



REQUEST FOR QUALIFICATIONS

FOR

GENERAL PLANNING CONSULTANT SERVICES

RFQ NO. 26-05

ADDRESS FOR SUBMITTAL:

**BROWARD METROPOLITAN PLANNING ORGANIZATION
TRADE CENTRE SOUTH
100 WEST CYPRESS CREEK ROAD, SUITE 650
FORT LAUDERDALE, FL 33309**

DATE ISSUED: September 24, 2025

CLOSING DATE and TIME: November 5, 2025 @ 4:00 P.M. EST

THE RESPONSIBILITY FOR SUBMITTING A SUBMITTAL FOR THIS RFQ ON OR BEFORE THE STATED DATE AND TIME WILL BE SOLELY AND STRICTLY THE RESPONSIBILITY OF THE PROPOSER.

REQUEST FOR QUALIFICATIONS NO. 26-05

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Attachment “B” – BMPO Agreement – To be executed by the Successful Proposer

RFQ Required Documents

Attachment “C” – RFQ Forms Required to be Completed and Included with Submittals:

Proposal Form
Contractor’s Qualification Certification
Proposer’s Disclosure of Subcontractors, Subconsultants, and Suppliers Form
Drug-Free Workplace Certificate
Anti-Kickback Affidavit
Non-Collusion Affidavit
Non-Discrimination Affidavit
Independence Affidavit
Accuracy of Proposal Certification
DBE Participation Statement and Bid Opportunity List

Attachment “D” – FDOT Forms Required to be Completed and Included with Submittals:

FDOT Form No. 375-030-60 Vendor Certification Regarding Scrutinized Companies Lists
FDOT Form No. 375-030-30 Truth in Negotiation Certificate
FDOT Form No. 375-030-32 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
for Federal Aid Contracts
FDOT Form No. 375-030-33 Certification for Disclosure of Lobbying Activities on Federal Aid Contracts
FDOT Form No. 375-030-34 Disclosure of Lobbying Activities
FDOT Form No. 375-031-06 E-Verify
FDOT Form No. 375-030-01 Affidavit Regarding Labor and Services

Post Award Documents

Attachment “E” – BMPO Required Invoice Documentation

Contractor Invoice Template
Certificate of Disbursement of Previous Periodic Payment to Subcontractors
Subcontractor’s Certificate of Previous Payment
Final Release on Contract and Affidavit

Attachment “F” - Contractor Performance Evaluation Form

Federal Requirements

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DEFINITION OF TERMS

Whenever in this **Request for Qualifications (RFQ)** the following terms (or pronouns which replace these terms) are used, their intent and meaning shall be interpreted as provided below. Failure to capitalize a defined term shall not change its meaning. Where a term is clearly used as a generic reference and not a defined term, its meaning shall not be changed by inserting the capitalized, defined term.

ADDENDA or ADDENDUM: Interpretations and supplemental instructions issued by the BMPO to document holders that clarify or modify the Contract Documents.

AGREEMENT: The document titled “Agreement” that when executed by the BMPO and the Successful Proposer establishes an enforceable commitment by the parties to comply with the terms of the Contract Documents.

AMENDMENT: A bilaterally executed written modification to the Contract Documents.

BROWARD METROPOLITAN PLANNING ORGANIZATION ("BMPO" or “Agency”): BMPO will serve as the contracting agency.

BMPO BOARD: The Governing Board of the BMPO that has the authority to approve Contracts exceeding \$250,000, as authorized by the BMPO Procurement Rules.

BMPO EXECUTIVE COMMITTEE: Committee established by the BMPO Board to take action on certain administrative items, including the approval of Contracts exceeding \$35,000 but less than \$250,000, as authorized by the BMPO Procurement Rules.

BMPO EXECUTIVE DIRECTOR or EXECUTIVE DIRECTOR: The BMPO Executive Director or designee who reviews the Evaluation/Selection Committee recommendation and makes final recommendation of the Successful Proposer to the BMPO Board or Executive Committee.

BMPO PROJECT MANAGER: The BMPO authorized representative having the responsibility to oversee and manage the Contract Documents and the day-to-day activities of the Contractor performing the Work.

CONTRACT DOCUMENTS or CONTRACT: The Agreement, RFQ, the Technical Specifications or Scope of Services, the General Terms and Conditions, the Special Terms and Conditions, the Contractor’s Submittal, Fee Proposal, Task Work Orders, and all other documents included as attachments to these documents or incorporated into them by reference.

CONTRACT AMOUNT: The total amount of the Agreement between the Successful Proposer(s) and the BMPO for provision of continuing services for BMPO General Planning Consultant Services.

CONTRACT AWARD: The approval granted by the BMPO Board or Executive Committee authorizing the BMPO to execute the Contract.

CONTRACTOR or CONSULTANT: The Successful Proposer, as approved by the BMPO Board or Executive Committee, which has entered into a bilateral fully executed Agreement with the BMPO.

EVALUATION/SELECTION COMMITTEE or COMMITTEE or ESC: The committee appointed to review and evaluate the Submittals, determine the final ranking and make a recommendation of award to the BMPO Executive Director.

GOODS: All materials and commodities that will be required to be provided by the Successful Proposer in accordance with the Contract Documents.

PROJECT: The Scope of Services, Services or Work as defined and described in the Contract Documents.

PROPOSER: The business entity or entities that submits a Submittal for this RFQ.

REQUEST FOR QUALIFICATIONS or RFQ or SOLICITATION DOCUMENT: The document inclusive of all Addenda utilized to solicit Submittals.

RFQ SUBMITTAL or SUBMITTAL: The written information that the Proposer submits in response to the RFQ.

SUBCONSULTANT or SUBCONTRACTOR: An individual, consultant, or corporation having a direct contractual relationship with the Consultant or with any other Subconsultant for performance of a part of the Work for the Project. Subconsultants include any of the Consultant's affiliates.

SUCCESSFUL PROPOSER(S): The Proposer(s) that have been ranked the highest responsive and responsible Proposer(s) and recommended for award by the ESC to the BMPO Executive Director.

TASK WORK ORDER: The individual Work assignments issued to the Contractor consisting of a detailed task breakdown, the number of hours and personnel categories necessary to complete the task, the final work product, including deliverables, and the time frame for completing the Work.

WORK or SCOPE OF SERVICES or SERVICES: The services to be performed for the Project, as described in the Contract Documents.

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1.0 – RFQ REQUIREMENTS AND INSTRUCTIONS TO PROPOSERS

1.1 CONTRACTING AGENCY

The Broward Metropolitan Planning Organization (“BMPO”) is a dynamic, federally mandated public agency that serves as a catalyst for change in transportation. With the coordination of 31 local governments and municipalities, more than 1.9 million residents, and over 13 million visitors each year, the BMPO enables seamless transportation and redevelopment in Broward County that provides an opportunity for people and communities to grow and thrive. More information regarding the BMPO can be obtained at: <https://www.browardmpo.org/>.

1.2 INTRODUCTION / INVITATION

The BMPO intends to enter into indefinite delivery indefinite quantity (IDIQ) continuing service contracts with four (4) qualified Proposers to provide **General Planning Consultant Services** to the BMPO as more fully described in the Scope of Services. Each contract period of performance shall be for an initial term of three (3) years, in which the BMPO shall have the sole option to extend the term, at its discretion, for two (2) one-year extensions. The budgetary ceiling amount of the awarded IDIQ contracts will be a total amount not to exceed \$10 million per contract over the full term of the five-year Contract. The BMPO shall request Contractor’s services on an as needed basis. Individual Task Work Orders will be issued pursuant to the terms and conditions of the Agreement.

This Request for Qualifications (“RFQ”) solicits written responses from qualified Proposers interested in providing the Scope of Services needed for this Project.

1.3 PURPOSE

The purpose of the RFQ is to assist the BMPO in the evaluation of each Proposer’s ability to provide the desired Scope of Services.

This document shall outline the elements of the RFQ Submittal, the RFQ evaluation method, Contractor(s) selection process, and Contract(s) execution. The BMPO intends to execute multiple Contracts with the responsive and responsible Contractor(s) whose RFQ Submittal is determined to be the most advantageous to the BMPO.

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1.4 SCHEDULE OF EVENTS

Key milestone dates associated with Solicitation shall be as follows, and may be altered at any time, as best meets the needs of the BMPO.

ACTION/ACTIVITY	DATE	LOCAL TIME	LOCATION
Advertisement Start (Date Issued)	9-24-25	See BMPO Website	BMPO Website: https://www.browardmpo.org/procurement/current-solicitations
Pre-Submittal Conference	9-30-25	11:00 am	https://us02web.zoom.us/j/62UVEpELRyOpqBLZ2x39jA
Deadline for Questions (Submit via email only)	10-9-25	5:00 pm	Via Email to BMPO Procurement Manager: Nelsono@browardmpo.org
Deadline for Proposals Due Advertisement Closing Date	11-5-25	4:00 pm	BMPO Procurement Office 100 W. Cypress Creek Road Suite 650 Fort Lauderdale, FL 33309
Public Announcement of Receipt of Sealed Proposals	11-5-25	On or about 4:15 pm	BMPO Board Room 100 W. Cypress Creek Road Suite 650 Fort Lauderdale, FL 33309
Evaluation/Selection Committee Discussion, Evaluation and Recommendation	11-18-25	On or about 2:00 pm	BMPO Board Room 100 W. Cypress Creek Road Suite 650 Fort Lauderdale, FL 33309
Oral Presentations/Interviews of Shortlisted Proposers	12-10-25	On or about 9am to 12pm Order Selected in a Random Drawing	BMPO Board Room 100 W. Cypress Creek Road Suite 650 Fort Lauderdale, FL 33309
Evaluation/Selection Committee Discussion, Evaluate and Recommend	12-10-25	On or about 2:00 pm After the last firm presentation	BMPO Board Room 100 W. Cypress Creek Road Suite 650 Fort Lauderdale, FL 33309
Posting – Intended Award	12-11-25	On or about 3:00 pm	BMPO Website: https://www.browardmpo.org/procurement/current-solicitations
BMPO Board Approval of Intended Award	2-12-26	On or about 11:00 am	BMPO Board Room 100 W. Cypress Creek Road Suite 650 Fort Lauderdale, FL 33309

1.5 PRE-SUBMITTAL CONFERENCE

The BMPO will conduct a Pre-Submittal Conference at the date shown under Section 1.4. The conference will be held virtually via Zoom. The link to access the meeting is shown in Section 1.4. **ATTENDANCE AT THIS MEETING IS NOT MANDATORY.**

The purpose of the Pre-Submittal Conference is to provide an open forum for the BMPO to review the RFQ and the Project with the prospective Proposers. Prospective Proposers will not have the ability to ask verbal questions or comment during the Pre-Submittal Conference. Questions arising

prior to, during and after the Pre-Submittal Conference must be addressed in compliance with Section 1.6 of the RFQ. For those prospective Proposers that are unable to attend the meeting or have difficulties accessing the Zoom link, the BMPO will be providing a summary of minutes of the meeting through the issuance of an Addendum to the RFQ.

1.6 ORAL INSTRUCTIONS AND COMMUNICATIONS

1.6.1 Oral Instructions. No negotiations, decisions or actions shall be initiated or executed by a Proposer as a result of any oral discussions with any BMPO Board member, employee, or consultant. No interpretation of the meaning of the Contract Documents and no correction of any apparent ambiguity, inconsistency or error therein will be made orally to any Proposer. All such interpretations and supplemental instructions will be issued to all Proposers in receipt of this RFQ, in the form of written Addenda/Addendum, as indicated in Section 1.7. Only those communications that are in writing from the BMPO shall be considered as a duly authorized expression on behalf of the BMPO.

Also, only written communications from Proposers will be recognized by the BMPO as duly authorized expressions on behalf of the Proposers.

Any questions, requests for interpretations or supplemental instructions arising from this RFQ must be submitted in writing to the BMPO's Procurement Manager, Mr. Oscar Nelson, by e-mail at nelsono@browardmpo.org. Mr. Nelson shall be the sole point of contact for this procurement and can be reached at (954) 876-0041. In order for questions to be answered in a timely manner, they must be received no later than the date and time specified in Section 1.4 above. Written questions received after the date specified in Section 1.4 may not be answered. Proposers are responsible for ensuring that their questions have been received by the BMPO.

1.6.2 CONE OF SILENCE PROHIBITION ON COMMUNICATIONS

EXCEPT AS PROVIDED FOR BELOW, ANY COMMUNICATIONS BETWEEN ANY POTENTIAL VENDOR, SERVICE PROVIDER, PROPOSER, LOBBYIST OR CONSULTANT AND ANY BOARD MEMBER, EMPLOYEE, COMMITTEE MEMBER, OR CONSULTANT/CONTRACTOR OF THE BMPO REGARDING THIS PROCUREMENT ARE STRICTLY PROHIBITED FROM THE DATE ON WHICH THE SOLICITATION ADVERTISEMENT APPEARS THE BMPO'S WEBSITE THROUGH THE DATE OF CONTRACT AWARD OR FROM THE DATE OF THE FILING OF ANY NOTICE OF PROTEST OF AWARD THROUGH RESOLUTION FOR THE PARTIES INVOLVED IN THE PROTEST OR CONTRACT AWARD, WHICHEVER IS LONGER.

The only exceptions to the Cone of Silence are: (i) any communications with the BMPO Procurement Officer or the BMPO's designated point of contact; (ii) site visits to the apparent successful proposer's facilities (iii) any communications made on the record at a publicly noticed meeting of the BMPO, or (iv) negotiation meetings held by the Procurement Officer.

1.7 ADDENDA AND CLARIFICATION

Addenda. In the event that the BMPO finds it necessary to supplement or modify any portion of the RFQ during the Proposal preparation period, such procedure(s) shall be accomplished by issuance of written Addenda.

All Addenda will be in writing from the BMPO with content and number of pages described to all Proposers. Each Proposer must acknowledge receipt of all Addenda by signing the acknowledgment in the Addendum Acknowledgment on the Proposal Form.

Addenda subject matter takes the same precedence of the respective subject matter that it is modifying. In the event of conflicts in the Addenda, the most recent Addendum will govern. Reference herein to the RFQ shall include all Addenda, unless specifically noted.

