associated with this bid.

**DRAFT**





# Broward County and The City of Fort Lauderdale

## *Joint Government Center Campus Project*

Market Sounding Observations

March 2021



# The City and County Conducted a Market Sounding to Generate Insights from Market Participants Regarding the Joint Government Center Campus Project



## Goals

KPMG facilitated a series of market interviews to:

- **Analyze market interest** in this pathfinder project
- Speak with market participants about **potential procurement processes and potential commercial structures**
- **Receive feedback** about the Project
- Allow the market to **begin preparations for a potential procurement**



## Open Discussion Format

- **Each interview was 60 minutes** and included a robust discussion of key themes relating to project development, O&M and lifecycle considerations, funding and financing structures, procurement process, and Project schedule
- Interviewees received a **high level project briefing document and a list of market sounding questions** in advance of their respective market sounding calls




## Interviewees

KPMG worked with the City and the County to prepare a comprehensive list of firms to interview, including:

- **Developers,**
- **Contractors,**
- **Design Teams,**
- **Equity Investors,** and
- **O&M Service Providers**



# Market Sounding Participants were Provided an Overview of the Project to Inform Discussions



**Joint Government Center Campus**  
*Broward County and City of Fort Lauderdale*

**Project Background**


The City of Fort Lauderdale and Broward County are committed to designing and constructing a Joint Government Center Campus (JGCC) to be occupied by both entities with the intent of creating an iconic, world-class, environmentally responsible campus and facility. The City and County seek a facility that reaches beyond its function by embracing the public at large, creating a sense of community, and installing the trust that is essential to making our democracy successful. The City and County are seeking a development partner for the delivery and long-term operations and maintenance of this transformative \$500M project.

**Project Elements and Location**

The new JGCC is intended to replace the existing County Governmental Center East and City Hall and to produce a new joint governmental center, a new bus transit terminal for Broward County's Transportation Department and associated administration offices, a multi-story parking garage with the potential to be converted to future office space, if needed, possible retail uses, and combined amenities for all County and City employees.

The proposed ~3-acre project site is located at the existing Broward County Governmental Center Terminal in Downtown Fort Lauderdale. The site is centrally located in the downtown core and is within walking distance to the County and City's residents and visitors. The developers of the JGCC seeks to create a unique campus and enhanced urban district in Downtown Fort Lauderdale.

Element	Gross SF
Main Building – Tower	901,873
Broward County Transportation Department Offices	90,967
Broward County Transportation Transit Terminal	70,912
Parking Garage (1,347 spaces)	670,632
Roof Deck / Roof Garden Areas	79,982
<b>Total GSF Area (does not include roof deck areas)</b>	<b>1,734,384</b>



**Opportunity Overview**

The City and County are exploring the delivery of the JGCC through a public-private partnership. The City and County are seeking a developer partner to integrate design, construction, operations, and maintenance elements, with consideration for the deployment of long-term private financing.

Feb 2021

Market Sounding

Mar 2021

Issue RFCQ

Jun 2021

Issue RFP

Aug 2022


Commercial and Financial Close

Aug 2026

Substantial Completion

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**KPMG**




**Joint Government Center Campus**  
*Broward County and City of Fort Lauderdale*

**Project Goals**

The JGCC will address the City and County's 21<sup>st</sup> Century needs and challenges. This transformative project will influence the County and the City's government functions and organization for decades to come. While the focus of the JGCC is to establish a dynamic and vibrant presence in Downtown Fort Lauderdale, it must do so with an understanding of how to best design and construct the more value for the public dollar, enhance the public gathering spaces, stronger community identity, safer and better transportation alternatives, better environmental outcomes, and better opportunities for businesses.

The City and County are delivering the JGCC with the following goals in mind:



- Meet the County and City's needs and space program requirements: Ensure the City and County's current and future needs are met through the new government center campus, site, and buildings.
- Link short and long-term physical master planning strategies: Link the development to institutional goals for Fort Lauderdale to attract private development and non-traditional revenue opportunities.
- Enhance connectivity through an improved urban campus: Develop connectivity between institutional functions and welcome integrated environments to create a unique campus and enhanced urban district.
- Drive greater collaboration between the City and County: Encourage cooperation through shared workspaces and other facilities.
- Leverage technology to drive results: Utilize a clear technology vision and strategy to enhance the constituent experience, improve quality and safety, and increase workflow efficiencies.
- Protect the County and the City's asset and its employees: Deploy intelligent technologies, communications infrastructure, sustainable energy and security management solutions.
- Support the local community: Support the downtown financial, educational, entertainment, medical and cultural hubs to create mutually beneficial relationships between the JGCC and the community.
- Employ a holistic approach to resiliency and sustainability: Embod a focused commitment to applying sustainability and resiliency principles to the full range of campus and facility planning activities.

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**KPMG**



# Interview Questions were Provided in Advance to Generate Robust Conversations

## Project Development, Structuring, and Delivery Options

- a) Both the City and County are considering a number of financing structures for the transaction, including the utilization of private financing (project finance debt and equity), traditional tax-exempt debt, and milestone payments. Do you foresee any challenges with the City and County utilizing separate financing structures for the transaction (e.g. one entity utilizing private financing and the other utilizing tax-exempt debt or differences in the length of the financing term)?
- b) What is the value of the City and County making a decision about the inclusion or exclusion of private financing prior to the RFP Process?
- c) Would the City and County engaging transaction counsel make the Project more attractive from a procurement perspective? Are there any considerations associated with the City and County not engaging transaction counsel for the Project?

