

MEMORANDUM

TO: Mark Roberts, Purchasing Agent, Senior
FROM: Fernando Amuchastegui, Assistant County Attorney
DATE: August 7, 2020
RE: **PNC2119955P1 General Planning Consultant Services for the Transportation Department**

This legal opinion addresses whether CTS Engineering, Inc. ("CTS") meets the "nerve center" test under Florida law. The question arose because CDM Smith Inc. ("CDM"), objected to CTS receiving twenty-five (25) location points (five per EC member) in the solicitation RFP No. PNC2119955P1. The basis of this objection is that CTS did not have its principal place of business location listed with the Florida Department of State Division of Corporations ("Sunbiz") for at least six months prior to the solicitation's due date. CTS did not list its principal address with Sunbiz as Broward County until November 12, 2019. CTS states this was due to administrative oversight and that its principal place of business has been located in Broward County since at least August 12, 2015.

Based upon the U.S. Supreme Court decision in *Hertz Corp. v. Friend*, a company's principal place of business (or its "nerve center") is the location from where the company's officers direct, control, and coordinate the corporation's activities. The County Attorney's Office prepared nineteen (19) specific questions based upon the *Hertz* test and related federal and state caselaw to determine whether CTS's "nerve center" is in Broward County. On July 29, 2020, CTS responded to these nineteen questions. The County Attorney's Office analyzed that response and asked for further information regarding four questions, which were also analyzed upon receipt.

Based upon the answers provided in response to the questions posed, CTS meets the "nerve center" test under *Hertz*, as the answers indicate that the officers of CTS direct, control, and coordinate its activities from Broward County. The answers provided by CTS further indicate that CTS has maintained its principal place of business in Broward County for at least the one (1) year period immediately preceding the date on which this solicitation was advertised.

Please feel free to contact me with any questions or concerns or if you wish to further discuss this matter.