1.8 ADDRESS FOR THIS RFQ

Mail or deliver all RFQ Submittals to:

Mr. Oscar Nelson
Procurement Manager
Broward Metropolitan Planning Organization
Trade Centre South
100 W. Cypress Creek Road, Suite 650
Fort Lauderdale, FL 33309
Phone: 954-876-0041
Email: nelsono@browardmpo.org

The complete solicitation package may be obtained from the BMPO's website: <https://www.browardmpo.org/procurement/current-solicitations> or from the DemandStar website: <https://www.demandstar.com/app/agencies/florida/broward-metropolitan-planning-organization/procurement-opportunities/d78b6ad4-65e9-4acf-9b63-a3fd0fd6dbb5/>

1.9 STAFFING REQUIREMENTS

After submitting Submittals and up through contract execution, proposed Subconsultants, teaming arrangements, or key staff of the Consultant cannot be changed or substituted except in instances of force majeure or in the event of circumstances that cannot reasonably be anticipated and/or are beyond the control of the prime Consultant. In such cases, changes or substitutions are subject to the discretion of the BMPO and cannot be made without written approval of the BMPO. All such requests made during this solicitation must be routed and coordinated through the BMPO's Procurement Officer only, as the official point of contact during the solicitation. After contract execution, Subconsultant, teaming arrangement, or key staff changes/substitutions require pre-approval of the BMPO's Project Manager before implementing. All qualification/certification requirements of the original advertisement shall govern, where applicable.

1.9.1 Teaming. Proposers must select between submitting as a Prime Consultant (the "Proposer") or a Subconsultant when responding to this solicitation. Firms electing to submit as Prime Consultant may only respond once to this solicitation. In other words, Prime Consultants

are limited to participation on a single team. If submitting as a Prime Consultant, a Proposer may not participate as a Subconsultant on another proposal for the same solicitation. If a Proposer fails to adhere to these restrictions and participates in more than one proposal, then the proposal which includes the Proposer as a Prime Consultant shall be found non-responsive.

1.10 RIGHT TO REJECT

1.10.1 General. The BMPO, at its sole and absolute discretion, reserves the right to cancel and withdraw this RFQ at any time and to reject any or all RFQ Submittals.

1.10.2 Responsiveness of RFQ Submittals and Disqualification. All RFQ Submittals must be in writing. A responsive RFQ Submittal is an offer which complies with and conforms to the requirements of the RFQ. RFQ Submittals which, in the opinion of the BMPO, are non-responsive will be rejected. RFQ Submittals may be rejected if found to be conditional, irregular or not in conformance with the requirements and instructions contained herein. A Submittal may be found to be irregular or non-responsive for reasons including failure to utilize or complete forms, conditional Submittals, incomplete Submittals, indefinite or ambiguous Submittals and improper and/or undated signatures. All RFQ Submittals must be typed.

1.10.3 BMPO Staff shall perform an initial responsiveness determination of RFQ Submittals received. Any RFQ Submittal containing conditions that may change the terms and conditions of the Contract Documents will be rejected as nonresponsive by the ESC. Conditions include assumptions, exceptions, qualifications, points of discussion, and all other terms submitted by Proposers that may materially affect the Work.

1.10.4 All questions or request for changes to the Solicitation Documents may only be submitted during the question-and-answer period, including such requests for changes in Attachment “B” BMPO Agreement. The Successful Proposer shall execute the BMPO Agreement, same as attached Attachment “B” to the RFQ. All RFQ Submittals, generally, are public records subject to the provisions of Chap. 119, Fla. Stat., unless there is a specific exemption that applies to some portion of the Submittal. Only those pages to which a public records exemption applies shall be marked as “confidential”, “proprietary” or “trade secret” with the correct statutory citation for the exemption stated on each page containing information that the Proposer claims is exempt. For every page marked “confidential”, “proprietary” or “trade secret”, the Proposer shall provide, in compliance with Florida law, the same page with such information redacted.

1.10.5 If a Proposer desires to request a condition to be considered, the Proposer must submit their request to the BMPO in writing during the period of time the Proposer may ask questions as outlined in this RFQ. When submitting a condition to be considered during the question period, the Proposer shall specifically reference the corresponding section, paragraph, and page number which the Proposer wishes to be considered changed. Failure to follow these instructions shall result in the BMPO not considering the Proposer’s request.

1.10.6 Where conditions are proposed during the solicitation question period, the BMPO, in its sole discretion, shall determine whether to consider the condition, and/or the acceptability of the proposed condition. The BMPO is under no obligation to accept or consider any conditions.

1.10.7 Other Conditions Causing Disqualification of Proposers. Other conditions, which may cause rejection of RFQ Submittals, include, but are not limited to, qualified or contingent Submittals, evidence of collusion among Proposers, obvious lack of experience or expertise to perform the Work, failure to perform or meet financial obligations for previous contracts, or evidence that a Proposer has a financial interest in another Consultant for the Work under this RFQ.

1.10.8 Submittals may be rejected if more than one RFQ Submittal is received from a Prime Consultant (the “Proposer”) to include an individual, Firm, partnership, or corporation, or combination thereof, under the same or different names. Such duplicate interest may cause the rejection of all Submittals in which such Proposer has participated.

1.10.9 Waivers. The BMPO, at its sole and absolute discretion, reserves the right to waive minor informalities or irregularities in this RFQ or in the Submittals received as part of this RFQ; where such is merely a matter of form and not substance, and the correction or waiver of which is not prejudicial to other Proposers. Minor irregularities are defined as those that will not have an adverse effect on the BMPO’s interest and will not materially affect the Submittals by giving a Proposer an advantage or benefit not enjoyed by other Proposers.

1.11 MODIFICATION, RE-SUBMITTAL AND WITHDRAWAL OF SUBMITTALS

A Proposer may submit a modified RFQ Submittal to replace all or any portion of a previously submitted RFQ Submittal up until the due date and time shown in Section 1.4; only the latest version of the RFQ Submittal will be considered and evaluated. Any such revisions must be clearly provided so that no determination by the BMPO is necessary as to the portion of the RFQ Submittal to be replaced or modified.

RFQ Submittals may be withdrawn prior to the due date and time shown in Section 1.4. Such requests for withdrawal must be made in writing and must include the following information:

RFQ WITHDRAWAL
RFQ NUMBER
TITLE OF RFQ
DUE DATE

1.12 RFQ SUBMITTAL REQUIREMENTS

1.12.1 RFQ Submittals shall consist of two parts: (1) a Technical Proposal in a sealed envelope; and (2) a separate sealed envelope containing the completed Required Documents (listed below). Within the sealed envelope for the Technical Proposal, all Proposers must submit ONE (1) **unbound** original printed document and ONE (1) complete electronic version, in PDF format, of the Technical Proposal on FLASHDRIVE. Proposers will also include a PDF version of all completed and notarized Required Documents on FLASHDRIVE. Only ONE (1) original of each of the Required Documents is to be provided. In the event of a conflict, the original printed document Technical Proposal will take precedence.

The ONE (1) **unbound** printed original and ONE (1) complete electronic version, in PDF format on FLASHDRIVE, of the **Technical Proposal**, shall be placed in one (1) or more sealed envelopes that shall be clearly marked as follows:

Broward Metropolitan Planning Organization
RFQ No. 26-05
General Planning Consultant Services
Technical Proposal
RFQ Due Date
Proposer's Name

The printed, original, and executed (as applicable) **Required Documents** shall be placed in a separate sealed envelope which shall be clearly marked as follows:

Broward Metropolitan Planning Organization
RFQ No. 26-05
General Planning Consultant Services
Technical Proposal
RFQ Due Date
Proposer's Name

1.12.2 Required Documents

Attachment "C" RFQ Forms Required to be Completed and Included with Submittals:

Proposal Form
Contractor's Qualification Certification
Proposer's Disclosure of Subcontractors, Subconsultants, and Suppliers Form
Drug-Free Workplace Certificate
Anti-Kickback Affidavit
Non-Collusion Affidavit
Non-Discrimination Affidavit
Independence Affidavit
Accuracy of Proposal Certification
DBE Participation Statement and Bid Opportunity List

Attachment "D" – FDOT Forms Required to be Completed and Included with Submittals:

FDOT Form No. 375-030-60 Vendor Certification Regarding Scrutinized Companies Lists
FDOT Form No. 375-030-30 Truth in Negotiation Certificate
FDOT Form No. 375-030-32 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Federal Aid Contracts
FDOT Form No. 375-030-33 Certification for Disclosure of Lobbying Activities on Federal Aid Contracts
FDOT Form No. 375-030-34 Disclosure of Lobbying Activities
FDOT Form No. 375-031-06 E-Verify Form
FDOT Form No. 375-031-01 Affidavit Regarding Labor and Services

The Proposer's Financial Information is to be included in the Required Documents.

1.12.3 All RFQ Submittals must be received by the date and time shown in Section 1.4 of the RFQ. Facsimile or e-mail Submittals are not permitted. RFQ Submittals received after that time and date will not be considered. Hand-carried Submittals may be delivered to the address in Section 1.8 between the hours of 9 a.m. and 5 p.m., only, Monday through Friday, excluding holidays observed by the BMPO.

1.12.4 Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the required address information appears on the outer wrapper or envelope used by such service and that the envelopes containing the RFQ Submittals are clearly marked.

1.12.5 Failure to acknowledge all Addenda on the Proposal Form issued by the BMPO may be cause for rejection.

1.12.6 RFQ Submittals **MUST** be structured in the format outlined by the BMPO in Section 1.13 of the RFQ. Submittals that do not meet this requirement may be rejected.

1.12.7 All RFQ Submittals and associated forms shall be completed and notarized (if applicable), signed and dated in ink by a duly authorized representative of the Proposer.

1.12.8 Technical Proposals are not to exceed ten (10) single-sided pages (exclusive of the cover letter, table of contents, section dividers, and Required Documents).

1.12.9 The **Technical Proposal must be unbound** on paper size 8 ½" x 11" with a minimum font size of 12 pt.

1.12.10 RFQ Submittals received by the date and time shown in Section 1.4 that do not meet the requirements of Section 1.12 may be deemed non-responsive by the ESC.

1.13 RFQ SUBMITTAL CONTENT

1.13.1 TECHNICAL PROPOSAL

The Technical Proposal will be scored using the maximum point assignments shown on the RFQ Evaluation Criteria provided in Section 1.14. Each criterion has an established point value.

Technical Proposals must be formatted as described below.

The Technical Proposal should be organized into the following major sections with all parts, pages, figures, and tables clearly numbered and labeled:

Section	Title
	Cover Letter
	Table of Contents
1.0	Qualifications and Experience
2.0	Personnel
3.0	Proposed Technical Approach
4.0	Project Understanding

The Technical Proposal should be organized as follows:

COVER LETTER:

Each Proposer shall submit a maximum two-page letter including the name and address of the organization submitting the Proposal; whether the organization is an individual, or corporation; and the name, address, telephone number, and e-mail address of the contact person who will be authorized to represent the Proposer. The cover letter does not count against the ten (10) page limit.

The Cover Letter shall provide a complete and full, accurate description of the corporate or other structure of the proposing entity.

TABLE OF CONTENTS:

Each Proposer shall include an outline of the Technical Proposal, identified by sequential page number and by section, reference number, and section title as described herein.

SECTIONS:

1.0 Qualifications and Experience

2.0 Personnel

3.0 Proposed Technical Approach

4.0 Project Understanding

1.13.2 BMPO REQUIRED DOCUMENTS

TO BE SUBMITTED IN A SEPARATE SEALED ENVELOPE:

1. Proposer shall complete and notarize where applicable the Required Documents identified in Section 1.12 of the RFQ and shall submit in a separate sealed envelope. Proposer will also include a PDF version of all completed and notarized Required Documents on a FLASHDRIVE.
2. FINANCIAL INFORMATION

This section shall include relevant information regarding the financial stability and strength of the Proposer. Each Proposer shall provide a copy of the most recent published Dun and Bradstreet or Creditsafe report. A parent company Dun and Bradstreet or Creditsafe report is acceptable. A copy of the most recent audited financial statements will be accepted if a Dun and Bradstreet or Creditsafe report is unavailable. In the event the above listed financial reports are not available, the BMPO may consider a combination of both an unaudited financial statement and a copy of the latest tax return for the Proposer. Financial information will be reviewed by the BMPO prior to the evaluation process set forth in Section 1.14 below as one factor to determine responsibility of the Proposer, as required

by 2 CFR 200.318(h). See Section 1.10.4 regarding any specific exemption that applies to the required financial information being submitted with the RFQ Submittal. RFQ Submittals that do not include the required financial information may be deemed non-responsive by the ESC.

1.14 EVALUATION PROCESS

The BMPO's Evaluation/Selection Committee (hereinafter referred to as "COMMITTEE" or "ESC"), shall evaluate the Technical Proposals provided to it using the RFQ Evaluation Criteria in Section 1.14.1. The final selection of the Successful Proposer will be based upon the evaluation process as described herein (the "Evaluation Process").

1.14.1 EVALUATION CRITERIA

The criteria below will be used to evaluate each RFQ Submittal. There are four (4) criteria, with points assigned to each according to their relative importance to the overall evaluation process for this RFQ.

1) QUALIFICATIONS AND EXPERIENCE (Maximum 40 Points)

This category will evaluate recent experience (within the last five years) of the Proposer in the areas described in the Scope of Services. Proposer shall demonstrate its qualifications and experience in the areas of BMPO Administration, Data Collection & Analysis, Regional Planning, Community Planning, Transportation Improvement Program, Regional Transfers, Public Participation, and Local Activities.

2) PERSONNEL (Maximum 25 Points)

This category will evaluate the qualifications and experience of key personnel available for this contract. Provide a summary resume (up to 1 page) for **key** personnel (Prime and Subconsultant personnel) describing qualifications and experience relevant to this project. Key personnel includes the proposed Project Manager and Project Leaders.

A proposed organizational chart illustrating how the team will provide a logical division of responsibility and a clear line of authority in accomplishing the Scope of Services shall be provided.

3) PROPOSED TECHNICAL APPROACH (Maximum 20 Points)

This category will examine the Proposer's approach, creativity, and resourcefulness to provide the required services. The Proposer shall show specific understanding and familiarity with the particular requirements of the Scope of Services and the Proposer's approach to address them. The Proposer should demonstrate familiarity with relevant planning guidance.

4) PROJECT UNDERSTANDING (Maximum 15 points)

This category will examine the Proposer's comprehensive understanding of the project requirements and environment. Proposer should show specific understanding and familiarity with the South Florida region and regional issues as they relate to transit needs in the area.