## Operations, Maintenance, and Life Cycle Repair

- a) What, if any, are the potential benefits and cost savings opportunities for inclusion of long-term operations, maintenance, and lifecycle elements within the deal structure? How do these potential benefits change with and without the inclusion of private financing?

## Financing and Funding

- a) In general, what do you see as the difference in the weighted average cost of capital between a P3 project such as this and a project delivered through traditional tax-exempt municipal financing?
- b) What do you see as the minimum amount of equity investment required to truly transfer long-term operations and maintenance risk, assuming a \$960M project capital cost?

## Procurement Schedule

- a) What are your views on the optimal number of shortlisted teams for the RFP process?
- b) Are stipends for unsuccessful proposers important to you, and if so, why? What are your expectations for stipends for a transaction of this size and complexity?
- c) For this specific project, given the design work completed to date, do you think the City and County would be well served by procuring a Pre-Development Agreement rather than a fixed price bid?
- d) Would a six-month industry review period be appropriate for delivery of a fixed price bid submission in response to an RFP?



## Key Market Sounding Observations

Market Participants Provided Ideas Related to Four Key Project Areas							
Project Development, Structuring, and Delivery Options	<ul style="list-style-type: none"> <li>The JGCC Project received <b>robust participation and interest</b> in the market sounding process, with several firms beginning the process of teaming to respond to the procurement.</li> <li>Participants are <b>comfortable with the City and County utilizing different financing structures</b> for the Project.</li> <li>Utilizing a Pre-Development Agreement, as opposed to fixed firm price bids, <b>allows the City and County to have more input into the final Project design.</b></li> </ul>	Operations, Maintenance, and Lifecycle Repair	<ul style="list-style-type: none"> <li>Inclusion of O&amp;M and Lifecycle components in the deal will incent strong maintenance practices throughout the Project life.</li> <li>Given the limited number of O&amp;M providers, many market participants have recommended the City and County be thoughtful about O&amp;M requirements in the RFQ stage.</li> <li>Market participants have offered differing opinions on the value of equity to the O&amp;M risk transfer. Developers have indicated the inclusion of equity will drive long-term O&amp;M and lifecycle performance. Other market participants have indicated some level of risk transfer can occur without equity financing.</li> </ul>	Financing and Funding	<ul style="list-style-type: none"> <li>Many market participants recommend the City and County make a decision regarding the financing structure of the Project <b>prior to release of the RFP if it is a fixed bid solicitation.</b></li> <li><b>Varying opinions</b> as to the need and efficacy of equity as a vehicle to transfer O&amp;M and Lifecycle risk.</li> <li>The funding and financing mix for precedent projects such as this have included <b>50% publicly financed debt</b>, paid as milestone payments, and <b>50% private financing.</b></li> </ul>	Procurement and Schedule	<ul style="list-style-type: none"> <li>The <b>optimal number of shortlisted firms in a fixed firm price bid structure is 3.</b> Any more than 4 firms being shortlisted will likely result in some teams choosing not to respond.</li> <li><b>Stipends are an important part of the bidding process for fixed bid solicitations.</b> Likely around \$1-1.5M per team for a fixed bid solicitation but there are ways to structure them in order to minimize upfront commitment.</li> <li>A 6-month process for getting firm fixed price bids is <b>aggressive but within market precedents.</b> A PDA process may allow City and County to select a partner earlier.</li> <li>There is a <b>strong preference</b> for the City and County to hire outside counsel for the Project.</li> </ul>



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## Pros and Cons of Pre-Development Agreement vs Fixed Bid Approach to P3 Projects©

### Pre-Development Agreement (PDA)

#### Pros

- Allows for an iterative scope and design refinement process after selection of a preferred bidder; City/County (Sponsors) gain greater input in project design.
- Provides multiple go/no-go opportunities for decision-making.
- Typically results in a more collaborative relationship with P3 team, including open book process.
- Allows for a delayed decision on the type of financing to be used for the project until the Sponsors have selected a preferred partner.
- Industry expects low to no stipend for unsuccessful responders depending on level of effort determined by the RFP.
- All design work produced becomes the intellectual property of the Sponsors.

#### Cons

- Loss of some competitive leverage in development agreement negotiations and determination of final fixed price for construction and long-term operations and maintenance; some competitive tension is still retained post-selection because owner retains option to terminate partnership and work with 2<sup>nd</sup> ranked team.
- Increased change order and cost risk during the PDA period as the Sponsors will not receive a final fixed price during the RFP.
- Increases the cost exposure to Sponsors prior to financial close; design costs incurred during the PDA period are payable if financial close not reached.

### Fixed Bid

#### Pros

- Cost bids for construction, and operations and maintenance provided in a more competitive proposer environment and locked in earlier.
- Substantive deal terms, including risk transfer, determined in a more competitive proposer environment and locked in earlier.
- Sponsors select a preferred partner based on final cost figures.

#### Cons

- 'Locks' in advanced design (30% submission); if Sponsors make substantive design changes after RFP, those changes could become costly.
- Requires an earlier determination (prior to RFP) on financial, technical, and design related decisions for the Project.
- Greater risk of final design misalignment between respondents and Sponsors.
- Industry expects higher stipend (\$1-1.5M) for unsuccessful responders.