1.14.2 EVALUATION CRITERIA AND RELATIVE WEIGHTS

Technical Proposal – Maximum 100%

- Qualifications and Experience – Maximum 40%
- Personnel – Maximum 25%
- Proposed Technical Approach – Maximum 20%
- Project Understanding – Maximum 15%

1.14.3 TECHNICAL EVALUATION CRITERIA SCORING

9 – 10 Outstanding – Proposer exemplifies superior and/or exceptional characteristics in the evaluation criteria categories.

7 – 8 Very Good – Proposer illustrates extremely strong, but not exceptional, characteristics in the evaluation criteria categories.

5 – 6 Satisfactory – Proposer demonstrates competitive average characteristics in most of the evaluation criteria categories. Proposer may be particularly strong in only one or more areas.

3 – 4 Poor – Proposer does not stand out. Evaluator has substantial concerns about the overall strength of the Proposer.

1 – 2 Unsatisfactory – Proposer has serious deficiencies when compared to most of the evaluation criteria categories. In addition, several items may not be addressed or may be missing.

1.14.4 EVALUATION SELECTION COMMITTEE SCORING OF TECHNICAL PROPOSALS

Proposals will be evaluated by an ESC appointed by the Executive Director or his/her designee. The BMPO Procurement Officer or his/her designee will perform an initial review of the Proposals, noting any deficiencies, informalities, or irregularities within the Proposal and will distribute this information with a copy of each Technical Proposal to each member of the ESC. The ESC members will independently evaluate the Technical Proposals for responsiveness and then score the Proposals using the RFQ Evaluation Criteria set forth in Section 1.14 prior to the ESC meeting.

At the ESC meeting, the Committee will first determine that each Proposal is compliant with the minimum qualifications and mandatory requirements of the RFQ and make a determination of responsiveness of the Proposals. Failure to comply with any mandatory requirements, as determined by the Committee, will disqualify a Proposal. The Committee will discuss their independent evaluations of the Proposals based on the evaluation criteria set forth in Section 1.14. Prior to announcing their scores, the ESC members may ask questions of each other, have discussion and make adjustments to any scoring. ESC members will then announce their scores per criterion. This process is conducted until all ESC members have announced their scores for all of the Technical Proposals evaluated. For every Technical Proposal evaluated, the scores shall be averaged for each criterion (“Average Criterion Scores”). The Average Criterion Scores shall be

weighted, if applicable, and totaled to determine each Technical Proposal's Total Technical Proposal Score.

Based on the ESC members' scores, the Committee shall reduce the number of Proposers (shortlist) to a minimum of six (6) for further evaluation to recommend award of four (4) contracts.

1.14.5 INTERVIEW REQUIREMENTS

1. The Committee will conduct Interviews to include a question-and-answer format and discussions with the shortlisted Proposers regarding clarification of their Submittals. A portion of the prepared Interview questions shall be common to all shortlisted Proposers. The BMPO may prepare additional questions that are unique for a Proposer based on the Proposer's Technical Proposal. ESC Committee members may also ask follow-up clarifying questions during the Interview, where time permits. The questions will be distributed to the shortlisted Proposers prior to the Interviews. Interview questions will be developed for each of the evaluation criteria established in section 1.14.1. The evaluation criteria for the Interviews will be of equal relative importance (see section 1.14.6.1 below).
2. The Interviews are mandatory and will be held in the Board Room on the 6th Floor, Suite 650 at the Broward Metropolitan Planning Organization Office located at 100 West Cypress Creek Road, Fort Lauderdale, Florida 33309. The order of the Interviews will be determined by a random drawing at the ESC Meeting. Further instructions will be provided to the shortlisted Proposers prior to the scheduled date of the Interviews.
3. Just prior to the start of the Interview, each Proposer team shall be given the prepared questions to review for five (5) minutes. One copy of the questions shall be provided to each member of the Proposer team. The Proposer may keep the copy of the questions during the Interview. The Proposer may not leave the Interview room to review the questions. The Proposer remains in the same room as the ESC and BMPO Procurement staff when reviewing the questions. The five minutes for reviewing questions is not considered as part of the Interview. Discussions by the Proposer team members during the 5-minute review are not part of the Interview process and are not considered in evaluation of the Proposer.
4. Brief introductions of Proposer's staff and BMPO staff are also not counted as part of the Interview time. Interviews are limited to twenty (20) minutes in total, inclusive of Proposer opening statement and Questions and Answers (Q&A). Ten (10) minutes will be allowed after the Interview for follow-up questions pertaining to the Proposer's responses and Proposer closing statement (closing statement is optional and only if time permits). BMPO Procurement staff shall be timekeeper and is responsible for ensuring the Proposer firm adheres to the stated time limits. The Interview may conclude early if less time is actually required. Each Proposer may make an opening statement of approximately 5 minutes (opening statement is optional). The opening statement shall not be separately timed.
5. Attendance at the interview by the proposed Project Manager is strongly recommended.
6. A maximum of six (6) attendees per Proposer team is allowed. Switching out of participants in the Interview room is not permitted. If a proposed Subconsultant is listed as a Subconsultant on more than one (1) team, then it is the responsibility of the Subconsultant to disclose this information with each respective team. BMPO representatives in attendance will at a minimum be

the members of the ESC Committee and a Procurement Staff representative(s) (interview facilitator).

7. No handouts other than standard paper business cards will be allowed before, during, or after the interview.

8. Proposers may bring in paper notepads or index cards with notes during their interviews, for their own reference and use. The notepads and index cards will not be shared nor left behind for the ESC.

1.14.6 EVALUATION SELECTION COMMITTEE SCORING OF INTERVIEWS AND FINAL SCORING AND RANKING

Following Interviews with all shortlisted Proposers, the Committee will reconvene in a publicly announced meeting and evaluate and score the shortlisted Proposers Interviews, based on discussions and responses to the questions asked by the ESC of each shortlisted Proposer. For each Interview evaluated, the scores shall be averaged for each criterion ("Average Criterion Scores"). The Average Criterion Scores shall be weighted, if applicable, and totaled to determine each Interview's Total Interview Score.

1.14.6.1 INTERVIEW EVALUATION CRITERIA AND RELATIVE WEIGHTS

The BMPO has established the following relative weights for the Interview.

Interview – Maximum 100%

- Qualifications and Experience – Maximum 25%
- Personnel – Maximum 25%
- Proposed Technical Approach – Maximum 25%
- Project Understanding – Maximum 25%

1.14.6.2 INTERVIEW EVALUATION CRITERIA SCORING

9 – 10 Outstanding – Proposer exemplifies superior and/or exceptional characteristics in the evaluation criteria categories.

7 – 8 Very Good – Proposer illustrates extremely strong, but not exceptional, characteristics in the evaluation criteria categories.

5 – 6 Satisfactory – Proposer demonstrates competitive average characteristics in most of the evaluation criteria categories. Proposer may be particularly strong in only one or more areas.

3 – 4 Poor – Proposer does not stand out. Evaluator has substantial concerns about the overall strength of the Proposer.

1 – 2 Unsatisfactory – Proposer has serious deficiencies when compared to most of the evaluation criteria categories. In addition, several items may not be addressed or may be missing.

1.14.6.3 FINAL SCORING AND RANKING

The Committee shall then rank and vote on the final recommendation of the highest qualified shortlisted Proposer(s) based on the Committee's final Total Technical Proposal Scores and final Total Interview Scores. For determining the final recommendation, Total Technical Proposal Scores shall be weighted sixty percent (60%) and Total Interview Scores shall be weighted forty percent (40%). The Committee shall provide its recommendation to the Executive Director for review and if approved, to recommend award to the BMPO Board for final approval. In the event the final Committee scoring results in a tie for rankings of the most highly qualified Proposer(s), the Committee shall select the Proposer with the highest average ranking based on the individual Committee member rankings, with One (1) being the highest ranked, Two (2) being the second highest ranked, and so on. If there is still a tie, the Committee shall rank the Proposers that are tied based on the final scoring for the highest weighted Technical Proposal evaluation criterion. If still a tie, the last tie breaker will be determined by a coin toss.

1.14.7 SUBMITTAL OF EVIDENCE OF INSURANCE AND FEE PACKAGE PRIOR TO AWARD OF CONTRACT(S)

Upon Executive Director approval of the Committee's recommendation, the Successful Proposer(s) will be notified in writing to submit evidence of required insurance coverages and endorsements and their Fee Package. The Successful Proposer(s) shall use the standard ACORD 25 Certificate of Liability Insurance and ACORD Form 101 (if necessary), evidencing that the Successful Proposer has met the insurance requirements in Section 8 of Attachment "B".

The Fee Package proposed costs for all members of the proposed team must be submitted in the FDOT Automated Fee Proposal Spreadsheet. The Automated Fee Proposal and Guidelines can be obtained by accessing the following link and clicking on the Automated Fee Proposal Spreadsheet: <http://www.fdot.gov/procurement/formmenu.shtm>.

- The Fee Package must contain a certification that any direct costs proposed are not included as overhead in the Successful Proposer's accounting system (Form No. 375-030-39). The certification should be signed by the Successful Proposer's comptroller, chief financial officer, accountant, or other appropriate person who is knowledgeable of the Successful Proposer's normal accounting requirements.
- A spreadsheet with a listing by firm of each proposed staff member, the personnel category to be used on this contract, and the corresponding certified wage rates.
- A spreadsheet with a listing of average rates per category discipline. For disciplines containing two or more employees, certified wage rates will be utilized by the Successful Proposer to establish average rates per discipline. The spreadsheet of average rates is to include the actual rates and identification of all individuals per discipline that were used to calculate the average rate
- Current year certified audit rates. A copy of the FDOT Procurement Office's prequalification letter with the approved overhead rate.

- Payroll registers to confirm the accuracy of the pay rates. The submittal will contain a certification from a responsible company official that the rates are actual current rates on that particular date. A payroll register is defined as an official record of pay details for an individual employee of a firm for a specific, most recent single pay period. The payroll register will display the following information about the employee: name of employee, date, date range, hours (regular and overtime), gross pay, deductions, taxes withheld, and net pay. A payroll register is not a monthly projection, payroll forecast, or certified pay rate. Confidential information may be redacted.
- DBE Certification for DBE team members.

After receipt and acceptance of the Fee Package, the Executive Director will recommend to the BMPO Board contract award to the Successful Proposer(s) whose RFQ Submittal is deemed to be the most qualified.

1.15 REVIEW OF FACILITIES AND QUALIFICATIONS

After the RFQ Submittal due date and prior to execution of the Contract, the BMPO reserves the right to perform or have performed an on-site review of any Proposer's facilities and qualifications, as well as provided documentation. This review will serve to verify data and representations submitted by the Proposer and may be used to determine whether the Proposer has an adequate, qualified, and experienced staff, and can provide facilities and perform the Work. The review may also serve to verify whether the Proposer has adequate financial capability to meet the Contract requirements. Should the BMPO determine that the RFQ Submittal, or subsequently submitted documentation, has material misrepresentations or that the size or nature of the Proposer's facilities or the number of experienced personnel (including technical staff) are not adequate to ensure satisfactory Contract performance, or ascertains other bases for concern as to the Successful Proposer's ability to perform the Work, the BMPO has the right to reject the RFQ Submittal.

1.16 PROTEST PROCEDURES

The following are the BMPO's procedures for protesting solicitations and Contract Award.

Definitions

Interested Party means any bidder or proposer with legal standing that is affected adversely by the BMPO's decision concerning a solicitation or Contract Award.

Protest means a written objection to the commercial terms or technical specifications in the solicitation or the Contract Award.

Protest Period means the 72 hours following the date of the posting of the Intent to Contract Award on the BMPO's website or the date of the issuance of an addendum as to the content of such addendum or the date of issuance of the Solicitation.

- (1) The BMPO provides Interested Parties with the opportunity for an administrative review of written Protests and strives to resolve any Protest expeditiously at the Procurement Officer's level to the maximum extent possible. Filing a Protest: Only an Interested Party may file a

Protest regarding the Solicitation Documents issued by the BMPO by filing a written Notice of Protest with the BMPO within seventy-two (72) hours from the availability date of the Solicitation Documents set forth in the advertisement posted on the BMPO's website, excluding Saturdays, Sundays and legal holidays observed by the BMPO or from the date of the issuance of any addenda if specifically relating to the content of the addendum, excluding Saturdays, Sundays and legal holidays observed by the BMPO. Failure to file a Notice of Protest within the provided timeframes, for any reason whatsoever, shall constitute a complete and absolute waiver of Protest rights.

With respect to any Protest of Contract Award, the Notice of Protest shall be filed within the Protest Period. For Procurements not involving federal funds, the BMPO, at its sole discretion, may require in its Solicitation Documents that an Interested Party post with its formal Protest a Protest bond in the amount of 1% of the Contract amount or \$25,000, whichever is less. In the event the Interested Party receives an adverse determination on its Protest, the bond shall be forfeited to the BMPO.

An Interested Party shall file a formal written Protest within ten (10) business days of filing a Notice of Protest. In order to be considered, the Protest must contain: (i) the Interested Party's name, address, telephone number, email address, facsimile number, and taxpayer identification number; (ii) identification of the Procurement or Contract at issue; (iii) a complete and concise statement of the grounds for the Protest, supported by relevant documents; (iv) identification of all Persons with information germane to the Protest; (v) a chronology of efforts made to resolve the matter prior to filing the Protest; and (vi) a statement of the relief requested.

- (2) **Protest Decision:** The Procurement Officer shall reduce his or her decision to writing and shall transmit or otherwise furnish a copy of the decision to the Interested Party. The decision of the Procurement Officer shall be final and conclusive unless, within seven (7) business days from the date of such decision, the BMPO receives from the Interested Party a written request for review of the decision addressed to the Executive Director. The decision of the Executive Director shall be final and conclusive.
- (3) **Continuation of Performance:** The Procurement Officer shall determine whether the BMPO will proceed with Contract Award or, if the Contract has been awarded, whether to suspend performance of the Contract, pending a decision on the Protest. The BMPO has no obligation, however, to suspend award or performance of the Contract in the event of a Protest.
- (4) **Remedies:** If the BMPO determines that a Protest is valid, the Executive Director, at his or her sole discretion, may: (i) direct the Procurement Officer to issue a new or amended Solicitation; (ii) award the Contract or recommend that the Board award the Contract, if the Contract amount exceeds the Executive Director's approval authority; (iii) terminate or suspend performance of the Contract that is the subject of the Protest; or (iv) take any other action permitted by law to promote compliance with BMPO policies and applicable law.
- (5) **Filing of a Written Notice of Protest or Protest:** All Written Notices of Protests or Formal Protests must be filed with the Procurement Officer. All Protests must be received at the

address shown on the Solicitation Documents during normal office hours of 9:00 am to 5:00 pm, local time. Failure to file a Notice of Protest or a Protest as discussed herein, shall constitute a complete and absolute waiver of any such rights.

- (6) Informal Resolution: The Procurement Officer may, at his or her sole discretion, agree to meet with the Interested Party within seven (7) calendar days, excluding Saturdays, Sundays and legal holidays observed by the BMPO, after the filing of a Protest to attempt to resolve the matter.

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SECTION 2.0
GENERAL TERMS AND CONDITIONS

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2.0 - GENERAL TERMS AND CONDITIONS

2.1 CONTENTS OF SOLICITATION

2.1.1 General Conditions. It is the sole responsibility of the Proposer to become thoroughly familiar with the Solicitation Documents and all terms and conditions affecting the performance of this RFQ. By the submission of an RFQ Submittal to do the Scope of Services, the Proposer certifies that a careful review of the Solicitation Documents has taken place, and that the Proposer is fully informed and understands the requirements of the Solicitation Documents and the quality and quantity of service to be performed. Pleas of ignorance by the Proposer of conditions that exist, or that may exist, will not be accepted as a basis for varying the requirements of the BMPO or the compensation to be paid to the Successful Proposer.

The Proposer is advised that this Solicitation is subject to all legal requirements and all other applicable City and County Ordinances and/or State Statutes and Federal Rules, or Regulations.

2.1.2 Conflicts in this Solicitation. Where there appears to be a conflict between the FTA Funding Supplement, General Terms and Conditions, the Special Terms and Conditions, the Specifications or Scope of Services, or any addenda issued, the order of precedence shall be: the last addenda issued, FTA Funding Supplement, the Specifications or Scope of Services, the Special Terms and Conditions, and then the General Terms and Conditions.

2.2 CRIMINAL CONVICTION DISCLOSURE

Any individual who has been convicted of a felony during the past ten (10) years and any corporation, partnership, joint venture or other legal entity having an officer, director, or executive who has been convicted of a felony during the past ten (10) years shall disclose this information prior to entering into a Contract with and/or receiving funding from the BMPO.

2.3 CONFLICT OF INTEREST

The award of the Contract(s) hereunder is subject to the provisions of Chapter 112, Florida Statutes. On the Independence Affidavit Form, the Proposer shall list, and describe any relationships – professional, financial or otherwise – that it may have with the BMPO, its elected or appointed officials, its employees or agents or any of its agencies or component units for the past two (2) years, together with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the services sought in this RFQ. Additionally, the Proposer shall give the BMPO written notice of any other relationships – professional, financial or otherwise – that it enters into with the BMPO, its elected or appointed officials, its employees or agents or any of its agencies or component units during the solicitation period and during the term of the Agreement.

2.4 SUBMITTAL COSTS

All expenses involved with the preparation and submission of an RFQ Submittal to the BMPO, and any work performed in connection therewith, shall be borne by the Proposer(s). No payment shall be made for any responses received, nor for any other effort required of or made by the

Proposer(s) prior to commencement of Work as defined by a contract duly approved by the Executive Board of the BMPO.

2.5 DEMONSTRATION OF COMPETENCY

2.5.1 An RFQ Submittal will only be considered from a firm that is regularly engaged in the business of providing the Scope of Services required by this RFQ. The Proposer must be able to demonstrate a good record of performance and have sufficient financial resources, equipment, and organization to ensure that they can satisfactorily provide the Scope of Services if awarded the Contract as a result of this RFQ.

2.5.2 The BMPO may conduct a pre-award inspection of the Proposer's site or hold a pre-award qualification hearing to determine if the Proposer possesses the requirement(s) as outlined in the above paragraph, and is capable of performing the requirement of the RFQ. The BMPO may consider any evidence available regarding the financial, technical, or other qualifications and abilities of the Proposer, including past performance (experience) with the BMPO or any other governmental entity in making the award of any Contract.

2.5.3 The BMPO may require the Proposer to show evidence that it has been designated as an authorized representative of a manufacturer, supplier and/or distributor if required by this RFQ.

2.5.4 The BMPO reserves the right to audit all records pertaining to and resulting from any award as a result of this RFQ, financial or otherwise.

2.6 AWARD OF A CONTRACT

2.6.1 Contract. After award, the attached Contract, inclusive of all attachments and any modifications that the BMPO, in its sole discretion may make, will constitute the entire Contract between the parties. The BMPO may award independent contracts to multiple Proposers, in its sole discretion, to secure the Scope of Services required by this RFQ. After award, the Contract, including all attachments and any modifications that the BMPO, in its sole discretion may make, will constitute the entire Contract between the parties. No rights shall inure to the benefit of any Proposer pursuant to this RFQ until the Contract has been executed by both parties thereto.

2.6.2 Additional Information. The award of a Contract may be preconditioned on the subsequent submission of other documents, as specified in the Special Terms and Conditions. The Successful Proposer(s) shall be deemed nonresponsive if such documents are not submitted in a timely manner and in the form required by the BMPO. Where the Successful Proposer(s) is deemed nonresponsive as a result of such failure to provide the required documents, the BMPO, may award any Contract for a specific project to another of the qualified responsive, responsible Proposer(s).

2.6.3 Independent Contractor. The Successful Proposer(s) shall be a contractor operating independently from the BMPO. All employees and contractors to the Successful Proposer(s) shall be considered to be, at all times, the sole employees or contractors of the Successful Proposer(s) under its sole discretion and not an employee, Contractor, or agent of the BMPO. Nor shall employees and contractors to the Successful Proposer(s) enjoy any privity of contract with the BMPO. Neither the Successful Proposer(s) nor any of its employees shall receive BMPO benefits available to employees of the BMPO. The Successful Proposer(s) shall supply competent and

capable employees and contractors. The BMPO may require the Successful Proposer to remove any employee or contractor it deems careless, incompetent, insubordinate, or otherwise objectionable and whose continued performance of the services is not in the best interest of the BMPO.

2.6.4 Warranty. Any implied warranty granted under the Uniform Commercial Code shall apply to all goods purchased under any Contract.

2.6.5 Estimated Quantities. Estimated quantities or estimated dollars, if provided, are for Proposer's guidance only. No guarantee is expressed or implied as to quantities or dollars that will be used during the period of any Contract. The BMPO is not obligated to place any order for a given amount subsequent to the award of any Contract. Estimates are based upon the BMPO's actual needs and/or usage during a previous contract period. Said estimates may be used by the BMPO for purposes of determining the qualified responsive, responsible Proposer meeting specifications.

2.6.6 Non-Exclusive Contract. Although the purpose of this RFQ is to secure Contracts that can satisfy the total needs of the BMPO for the Project, it is hereby agreed and understood that any Contract does not constitute the exclusive rights of the Successful Proposer to receive all orders that may be generated by the BMPO in connection with the types of products and/or Services requested herein.

2.7 ASSIGNMENT: NON-TRANSFERABILITY OF PROPOSAL

RFQ Submittals shall not be assigned or transferred. A Proposer who is, or may be, purchased by or merged with any other corporate entity during any stage of the RFQ process, up to and including awarding of and execution of an Agreement, is subject to having its RFQ Submittal disqualified as a result of such transaction. The Executive Director shall determine whether an RFQ Submittal is to be disqualified in such instances.

If, at any time during the RFQ process, filings, notices, or like documents are submitted to any regulatory agency concerning the potential acquisition of Proposer, or the sale of a controlling interest in the Proposer, or any similar transaction, Proposer shall immediately disclose such information to the BMPO. Failure to do so may result in the RFQ Submittal being disqualified, at the BMPO's sole discretion.

2.8 LEGAL REQUIREMENTS

Proposers are required to comply with all provisions of federal, state, county and local laws, ordinances, BMPO rules and regulations that are applicable to the Scope of Services being offered in this RFQ. Lack of knowledge of the Proposer shall in no way be a cause for relief from responsibility, or constitute a cognizable defense against the legal effects thereof.

2.9 FAMILIARITY/COMPLIANCE WITH LAWS, RULES AND ORDINANCES

2.9.1 Familiarity. The submission of a response to the RFQ on the Scope of Services requested herein shall be considered as a representation that the Proposer is familiar with all federal, state and local laws, ordinances, BMPO rules and regulations which affect those engaged or employed

in the provision of such services, or equipment used in the provision of such Scope of Services, or which in any way affects the conduct of the provision of such Scope of Services; and no plea of misunderstanding will be considered on account of ignorance thereof. If the Proposer discovers any provisions in the Solicitation Documents that are contrary to or inconsistent with any law, ordinance, rule, or regulation, the Proposer shall report it to the BMPO in writing without delay.

2.9.2 Compliance. The Successful Proposer understands that agreements between private entities and local governments are subject to certain laws and regulations, including laws pertaining to public records, conflict of interest, record keeping, etc. The BMPO and Successful Proposer(s) agree to comply with and observe all applicable laws, codes, and ordinances as they may be amended from time to time.

2.10 ADVERTISING

In submitting an RFQ Submittal, Proposer agrees not to use the results therefrom as a part of any advertising or Proposer sponsored publicity without the express written approval of the BMPO Executive Director or designee.

2.11 APPLICABLE LAW AND VENUE

The terms, conditions and provisions in this RFQ shall be included and incorporated in the final Agreement between the BMPO and the successful Proposer(s). Any and all legal action necessary to interpret or enforce the Agreement will be governed by the laws of Florida. The venue for any litigation shall be Broward County, Florida.

2.12 EQUAL OPPORTUNITY AND DISADVANTAGED BUSINESS ENTERPRISE (“DBE”) PROGRAM

As a sub-recipient of FHWA or FTA funding, BMPO is required to participate in the Florida Department of Transportation (FDOT) Disadvantaged Business Enterprise (DBE) Program. Currently, the approved FDOT program is 100% race neutral. This means that BMPO can likely achieve the overall aspirational goal of 10.54% (6.6% for FTA) without the use of contract goals.

1. The BMPO will not require use of DBEs by the consultant as a matter of contract, nor will it seek sanctions for failing to use DBEs.
2. The BMPO will not use bidder DBE commitments to evaluate bidder Submittals or to select the winning consultant.
3. The BMPO will not employ local or regional preferences in the evaluation or award of the contract.
4. The BMPO is precluded from using any business program besides the FDOT DBE program. County or municipal small, minority or women’s programs will not be used in award, evaluation, or delivery of the contract.

Nevertheless, BMPO is committed to providing contracting opportunities to DBEs and other small businesses. For assistance with identifying DBEs for work on this contract, contact the FDOT Equal Opportunity Office at 850-414-4750 or visit the DBE Supportive Service Providers page at <https://www.fdotdbesupportservices.com/>. This office also recommends the use of certified DBEs listed in the Florida Unified Certification Program (UCP) in identifying DBEs for work on this contract, visit: <https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/>.

All Proposers must use the FDOT Equal Opportunity Compliance (EOC) system to enter required information, including a Bidders Opportunity List. The Successful Proposer must also immediately and regularly enter DBE commitments and payments into EOC. For information on accessing EOC, visit: <https://www.fdot.gov/equalopportunity/eoc.shtm> or contact the system administrator at eoohelp@dot.state.fl.us.

Proposers, contractors/consultants, sub-recipients, or subcontractor/consultants may not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The bidder contractor/subcontract, sub-recipient, or subcontractor/consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of FHWA and/or FTA-assisted contracts. Failure to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deem appropriate.

2.13 PROHIBITION AGAINST CONSIDERING SOCIAL, POLITICAL, OR IDEOLOGICAL INTERESTS

Pursuant to Section 287.05701, Florida Statutes, the BMPO will not give preference to a Proposer based on the Proposer's social, political, or ideological interests and will not request documentation of or consider such interests in the determination of a responsible Proposer.

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3.0 - SPECIAL TERMS AND CONDITIONS

3.1 FEDERAL HIGHWAY ADMINISTRATION FUNDED SOLICITATION

This Project is funded with assistance from the Federal Highway Administration (“FHWA”). The BMPO will follow and require the Successful Proposer(s) to comply with, all applicable 3rd party procurement policies in accordance with the Regulations of the U.S. Department of Transportation Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time. Applicable FHWA provisions are located below (Section 3.2) and incorporated throughout the Contract Documents.

3.2 FHWA PROVISIONS

3.2.1 Clean Air Act (Contracts greater than \$150,000)

3.2.1.1 The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q).

3.2.1.2 The Contractor agrees to report each violation to the BMPO and understands and agrees that the BMPO will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3.2.1.3 The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance from FHWA.

3.2.2 Federal Water Pollution Control Act (Contracts greater than \$150,000)

3.2.2.1 The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, (33 U.S.C. 1251-1387).

3.2.2.2 The Contractor agrees to report each violation to the BMPO and understands and agrees that the BMPO will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3.2.2.3 The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FHWA.

3.3 FEDERAL TRANSIT ADMINISTRATION FUNDED SOLICITATION

This Project is funded with assistance from the Federal Transit Administration (“FTA”). The BMPO will follow, and require the Successful Proposer(s) to comply with, all applicable third-party procurement policies in accordance with FTA Circular C4220.1G (Third-Party Contracting Guidance). Proposers are hereby advised that the applicable FTA required contractual provisions set forth in Attachment “G” shall be set forth in any Contract resulting from this RFQ. By

submitting an RFQ Submittal, Proposers acknowledge and agree that the Successful Proposer(s) shall be required to comply with the provisions in Attachment “G” if awarded the Contract.

3.4 TERM OF AGREEMENT

The period of performance of any resulting Agreement shall be for term of three (3) years, in which the BMPO shall have the sole option to extend the term, at its discretion, for two (2) one-year extensions.

Performance under executed Task Work Orders shall not commence until the BMPO’s issuance of a Notice to Proceed for each Task Work Order. Task Work Orders shall not be issued for work that exceeds the Agreement term. All work must be completed prior to Contract expiration.

The BMPO makes no guarantee of the amount of Work that may or may not be assigned to the Consultant and Consultant agrees that the lack of Work issued by the BMPO under this Agreement shall not be grounds for any claim for compensation or damages, including but not limited to, consequential damages or lost profits.

3.5 METHOD OF COMPENSATION

3.5.1 This is a continuing services indefinite delivery indefinite quantity (IDIQ) agreement. A fee and method of payment will be negotiated for each Task Work Order assignment.

3.5.2 Prior to the initiation of work under any Task Work Order, the BMPO and Consultant shall agree to the specific Scope of Services to be provided. The Scope of Services shall include a general and specific description of the Work to be performed, a detailed task breakdown listing the number of hours and personnel categories necessary to complete same, the final work product, and the time frame for completing the Work being performed. The BMPO shall issue a separate Task Work Order and Notice to Proceed for each project or portion thereof. A determination of allowable costs in accordance with the Federal cost principles will be performed for all Task Work Orders under this Agreement.

3.5.3 Compensation for work performed under any Work Order will involve one or more of the following methods:

1. LUMP SUM: A firm fixed price not subject to adjustment due to the actual cost experience of the Consultant in the performance of the contract. The BMPO shall utilize the lump sum method of payment for basic services, where appropriate and where the level of effort and scope can be reasonably determined.
2. COST REIMBURSEMENT PLUS FIXED FEE: For this method of compensation, Task Work Orders shall be negotiated as maximum limiting amounts (not-to-exceed or NTE). The professional fees for establishing and paying for professional services under a Task Work Order will be calculated by multiplying the BMPO approved hourly rates for each personnel category provided by the Consultant with its Schedule of Hourly Rates, times the allowable FDOT audited overhead multiplier to determine the partially loaded hourly rates. In addition, a fixed fee (operating margin) will be negotiated on a Task Work Order basis. Partially loaded hourly rates paid in conjunction with fixed fee shall

exclude compensation for operating margin. Professional fees will be paid to the Consultant based on BMPO approved average rates of personnel per discipline. In circumstances where there is only one individual per discipline, then the individual rate will be the average rate for that discipline. The hourly rates shall apply only to time directly attributable to the services performed under this Agreement and shall exclude travel time and invoice preparation time. The approved average rates established for each personnel category may be adjusted to up to three (3) percent annually during the term of the Agreement, subject to prior BMPO approval. During the term of the Agreement, the Consultant is to ensure that the BMPO has on file the Consultant's current FDOT Prequalification letter and may request for BMPO approval an adjustment to the FDOT audited multiplier for future negotiated Task Work Orders under the Agreement. Approved rates and multipliers established at time of negotiated Task Work Order execution cannot be adjusted during the term of the Task Work Order.

3.5.4 Negotiation of Cost of Services

The professional fees for establishing and paying for work under a Task Work Order will be negotiated based on the latest version of the Florida Department of Transportation (FDOT) Negotiation Handbook for Professional Service Contracts.

3.5.5 Identification of the basis for rates

(a) The wage rates must be certified in writing as being current and accurate by a responsible company official. The BMPO will require payroll registers to confirm the accuracy of the pay rates. The submittal will contain a certification from a responsible company official that the rates are actual current rates on that particular date. A payroll register is defined as an official record of pay details for an individual employee of a firm for a specific, most recent single pay period. The payroll register will display the following information about the employee: name of employee, date, date range, hours (regular and overtime), gross pay, deductions, taxes withheld, and net pay. A payroll register is not a monthly projection, payroll forecast, or certified pay rate. Confidential information may be redacted. When negotiating a new Task Work Order, BMPO Procurement Staff may use resumes to validate and confirm employee job classification.

(b) If averages for select employees are used, payroll information of how the average rate was computed must be provided. When this is the case, care should be taken that only employees actually committed to and needed for the project are used in computing the average.

(c) Consultants (geotechnical, aerial photography, etc.) that normally work on a unit price basis will be required to provide a copy of their standard fee schedule and attest that the fees contained therein are their normal fees for such services (whether performed for private or governmental clients). In addition, identification of the cost basis for such rates (i.e. labor hours and wage rates, overhead and operating margin, equipment use rates verified by audit, etc.) should be required where practical.

3.5.6 Steps for classifying Consultant staff in accordance with standard job classes

(a) Consultants shall adhere to use of the standard job classes in the FDOT Negotiation Handbook when classifying Consultant staff, in order to ensure consistency and uniformity in the establishment of contract rates. During contract negotiations, the Consultant shall propose staff

within standard job classes as referenced in Attachment B of the Negotiation Handbook and shall submit resumes. The resumes are used by BMPO Procurement staff to validate and confirm the proposed job classifications. Procurement reviews the proposed staff within a classification, checking resume information against the definition in Attachment B. Consultant staff who do not fit the definition for the job class will need to be reclassified. For purposes of establishing contract job classes, Consultant staff are classified according to the classification definition provided in the Negotiation Handbook and are not classified based on the position or title they may hold within their firm. Standard Job Classes in the Negotiation Handbook are used for aggregating similar staff based on years of experience, education, and licensure/certification. Procurement will use the Negotiation Handbook to correlate proposed Consultant staff to the appropriate classification.

(b) The Consultant staff-person shall be classified based on the highest level job class that matches his/her total years of experience, education, and licensure/certification, in accordance with the FDOT Standard Job Class definitions. Consultation with FDOT may be necessary for classification of Consultant staff in positions with limited definitions within the Negotiation Handbook. Once proposed Consultant staff are properly classified, BMPO Procurement will accept the position contract rate based on actual current salary rates of staff within the position (as supported by payroll registers).

3.5.7 Overhead:

(a) If the Consultant is prequalified at the unlimited level with FDOT, a copy of the Procurement Office's prequalification letter with the approved overhead rate shall be included in the fee proposal. Audited overhead rates are not negotiated. The Consultant's actual approved overhead rate as reflected in the letter of approval or in the Professional Services Information System will be used. If the Consultant voluntarily proposes to use a lower overhead rate than the current audit in order to keep overall project costs competitive, the Department may accept the lower overhead. The use of a lower overhead rate will not be a requirement for contracting. The submission of an updated overhead audit after the end of the Consultant's fiscal year is required as part of the prequalification renewal process. If the proposed project requires the establishment of a field office, a separate overhead rate for the field office must be submitted.

(b) For contracts with fees less than \$500,000, the BMPO is authorized to contract with firms without an audited overhead rate. The Consultant must provide a self-certified overhead determination in the standard format provided in Attachment E of the Negotiations Handbook for review by the Rate Review Auditor in Central Office Procurement. The average overhead rates provided in Attachment D of the Negotiations Handbook will be used as caps on maximum awarded overhead (indirect costs) rates for firms who submit unaudited rates, including interim reimbursement rates, self-certified reimbursement rates, and job cost accounting system review reimbursement rates for use on professional services contracts.

3.5.8 Direct expenses:

Direct project expenses will be compensated using the direct expense rate which is required as a part of FDOT's annual overhead audits performed for fiscal years ending December 31, 2002, and after. Direct expenses will be calculated by application of a direct expense rate based on the

audit listing of direct costs in relation to the direct labor base. Separate audited rates are required for home office expenses and field office expenses.

3.5.9 Certification of Payment to Subconsultants

- (a) Prior to receipt of any progress (partial) payment, the Consultant shall certify that all Subconsultants having an interest in the Contract have received their pro rata share of previous progress payments made to the Consultant for all Work completed and materials furnished in the previous period. Consultant shall provide this certification in the forms described in the subparagraphs below. The BMPO will not make any progress payments after the initial partial payment until the Consultant certifies that it has disbursed to all Subconsultants having an interest in the Contract their pro rata shares of the payment it has previously received, unless the Consultant demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both the BMPO and the affected Subconsultants. Consultant shall obtain from the Subconsultant an executed sworn Payment Certification Form and shall submit the form to BMPO with each of the Consultant's request for payment, with the exception of the first request for payment. The Subconsultant's failure to sign the Payment Certification Form and forward the form to the Consultant immediately upon receipt of payment is sufficient grounds for the BMPO to suspend any further payments until certification is submitted. The Consultant's failure to submit the Payment Certification Forms covering all payments made to Subconsultants, within thirty (30) days after receiving progress payments, is sufficient grounds for the BMPO to suspend further payment until certifications are received. Within thirty (30) days of the Consultant's receipt of the progress payment or any other payments thereafter, except the final payment, the Consultant shall pay all Subconsultants having an interest in the Contract their pro rata shares of the payment for all Work performed and materials furnished. The BMPO will honor an exception to the above when the Consultant demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both the BMPO and the affected Subconsultants within thirty (30) days of receiving payment.
- (b) The Consultant shall submit one (1) original of a notarized Certificate of Disbursement of Previous Periodic Payment to Subconsultants with each application for payment except the first one submitted.
- (c) The Consultant shall submit one (1) original of a notarized Subconsultant's Certificate of Previous Payment with each application for payment except the first one submitted.
- (d) The Consultant shall submit one (1) original of a Monthly Subconsultant Utilization Report with each application for payment.
- (e) The Consultant shall submit one (1) original of a Monthly Employee Utilization Report with each application for payment.
- (f) When informed that the BMPO requires additional substantiating information, submit one (1) copy, with cover letter, showing application number and date, for each submittal of data justifying the line item amounts in question.

3.6 TASK WORK ORDER SELECTION PROCESS

3.6.1 Task Work Order Selection Process

1. The BMPO will develop a preliminary scope and schedule and provide the Consultants with a Request for Work Order Proposal (“RFWOP”), upon its determination that a Task Work Order is necessary under the Contract. The RFWOP will include the preliminary Scope of Work and the criteria to be used by the BMPO in determining selection.
2. The Consultants will be asked to provide a response to the RFWOP that is minimal in size and complexity.
3. BMPO Procurement Staff will establish a deadline for submittal of the response. No responses will be accepted after the deadline.
4. The BMPO will review and rank the received proposals. The process will be supervised by BMPO Procurement Staff and Project Manager.
5. The BMPO Project Manager and Task Manager will, subject to Executive Director approval, finalize the Scope of Work and request a fee proposal from the highest-ranked Consultant and begin negotiations with that Consultant after receiving the fee proposal. Should negotiations be unsuccessful, the BMPO may begin negotiations with the next highest-ranked Consultant, and if negotiations are unsuccessful, the BMPO may then move to the next highest-ranked Consultant, and continue down the rankings until negotiations succeed.
6. The BMPO is under no obligation to retain the services of a consultant for any or all tasks described herein. Furthermore, the BMPO reserves the right to modify, alter, or change the Scope of Services set forth herein.
7. The Executive Director has the authority to terminate or cancel any executed Task Work Order approved by the BMPO Executive Committee, the MPO Board, or Executive Director after consultation with the BMPO General Counsel. In the event a Task Work Order is terminated or cancelled, the Contractor shall be paid for any authorized Work performed to the date the Task Work Order is terminated or cancelled.

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4.0 - SCOPE OF SERVICES

Overview:

The Broward Metropolitan Planning Organization (BMPO) is responsible for making policy on local transportation issues and deciding how to collaboratively spend federal money on important transportation projects that deliver solutions, help keep Broward County moving, and improve quality of life for all. BMPO receives grant funding from the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Florida Department of Transportation (FDOT), the Florida Commission for the Transportation Disadvantaged, and local funds.

Scope:

BMPO is seeking Submittals to create a library of firms for ongoing general planning consultant services (GPCs). The GPC library of firms will provide general transportation planning and related services. Firms under contract for the GPC services will support and assist BMPO with tasks shown in the Unified Planning Work Program (UPWP) and Strategic Business Plan (SBP), or other tasks that may be necessary as directed by the BMPO Governing Board. Tasks below are numbered pursuant to the Work Program Tasks under the UPWP. There are no Tasks 6.0 or 8.0. The GPC library will help fulfill the BMPO's mission: To collaboratively plan, prioritize, and fund the delivery of transportation projects.

The BMPO has established partnerships through interlocal agreements (ILA) with other governmental entities, and has established programs to provide consulting and support services to its local government members. Through the ILA's it is the BMPO's intention to utilize the final contract(s) to provide technical assistance that meets the needs of the local government members under the terms of an executed ILA between the member government and the BMPO. The BMPO will provide administrative support for the local government, which will provide a project manager and a scope of work. The results of this solicitation, once awarded, may be utilized if allowable by the procedures or rules of any of the local government planning agencies in FDOT District Four, Broward County, and/or any municipality within Broward County, according to the BMPO Procurement Rules.

RFQ Submittals must specify team leaders/firm for each of the following tasks.

Task 1.0 MPO Administration

- UPWP support
- Software development and/or training
- Staff/management/Governing Board retreats
- Federal and State compliance support
- Mapping and graphics production
- Administrative support to the BMPO, as necessary
- Advancing Strategic Initiatives

Task 2.0 Data Collection & Analysis

- Data collection services and analysis
- Safety analysis and support services
- Demographic analysis and support services
- Economic analysis and support services

- Pre-design activities to include land/as-built survey preparation
- Performance measures data collection

Task 3.0 Regional Planning

- Metropolitan Transportation Plan (MTP) and support services
- Freight and intermodal planning
- Coordination with regional partners
- Economic development planning
- Housing Coordination planning
- Railroad grade separation feasibility studies
- New railroad freight and passenger feasibility studies
- Infrastructure Hardening planning
- Future technology analysis and planning
- MPOAC Freight Committee support

Task 4.0 Community Planning

- Grant application support
- Public transportation planning
- Active transportation planning
- Safety and security planning
- Congestion Management Process
- Roads for Economic Vitality (REV) program support
- Planning and conceptual design
- Federal programs compliance support
- Transportation Masterplans
- General planning support
- Infrastructure Hardening feasibility studies
- Mast arm replacement feasibility studies
- Corridor studies

Task 5.0 Transportation Improvement Program

- Transportation Improvement Program (TIP) and support services
- List of Priority Projects (LOPP) and support services
- Project database management

Task 7.0 Public Participation

- Public information/outreach support
- Website support
- Public Participation Plan (PPP) development
- Public meeting/outreach/committees/boards/event support

Task 9.0 Local Activities

- Development of project cost estimates
- Development of project traffic & traffic operation studies
- Land use and urban design services
- Development of preliminary right-of-way analysis
- Traffic impact analysis
- Technical assistance to BMPO member governments

Deliverables Note:

Deliverables shall include draft and final detailed reports, including all files in their native format.

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ATTACHMENT “A”

BMPO NON-DISCRIMINATION REQUIREMENTS

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NON-DISCRIMINATION REQUIREMENTS

During the performance of this Agreement, Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “Contractor”) agrees as follows:

- (1) **Compliance with Regulations:** The Contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, “USDOT”) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Exhibit C of the Regulations.
- (3) **Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Contractor of the Contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.
- (4) **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the *Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the Contractor’s noncompliance with the nondiscrimination provisions of this contract, the *Florida Department of Transportation* shall impose such contract sanctions as it or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
 - b. cancellation, termination or suspension of the contract, in whole or in part.

- (6) **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the *Florida Department of Transportation*, the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, and/or the *Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event a Contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
- (7) **Compliance with Nondiscrimination Statutes and Authorities:** Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal- aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38, also where consultant work items include assessing or planning pedestrian rights of way, it will follow the [FDOT Design Manual](#) or [Florida GreenBook](#), as applicable; The Federal Aviation Administration’s Non- discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non- discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).”

- (8) **Non-Discrimination Language for the Public:** The selected consultant will place or cause to be placed in any information developed for public dissemination the following statement: *The BMPO does not discriminate in any program, service or activity on the basis of race, color, national origin, sex, age, disability, religion or family status.* For more information contact

_____ at _____
or 711 (for hearing impaired). Those requiring language services (free of charge) or accommodation for a disability should provide contact the MPO at least _____ days in advance.

- (9) **Cooperation with BMPO Oversight:** The BMPO is responsible for conducting and documenting oversight of the RFQ, bidding process, award and delivery of the consultant contract for compliance with civil rights authorities. This includes but is not limited to conducting Commercially Useful Function (CUF) reviews on all DBEs used by the selected consultant (or the consultant itself, if a DBE), and by reviewing payments and retainage to ensure subconsultants are paid promptly as defined in paragraph 11. The selected consultant will cooperate fully with BMPO oversight efforts, as well as those instituted by FDOT and/or FHWA.

ATTACHMENT “B”

BMPO AGREEMENT

TO BE EXECUTED BY THE SUCCESSFUL PROPOSER

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AGREEMENT NO. 26-05
BETWEEN
BROWARD METROPOLITAN PLANNING ORGANIZATION
AND

FOR
GENERAL PLANNING CONSULTANT SERVICES

This Agreement (“Agreement”) is made and entered into the _____ day of _____, 2025, by and between the Broward Metropolitan Planning Organization, with its principal business address located at Trade Centre South, 100 West Cypress Creek Road, Suite 650, Fort Lauderdale, FL 33309, hereinafter referred to as (“BMPO”),

And

_____ with its principal business address located at _____ (hereinafter referred to as (“CONTRACTOR”) for General Planning Consultant Services (the “Project”).

WITNESSETH:

WHEREAS, the BMPO solicited RFQ Submittals from Contractors to provide the required expertise in connection with the Project; and

WHEREAS, RFQ Submittals were evaluated by an Evaluation and Selection Committee; and

WHEREAS, the Board of the BMPO has selected the CONTRACTOR(S), upon the recommendation of the Evaluation and Selection Committee to perform Services in connection with the Project; and

WHEREAS, on _____, the Board of the BMPO ratified the evaluation and recommendation of RFQ Submittals received in response to RFQ No. 26-05 and authorized the appropriate BMPO officials to execute an agreement with the CONTRACTOR(S); and

WHEREAS, BMPO and CONTRACTOR(S) desire to enter into an Agreement whereby the duties and obligations of each party to the other are set forth therein.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES

- 1.1** The CONTRACTOR must meet the requirements and perform the Scope of Services identified in the Request for Qualifications for General Planning Consultant Services, RFQ No. 26-05, dated September 24, 2025, (“RFQ”), referenced hereto and made a part hereof, as Exhibit “A”, and the CONTRACTOR’S Proposal, attached hereto and made a part hereof, as Exhibit “B” to this Agreement.
- 1.2** The parties agree that the Scope of Services, as specified in Exhibits “A”, and “B” (hereinafter collectively referred to as the “Services”) contain the description of Contractor’s obligations and responsibilities and are deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment and tasks which are such an inseparable part of the work described that exclusion would render performance by CONTRACTOR impractical, illogical, or unconscionable.
- 1.3** CONTRACTOR agrees and acknowledges that CONTRACTOR is prohibited from exempting provisions of the Scope of Services and this Agreement in any of CONTRACTOR’s Services pursuant to this Agreement.

SECTION 2. TERM

- 2.1** The term of this Agreement will be for a period of three (3) years (the “Term”), which shall begin on the date it is fully executed by both parties and shall remain in effect until such a time as the Services acquired in conjunction with the Contract Documents have been completed and accepted by the BMPO. After the initial Term, the BMPO shall have the sole option to extend the Term, at its discretion, for two (2) one-year extensions. To exercise one or both annual extension(s), the BMPO, through its Executive Director, shall notify CONTRACTOR in writing, at least 30 days prior to the expiration of the then current term.
- 2.2** Prior to beginning the performance of any services under this Agreement, the CONTRACTOR must receive a Notice to Proceed. CONTRACTOR shall perform the services described in the Scope of Services within the time periods specified therein. Said time periods shall commence from the date of the Notice to Proceed for such Services.
- 2.3** The BMPO through its Executive Director and the CONTRACTOR may further extend this Agreement by mutual consent, in writing, for no more than six (6) months, prior to the expiration of the then current term. This provision in no way limits either party’s right to terminate this Agreement at any time during the initial term or any extension thereof, pursuant to Section 4 of the Agreement.

SECTION 3. COMPENSATION

- 3.1** In consideration for the Scope of Services to be performed by CONTRACTOR pursuant this Agreement, the BMPO agrees to pay CONTRACTOR, in the manner specified in the Scope of Services, the total amount not to exceed \$10 million per contract over the full term of the five-year Agreement, contingent upon the appropriation of funds. The BMPO shall request services on an as-needed basis and there is no guarantee that any or all of the services described in Exhibit “A” will be assigned during the term of this Agreement. It is acknowledged and agreed by CONTRACTOR that these amounts are the maximum payable and constitute a limitation upon BMPO’S obligation to compensate CONTRACTOR for its Services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONTRACTOR’S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services. Compensation on a Task Work Order Basis and the Task Work Order Process are in Section 3 – “Special Terms and Conditions” of the RFQ, which is attached hereto as Exhibit “A”.
- 3.2** CONTRACTOR may submit an invoice for compensation, developed and agreed upon by the BMPO Executive Director and Contractor, on a monthly basis, but only after the Services for which the invoices are submitted have been provided. Invoices shall designate the nature of the services performed and shall also show a summary of fees with accrual of the total and credits for portions paid previously, where applicable. For months when no Services have been performed, CONTRACTOR shall still be required to submit a monthly progress report.
- 3.3** **Invoices shall be submitted to the BMPO Project Manager and Accounts Payable (accountspayable@browardmpo.org) utilizing the BMPO Invoice Form** (attached hereto in Exhibit “C”). The BMPO Invoice Form is available in Excel format at the following website: <https://www.browardmpo.org/procurement/procurement-documents>. For months when no Services have been performed, CONTRACTOR shall still be required to submit a monthly progress report to the BMPO Project Manager. The submission of travel expenses is not authorized, and such expenses shall not be reimbursed by the BMPO.
- 3.4** BMPO shall pay CONTRACTOR in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the BMPO Executive Director for failure of CONTRACTOR to comply with a term, condition or requirement of this Agreement.
- 3.5** Notwithstanding any provision of this Agreement to the contrary, the BMPO Executive Director may withhold, in whole or in part, payment to the extent necessary to protect BMPO from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to the Executive Director. The amount withheld shall not be subject to payment of interest by BMPO.

- 3.6** Payment shall be made to CONTRACTOR at:

- 3.7** CONTRACTOR agrees to keep such records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged for which CONTRACTOR receives reimbursement for a period of at least three (3) years after completion of the work provided for in this Agreement. Such books and records shall be available at all reasonable times for examination and audit by BMPO.
- 3.8** If it should become necessary for BMPO to request CONTRACTOR to render any additional services to either supplement the services described in the RFQ or to perform additional work, such additional work shall be performed only if set forth in an amendment to this Agreement.

SECTION 4. TERMINATION

- 4.1** The Executive Director may terminate Contracts approved by the BMPO Executive Committee, the BMPO Board, or Executive Director after consultation with the BMPO's General Counsel.
- 4.2** This Agreement may be terminated for cause if the CONTRACTOR is in breach and has not corrected the breach within thirty (30) days after written notice from the BMPO identifying the breach, or for convenience by action of the BMPO Board upon not less than sixty (60) days' written notice by the BMPO Executive Director.
- 4.3** This Agreement may be terminated for cause by the CONTRACTOR if the BMPO is in breach and has not corrected the breach within sixty (60) days after written notice from the CONTRACTOR identifying the breach.
- 4.4** Termination of this Agreement by the BMPO for cause shall include but not be limited to, failure to suitably perform the services, failure to continuously perform the services in a manner calculated to meet or accomplish the objectives of BMPO as set forth in this Agreement or multiple breaches of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.
- 4.5** Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement.
- 4.6** In the event this Agreement is terminated for convenience, CONTRACTOR shall be paid for any services performed to the date the Agreement is terminated; however, upon being notified of BMPO's election to terminate, CONTRACTOR shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONTRACTOR acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by BMPO, the adequacy of which is hereby acknowledged by CONTRACTOR, is given as specific

consideration to CONTRACTOR for BMPO's right to terminate this Agreement for convenience.

- 4.7** In the event this Agreement is terminated, any compensation payable by BMPO shall be withheld until all documents are provided to BMPO pursuant to Section 7.1 of this Agreement. In no event shall the BMPO be liable to CONTRACTOR for any additional compensation, other than that provided herein, or for any consequential or incidental damages.

SECTION 5. UNCONTROLLABLE FORCES

- 5.1** Neither BMPO nor the CONTRACTOR shall be considered to be in default of the Contract Documents if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under the Contract Documents and which is beyond the reasonable control of the non-performing party. It includes, but is not limited to fire, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions.
- 5.2** Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the non-performing party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The non-performing party shall within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of the Contract Documents.

SECTION 6: CLAIMS AND DISPUTES

- 6.1** A Claim is a demand or assertion by one of the parties seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time or other relief with respect to the terms of the Contract Documents. The term "Claim" also includes other disputes and matters in question between the BMPO and the CONTRACTOR arising out of or relating to the Contract Documents. The responsibility to substantiate a Claim shall rest with the party making the Claim.
- 6.2** Initial notice of Claims by the CONTRACTOR shall be made in writing to the BMPO Project Manager within five (5) business days after the first day the Contractor is aware of the event giving rise to such Claim, or else the CONTRACTOR shall be deemed to have waived the Claim. Written supporting data shall be submitted to the BMPO Project Manager within thirty (30) calendar days after the occurrence of the event unless the BMPO grants additional time in

writing, or else the CONTRACTOR shall be deemed to have waived the Claim. All Claims shall be priced so as to compensate the CONTRACTOR for its actual and direct labor, material and equipment costs and extended general conditions expenses, together with markup, as set forth below.

The BMPO Project Manager shall render a decision regarding any Claims within sixty (60) days of receipt of CONTRACTOR's initial notice of Claim.

- 6.3** The CONTRACTOR shall proceed diligently with its performance as directed by the BMPO, regardless of any pending Claim, unless otherwise agreed to by the BMPO in writing. The BMPO shall continue to make payments in accordance with the Contract Documents during the pendency of any Claim.
- 6.4** Prior to the initiation of any action or proceeding permitted by these Contract Documents to resolve Claims between the parties, the parties shall first make a good faith effort to resolve any such Claim through this section. If the CONTRACTOR fails to first submit its Claim to the Claim resolution process in this Section, the CONTRACTOR forever waives its right to bring any legal action against the BMPO for breach of contract arising from the Claim. The Contract shall be interpreted, construed and given effect in all respects according to the laws of the State of Florida. All parties agree and accept that 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, or the United States Federal District Court for the Southern District of Florida and venue for litigation arising out of this Contract shall be exclusively in such state or federal 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 BMPO HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS CONTRACT.

SECTION 7. INDEMNIFICATION

- 7.1** CONTRACTOR hereby agrees to indemnify and hold harmless the BMPO, and its officials, employees and agents, from liabilities, damages, losses and costs including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the BMPO Executive Director and the BMPO Attorney, any sums due CONTRACTOR under this Agreement may be retained by BMPO until all of BMPO'S claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by BMPO.

- 7.2** Nothing herein is intended to serve as a waiver of sovereign immunity by the BMPO nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The BMPO is subject to section 768.28, Florida Statutes, as may be amended from time to time.

The provisions of this section shall survive termination of this Agreement.

SECTION 8. INSURANCE

- 8.1** The CONTRACTOR shall furnish to the BMPO ACORD certificates of insurance that indicate that insurance coverage has been obtained which meets the requirements below. For Commercial General Liability and Automobile Liability insurance, the Broward Metropolitan Planning Organization **must** be shown as an additional insured with respect to these coverages.
- 8.1.1** Commercial General Liability Insurance on a commercial basis in an amount not less than \$2,000,000.00 per occurrence, and \$2,000,000.00 annual aggregate. The requested limits may be met through a combination of primary and umbrella coverages.
- 8.1.2** Professional Liability Insurance (Errors and Omissions) with limits not less than \$2,000,000.00 per occurrence, and \$2,000,000.00 annual aggregate.
- 8.1.3** Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the work, in an amount not less than \$1,000,000.00 per occurrence, and \$2,000,000.00 annual aggregate. Coverage shall stipulate that it is primary over any insurance or self-insurance program available to the BMPO.
- 8.1.4** Workers' Compensation Insurance for all employees of the CONTRACTOR as required by Florida Statutes Chapter 440.
- 8.2** The insurance coverage required shall include those classifications, as listed in the standard liability insurance manuals, which most nearly reflect the operations of the CONTRACTOR.
- 8.3** All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:
- 8.3.1** The company must be rated no less than "B" as a management, and no less than "Class V" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the BMPO; or
- 8.3.2** The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to

do Business in Florida”, issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

- 8.4** Certificates will indicate no cancellation, modification, or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.
- 8.5** Compliance with the foregoing requirements shall not relieve CONTRACTOR of its liability and obligation under this section or under any other section if this section or under any other section of the Contract.
- 8.6** Issuance of a purchase order, work authorization or notice to proceed is contingent upon receipt of the insurance documents within ten (10) business days after the execution of the Contract by the BMPO. If the insurance certificate is received within the specific time frame, but not in the manner prescribed in this Section, the CONTRACTOR shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the BMPO. If the CONTRACTOR fails to submit the required insurance documents in the manner prescribed in this Agreement within five (5) business days after the executing of the Contract by an authorized official of the BMPO, CONTRACTOR shall be in default and the Contract documents may be rescinded. Under such circumstances, the CONTRACTOR may be prohibited from submitting future responses to BMPO procurements.
- 8.7** CONTRACTOR shall be responsible for assuring that the insurance certificate required in conjunction with this Section remain in force for the duration of the period of performance for any contractual agreement(s) resulting from this solicitation. If insurance certificates are scheduled to expire during the term hereof, the CONTRACTOR shall be responsible for submitting new or renewed insurance certificates to the BMPO at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the term hereof, the BMPO shall suspend the Contract until such time as the new or renewed certificates are received by the BMPO in a manner prescribed in this Section; provided however, that this suspension period does not exceed thirty (30) days, the BMPO may at its sole discretion, terminate the Contract and seek re-procurement charges from the CONTRACTOR.
- 8.8** If, in the judgment of the BMPO, prevailing conditions warrant the provision by CONTRACTOR of additional liability insurance coverage or coverage which is different in kind, the BMPO reserves the right to require the provision by CONTRACTOR of an amount of coverage different from the amounts or kind previously required and shall afford written notice of such change in requirements thirty (30) days prior to the date on which the requirements shall take effect. Should CONTRACTOR fail or refuse to satisfy the requirement of changed coverage within thirty (30) days following the BMPO’s written notice, the Contract shall be

considered terminated on the date that the required change in policy coverage would otherwise take effect.

- 8.9** All Subcontractors retained or hired for the Work shall be required to maintain coverages, limits and term no less restrictive than those required of the CONTRACTOR. CONTRACTOR shall be responsible for monitoring insurance compliance of all its Subcontractors. Additionally, CONTRACTOR shall make available to the BMPO proof of insurance of all Subcontractors upon request.

SECTION 9. MISCELLANEOUS

- 9.1 BMPO Project Manager.** The BMPO Project Manager is responsible to coordinate and communicate with CONTRACTOR and to manage and supervise the execution and completion of the Services and the terms and conditions of this Agreement as set forth herein. For purposes of the Agreement, Darci Mayer, is designated as the BMPO Project Manager.

- 9.2 Ownership of Documents.** Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of BMPO. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONTRACTOR, whether finished or unfinished, shall become the property of BMPO and shall be delivered by CONTRACTOR to the BMPO Executive Director within seven (7) days of termination of this Agreement by either party. Any compensation due to CONTRACTOR shall be withheld until all documents are received as provided herein.

- 9.3 Audit and Inspection Rights and Retention of Records; Public Records.**

9.3.1 BMPO shall have the right to audit the books, records and accounts of CONTRACTOR that are related to this Agreement. CONTRACTOR shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

9.3.2 CONTRACTOR shall preserve and make available, at reasonable times for examination and audit by BMPO, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement, unless CONTRACTOR is notified in writing by BMPO of the need to extend the retention period. Such retention of such records and documents shall be at CONTRACTOR's expense. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings.

If the Florida Public Records Act is determined by BMPO to be applicable to CONTRACTOR's records, CONTRACTOR shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONTRACTOR. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for BMPO's disallowance and recovery of any payment upon such entry.

9.3.4 In addition, CONTRACTOR shall respond to the reasonable inquiries of successor Contractors and allow successor Contractors to receive working papers relating to matters of continuing significance.

9.3.5 In addition, CONTRACTOR shall provide a complete copy of all working papers to the BMPO, prior to final payment by the BMPO, in accordance with the RFQ for CONTRACTOR services.

9.3.6 CONTRACTOR understands that the public shall have access, at all reasonable times, to all documents and information pertaining to BMPO contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the BMPO and the public to all documents subject to disclosures under applicable law. CONTRACTOR'S failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by the BMPO.

Notice Pursuant to Section 119.0701(2)(a), Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.

Custodian of Records:	Jacqueline Barszewski
Mailing address:	100 West Cypress Creek Road, Suite 650 Fort Lauderdale, FL 33309
Telephone number:	(954) 876-0053
Email:	barszewskij@browardmpo.org

9.4 Policy of Non-Discrimination. CONTRACTOR shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONTRACTOR shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be

lawfully used as a basis for service delivery. CONTRACTOR agrees to comply with the provisions set forth in attached Attachment “A”, including Contractor’s responsibility to incorporate the provisions in subcontracts, throughout the term of this Agreement.

- 9.5 Public Entity Crime Act.** CONTRACTOR represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to BMPO, may not submit a bid on a contract with BMPO for the construction or repair of a public building or public work, may not submit bids on leases of real property to BMPO, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with BMPO, and may not transact any business with BMPO in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from BMPO’S competitive procurement activities. In addition to the foregoing, CONTRACTOR further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a “public entity crime” and that it has not been formally charged with committing an act defined as a “public entity crime” regardless of the amount of money involved or whether CONTRACTOR has been placed on the convicted vendor list.
- 9.6 Scrutinized Companies.** The CONTRACTOR certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, Scrutinized Companies that boycott Israel List, and that it does not have business operations in Cuba or Syria as provided in Fla. Stat. §287.135, as may be amended or revised. BMPO may terminate the Agreement at the BMPO’s option if the CONTRACTOR is found to have submitted a false certification as provided under subsection (5) of Fla. Stat. §287.135, as may be amended or revised, or been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or has been engaged in business operations in Cuba, Syria, Sudan, or Scrutinized Companies that Boycott Israel List, as defined in Fla. Stat. § 287.135, as may be amended or revised.
- 9.7 Independent Contractor.** CONTRACTOR is an independent contractor under this Agreement. Services provided by CONTRACTOR pursuant to this Agreement shall be subject to the supervision of CONTRACTOR. In providing such services, neither CONTRACTOR nor its agents shall act as officers, employees or agents of the BMPO. Nor shall employees and contractors to the CONTRACTOR enjoy any privity of contract with the BMPO. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this

Agreement shall be those of CONTRACTOR. This Agreement shall not constitute or make the parties a partnership or joint venture.

The CONTRACTOR shall supply competent and capable employees and contractors. The BMPO may require the CONTRACTOR to remove any employee or contractor it deems careless, incompetent, insubordinate, or otherwise objectionable and whose continued performance of the services is not in the best interest of the BMPO.

9.8 Third Party Beneficiaries. Neither CONTRACTOR nor BMPO intends to directly or substantially benefit a third party by entering into this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

9.9 Notices. Whenever either party desires to give notice to the other, it must be given by written notice, sent by certified U.S. mail, with return receipt requested, email transmission, express delivery service or hand delivery, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

BMPO:

Gregory Stuart, Executive Director
Broward Metropolitan Planning Organization
100 West Cypress Creek Road, Suite 650
Fort Lauderdale, Florida 33309

With a copy to:
Alan L. Gabriel, Esq., BMPO General Counsel
Weiss Serota Helfman Cole & Bierman, P.L.
200 E. Broward Blvd., Suite 1900
Fort Lauderdale, Florida 33301

CONTRACTOR:

9.10 Assignment and Performance. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONTRACTOR. In addition, CONTRACTOR shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the BMPO, which shall be in BMPO's sole and absolute discretion. A list of all such subcontractors shall be

included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors shall be provided to the BMPO, subject to BMPO's approval.

CONTRACTOR represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to BMPO's satisfaction for the agreed compensation.

CONTRACTOR shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner.

- 9.11 Conflicts.** Neither CONTRACTOR nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONTRACTOR's loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONTRACTOR agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against BMPO in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, CONTRACTOR agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of BMPO in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONTRACTOR or any other persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONTRACTOR is permitted to utilize subcontractors to perform any services required by this Agreement, CONTRACTOR agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

- 9.12 Contingency Fee.** CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONTRACTOR, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, BMPO shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

- 9.13 Materiality and Waiver of Breach.** BMPO and CONTRACTOR agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. BMPO's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 9.14 Compliance with Laws.** CONTRACTOR shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.
- 9.15 Severance.** In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless BMPO or CONTRACTOR elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.
- 9.16 Joint Preparation.** The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 9.17 Priority of Provisions.** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 9 of this Agreement shall prevail and be given effect.
- 9.18 Applicable Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida.
- 9.19 Amendments.** No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.
- 9.20 Prior Agreements.** This Agreement and its attachments constitute the entire agreement between CONTRACTOR and BMPO, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements,

and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 9.19 above.

- 9.21 Drug-Free Workplace.** CONTRACTOR shall maintain a drug-free workplace.
- 9.22 Incorporation by Reference.** The truth and accuracy of each “Whereas” clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.
- 9.23 Multiple Originals.** This Agreement may be fully executed in TWO (2) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.
- 9.24 Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- 9.25 Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- 9.26 Survival of Provisions.** Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.
- 9.27 Disadvantaged Business Enterprise (DBE) Program.**
- 9.27.1** The contractor, sub-recipient, or subcontractor 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 USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.
- 9.27.2** The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the BMPO. The prime contractor agrees further to return retainage payments

to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the BMPO. This clause applies to both DBE and non-DBE subcontracts.

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**AGREEMENT BETWEEN THE BMPO AND _____ FOR
GENERAL PLANNING CONSULTANT SERVICES**

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BMPO, signing by and through its Chair and Executive Director, attested to and duly authorized to execute same, and Contractor, signing by and through its authorized representative, attested to and duly authorized to execute same.

BMPO

BROWARD METROPOLITAN PLANNING ORGANIZATION

By: _____
Gregory Stuart, Executive Director

By: _____
Yvette Colbourne, Chair

This __ day of _____, ____.

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY FOR THE USE OF AND
RELIANCE BY THE BMPO ONLY:

By: _____
Alan L. Gabriel, BMPO General Counsel
Weiss Serota Helfman Cole & Bierman, P.L.

**AGREEMENT BETWEEN THE BMPO AND _____ FOR
GENERAL PLANNING CONSULTANT SERVICES**

CONTRACTOR

WITNESSES:	[Name]
By: _____	By: _____
Print Name: _____	Print Name: _____
	Title: _____
By: _____	
Print Name: _____	This day __ of _____, ____.

**AGREEMENT BETWEEN THE BMPO AND _____ FOR
GENERAL PLANNING CONSULTANT SERVICES**

EXHIBITS LIST

- 1) **Exhibit “A”** – RFQ No. 26-05, Date Issued: September 24, 2025
- 2) **Exhibit “B”** – CONTRACTOR’s Proposal
- 3) **Exhibit “C”** – BMPO Invoice Form
- 4) **Attachment “A”** – BMPO Policy of Non-Discrimination

**AGREEMENT BETWEEN THE BMPO AND _____ FOR
GENERAL PLANNING CONSULTANT SERVICES**

EXHIBIT “A”

RFQ No. 26-05

Date Issued: September 24, 2025

**AGREEMENT BETWEEN THE BMPO AND _____ FOR
GENERAL PLANNING CONSULTANT SERVICES**

**EXHIBIT “B”
CONTRACTOR’S PROPOSAL**

ATTACHMENT “C”

**RFQ FORMS REQUIRED TO BE COMPLETED
AND INCLUDED WITH SUBMITTALS**

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PROPOSAL FORM**RFQ No. 26-05****GENERAL PLANNING CONSULTANT SERVICES**

CONTRACTOR: _____

SUBMITTALS WILL BE DUE PURSUANT TO SECTION 1.4 OF THE INSTRUCTIONS TO PROPOSERS AND MAY NOT BE WITHDRAWN WITHIN ONE HUNDRED EIGHTY (180) DAYS AFTER SUCH DATE.

THE PROPOSER CERTIFIES that this proposal is made without prior understanding, agreement or connection with any corporation, firm, or person submitting a proposal for the same contractual services and is in all respects fair and without collusion or fraud. The Proposer agrees to abide by all conditions of the Contract Documents and certifies that it is authorized to submit this proposal and that the proposal is in compliance with all requirements of the Request for Proposal, including but not limited to, certification requirements.

The Proposer further declares that it has examined the Contract Documents and addenda thereto and that it understands the requirements of the Work to be performed and all other requirements of the Request for Proposal.

The Proposer further certifies that neither the bidding firm nor any of its officers are listed on the United States comptroller General's List of Ineligible Contractors for Federally Financed or Assisted Projects.

Authorized Signature_____
Printed Name

Addenda: **Provide signature and date for each Addenda received.**

1.	2.	3.
4.	5.	6.

CONTRACTOR'S QUALIFICATION CERTIFICATION

Firm Name: _____

Address: _____

City, State, Zip: _____

Telephone: () _____ Fax: () _____

Contact Person: _____ Title: _____

E-Mail Address: _____

FEID # _____ DUNS # _____

1. DBE Certified ☐ No ☐ Yes Classification: _____

Certified By: _____

2. Specify the principal product or service offered by your firm: _____

3. Identify the area(s) which the business serves: ☐ Miami-Dade ☐ Broward
☐ Palm Beach ☐ Florida ☐ Other _____

4. Date business was established: _____ Occupational License: _____

5. Type of Business:

A. ☐ **Sole Proprietor**

Name _____

Home Address _____

Home Phone _____ Cell Phone _____

Professional license/Certificate of Competency# _____

B. ☐ **Partnership**Are the owners of the business lawful, permanent residents of Florida? ☐ Yes ☐ No

Provide the name, residential address and telephone number of all owners of the business.

Partners Name	Res. Address	Phone Number	Cell Number

Professional license/Certificate of Competency #: _____

Name in which license/Certificate of Competency is issued: _____

C. _____ **Corporation** Incorporated in the state of _____ Date _____

Officer's Names	Title	Location

Professional license/Certificate of Competency #: _____

Name in which license/Certificate is Issued _____

6(a). List each contract completed by you during the last five (5) years, or if less than five (5) contracts have been completed in the last five (5) years, list the last five (5) contracts completed **for which liquidated damages or other contractually stipulated sums or damages were assessed** against you for failure to complete the work on time or for any other breach of contract by you. For each such contract, provide a brief description of the work performed, the initial contract amount, the dollar amount at completion, date completed, and the name and telephone number of the owner's representative.

Contract Number	Description of Contract	POC & Phone	Initial Amount	Closeout Amount	Date Completed

6(b). For the last five (5) years, list each contract under which the owner has **called upon your surety to complete the work, has terminated for default, or sued to complete performance or recover damages**. If fewer than five (5) contracts have been so affected during the last five (5) years, list the last five (5) contracts to be so affected. For each such contract, provide the same

information as required in (a) above, and in addition, provide the name and contract person with telephone number of your surety.

Contract Number	Description of Contract	POC & Phone	Initial Amount	Closeout Amount	Date Comp	Surety POC & Phone No.

6(c). List the details of any litigation which your firm has been involved with for the past five (5) years (Attach pages if necessary).

7. References (Please list prior similar projects)

Year	Project Name	Company Name	Dollar Amount	Contact Person and E-mail

Estimated amount of current work under contract: \$ _____

8. List three (3) major contracts similar in scope currently underway or completed within the last five (5) years

Project No. and Title	Owner	Value	Percent Complete	Contact Person and E-mail

I, _____, _____, OF
_____, CERTIFY THE INFORMATION PROVIDED ON
THIS QUALIFICATION IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signature

Affix Corporate Seal

COUNTY OF _____

STATE OF _____

The foregoing instrument was acknowledged before me on this _____ day of _____, _____
By _____

_____ An individual acting in their own right;

_____ of _____
Title Corporation/Company
a _____ Corporation, on behalf of the corporation.
State

_____ Acknowledging partner/agent on behalf of _____
a partnership. Name of partnership

This person is personally known me or has produced _____ as
identification and who (did/did not) take an oath.

Place Notary Seal Here

Signature of Person Taking Acknowledgment

In lieu of Stamp: _____
Type or Print Name Title

Expiration Date

**PROPOSER'S DISCLOSURE OF SUBCONTRACTORS,
SUBCONSULTANTS, AND SUPPLIERS**

Please list all Subcontractors, Subconsultants, and Suppliers to be used in connection with performance of the Contract. (Use additional pages, if necessary):

Company Name: _____

Address: _____

City, State, & Zip Code: _____

Company Name: _____

Address: _____

City, State, & Zip Code: _____

DRUG-FREE WORKPLACE CERTIFICATION

The undersigned vendor hereby certifies that it will provide a drug-free workplace program by:

1. Publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of controlled substance is prohibited in the Bidder'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 Bidder's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs;
 - 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 paragraph 1;
4. Notify all employees, in writing, of the statement required by paragraph 1, that as a condition of employment on a covered contract, the employee shall:
 - a. Abide by the terms of the statement;
 - b. Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the BMPO in writing within ten calendar days after receiving notice under subdivision 4(a) above, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
6. Within thirty (30) calendar days after receiving notice under paragraph 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 paragraphs 1 through 6.

Firm: _____
(Please print or type)

By: _____
Authorized Signature

Name of Authorized Signature Date

**Affix Corporate Seal
(If Applicable)**

County Of

State Of

The foregoing instrument was acknowledged before me on this _____ day of _____, _____
By _____

_____ An individual acting in their own right;

_____ of _____
Title Corporation/Company
a _____ Corporation, on behalf of the corporation.
State

_____ Acknowledging partner/agent on behalf of _____
a partnership. Name of partnership

This person is personally known me or has produced _____ as
identification and who (did/did not) take an oath.

Place Notary Seal Here

Signature of Person Taking Acknowledgment

In lieu of Stamp: _____
Type or Print Name Title

Expiration Date

ANTI-KICKBACK AFFIDAVIT

STATE OF _____ }
COUNTY OF _____ } SS:

I, the undersigned, hereby duly sworn, depose and say that no portion of the sum that my organization may receive as a result of this Solicitation will be paid to any employees of the BMPO, its elected officials, and/or its consultants, as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

By: _____

Title: _____

STATE OF _____)
)
 _____ COUNTY)

The foregoing document was sworn to and subscribed before me by _____ by means of [] physical presence or [] online notarization, and are personally know to me or have produced _____ as identification and who did take an oath.

WITNESS MY HAND AND OFFICIAL SEAL THIS ____ DAY OF _____, ____.

Notary Public Signature

Notary Public Printed Signature

Notary Stamp Seal

NON-COLLUSION AFFIDAVIT

State of _____)
) SS:
County of _____)

being first duly sworn, deposes and says that:

- (1) He/she is the (Owner, Partner, Officer, Representative or Agent) of the Proposer that has submitted the attached Proposal;
- (2) He/she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal:
- (3) Such Proposal is genuine and is not collusive or a sham Proposal;
- (4) Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, firm, or person to submit a collusive or sham Proposal in connection with the Work for which the attached Proposal has been submitted; or to refrain from bidding in connection with such work; or have in any manner, directly or indirectly, sought by person to fix the price or prices, or to fix any overhead, profit, or cost elements of the price of any other Proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed work;
- (5) Any hourly rates quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Proposer or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered
in the presence of:

By: _____
Witness

Witness

By: _____
Printed Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF _____)
)
_____ COUNTY)

The foregoing document was sworn to and subscribed before me by _____ by means of [] physical presence or [] online notarization, and are personally know to me or have produced _____ as identification and who did take an oath.

WITNESS MY HAND AND OFFICIAL SEAL THIS ____ DAY OF _____, _____.

Notary Public Signature

Notary Public Printed Signature

Notary Stamp Seal

NON-DISCRIMINATION AFFIDAVIT

I, the undersigned, hereby duly sworn, depose and say that the organization, business or entity represented herein shall not discriminate against any person in its operations, activities or delivery of services under any agreement it enters into with the Broward Metropolitan Planning Organization. The same shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

By: _____

Title: _____

STATE OF _____)
)
_____ COUNTY)

The foregoing document was sworn to and subscribed before me by _____ by means of [] physical presence or [] online notarization, and _____ are personally know to me or have produced _____ as identification and who did take an oath.

WITNESS MY HAND AND OFFICIAL SEAL THIS ____ DAY OF _____, _____.

Notary Public Signature

Notary Public Printed Signature

Notary Stamp Seal

INDEPENDENCE AFFIDAVIT

The undersigned individual, being duly sworn, deposes and says that:

1. He/She is _____ of _____, the PROPOSER that has submitted the attached Proposal;
2.
 - a. Below is a list and description of any relationships, professional, financial or otherwise that PROPOSER may have with the BMPO, its elected or appointed officials, its employees or agents or any of its agencies or component units for the past two (2) years.
 - b. Additionally, the PROPOSER agrees and understands that PROPOSER shall give the BMPO written notice of any other relationships professional, financial or otherwise that PROPOSER enters into with the BMPO its elected or appointed officials, its employees or agents or any of its agencies or component units during the period of this Agreement.

(If paragraph 2(a) above does not apply, please indicate by stating, “Not applicable” in the space below.)

[THIS SPACE INTENTIONALLY LEFT BLANK]

**INDEPENDENCE AFFIDAVIT
(CONTINUED)**

3. I have attached an additional page to this form explaining why such relationships do not constitute a conflict of interest relative to performing the Services sought in the RFQ.

Signature (ink only)

Print Name (CORPORATE SEAL)

Title

Date

STATE OF _____)
)
_____ COUNTY)

The foregoing document was sworn to and subscribed before me by _____ by means of [] physical presence or [] online notarization, and are personally know to me or have produced _____ as identification and who did take an oath.

WITNESS MY HAND AND OFFICIAL SEAL THIS ____ DAY OF _____, _____.

Notary Public Signature

Notary Public Printed Signature

Notary Stamp Seal

ACCURACY OF PROPOSAL CERTIFICATION

PROPOSER, by executing this Form, hereby certifies and attests that all Forms, Affidavits and documents related thereto that it has enclosed in support of its Proposal are true and accurate. Failure by PROPOSER to attest to the truth and accuracy of such Forms, Affidavits and documents shall result in the Proposal being deemed non-responsive and such Proposal will not be considered.

The undersigned individual, being duly sworn, deposes and says that:

1. He/She is _____ of _____, the PROPOSER that has submitted the attached Proposal;
2. He/She is fully informed respecting the preparation and contents of the attached Proposal and of all Forms, Affidavits and documents submitted in support of such Proposal;
3. All Forms, Affidavits and documents submitted in support of this Proposal and included in this Proposal are true and accurate;
4. No information that should have been included in such Forms, Affidavits and documents has been omitted; and

[THIS SPACE INTENTIONALLY LEFT BLANK]

**ACCURACY OF PROPOSAL CERTIFICATION
(CONTINUED)**

5. No information that is included in such Forms, Affidavits or documents is false or misleading.

Signature

Print Name (CORPORATE SEAL)

Title

Date

STATE OF _____)
)
_____ **COUNTY**)

The foregoing document was sworn to and subscribed before me by _____ by means of [] physical presence or [] online notarization, and are personally know to me or have produced _____ as identification and who did take an oath.

WITNESS MY HAND AND OFFICIAL SEAL THIS ____ DAY OF _____, _____.

Notary Public Signature

Notary Public Printed Signature

Notary Stamp Seal

DBE PARTICIPATION STATEMENT AND BID OPPORTUNITY LIST

ANTICIPATED DBE PARTICIPATION STATEMENT

RFQ Number: _____

Contractor's Name: _____

Contractor's FEID Number: _____

Expected amount of contract dollars to be subcontracted to DBE(s):\$ _____

OR

It is our intent to subcontract _____ % of the contract dollars to DBE(s). Listed, below are the proposed DBE sub-contractors:

<u>DBE (s) Name</u> <u>Percentage</u>	<u>Type/Specialty Work</u>	<u>Dollar Amount/</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Submitted by: _____ Title: _____
(Type or Print)

Date: _____

Note: This information is used to track and report anticipated DBE participation in BMPO contracts. The anticipated DBE amount will not become part of the contractual terms.

**BID OPPORTUNITY LIST FOR PROFESSIONAL CONTRACTUAL SERVICES,
AND COMMODITIES & CONTRACTUAL SERVICES**

Prime Contractor / Prime Consultant: _____

Address/Telephone Number: _____

RFQ Number/Advertisement Number: _____

49 CFR Part 26.11 The list is intended to be a listing of all firms that are participating, or attempting to participate, on BMPO contracts. The list must include all firms that bid on prime contracts, or bid or quote subcontracts and supplies materials on BMPO projects, including both DBEs and non-DBEs. For consulting companies this list must include all subconsultants contacting you and expressing an interest in teaming with you on a specific BMPO project. Prime contractors and consultants must provide information for Numbers 1, 2, 3 and 4, and should provide any information they have available on Numbers 5, 6, 7 and 8 for themselves, and their subcontractors and subconsultants.

1. Federal Tax ID Number: _____	6. <input type="checkbox"/> DBE	8. Annual Gross Receipts:
2. Firm Name: _____	<input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than \$1 Million
3. Phone: _____		<input type="checkbox"/> Between \$1- \$5 Million
4. Address: _____		<input type="checkbox"/> Between \$5- \$10 Million
_____		<input type="checkbox"/> Between \$10-\$15Million
_____		<input type="checkbox"/> More than \$15 Million

5. Year Firm Established: _____ 7. ☐ Sub-contractor
☐ Sub-consultant

1. Federal Tax ID Number: _____	6. <input type="checkbox"/> DBE	8. Annual Gross Receipts:
2. Firm Name: _____	<input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than \$1 Million
3. Phone: _____		<input type="checkbox"/> Between \$1- \$5 Million
4. Address: _____		<input type="checkbox"/> Between \$5- \$10 Million
_____		<input type="checkbox"/> Between \$10-\$15Million
_____		<input type="checkbox"/> More than \$15 Million

5. Year Firm Established: _____ 7. ☐ Sub-contractor
☐ Sub-consultant

1. Federal Tax ID Number: _____	6. <input type="checkbox"/> DBE	8. Annual Gross Receipts:
2. Firm Name: _____	<input type="checkbox"/> Non-DBE	<input type="checkbox"/> Less than \$1 Million
3. Phone: _____		<input type="checkbox"/> Between \$1- \$5 Million
4. Address: _____		<input type="checkbox"/> Between \$5- \$10 Million
_____		<input type="checkbox"/> Between \$10-\$15Million
_____		<input type="checkbox"/> More than \$15 Million

5. Year Firm Established: _____ 7. ☐ Sub-contractor
☐ Sub-consultant

AS APPLICABLE, PLEASE SUBMIT THIS FORM WITH YOUR: REQUEST FOR QUALIFICATIONS – RFQ
 FAILURE TO COMPLETE, SIGN AND RETURN THE DBE PARTICIPATION STATEMENT
 AND BID OPPORTUNITY LIST MAY DEEM YOUR PROPOSAL NON-RESPONSIVE

ATTACHMENT “D”

FDOT FORMS REQUIRED TO BE COMPLETED AND INCLUDED WITH SUBMITTALS

Forms

FDOT Form No. 375-030-60 Vendor Certification Regarding Scrutinized Companies Lists

FDOT Form No. 375-030-30 Truth in Negotiation Certificate

FDOT Form No. 375-030-32 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Federal Aid Contracts

FDOT Form No. 375-030-33 Certification for Disclosure of Lobbying Activities on Federal Aid Contracts

FDOT Form No. 375-030-34 Disclosure of Lobbying Activities

FDOT Form No. 375-031-06 E-Verify

FDOT Form No. 375-030-01 Affidavit Regarding Labor and Services

Note: Forms are available in Word format at the following website:

<https://www.fdot.gov/procurement/formmenu.shtm>

ATTACHMENT “E”

BMPO REQUIRED INVOICE DOCUMENTATION

Note: The Contractor Invoice Template attached is in a PDF format. The BMPO Invoice Form is available in Excel format at the following website.

<https://www.browardmpo.org/procurement/procurement-documents>.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

CONSULTANT NAME
Street Address
City, State, Zip Code
Telephone #

Consultant LOGO

INVOICE

Bill To:

Broward Metropolitan Planning Organization (BMPO)
100 West Cypress Creek Road, 6th Floor, Suite 650
Fort Lauderdale, FL 33309
(954) 876-0033
Email: accountspayable@browardmpo.org
BMPO Project Manager: _____

Invoice Date: _____

Invoice No.: _____

BMPO P.O. #: _____

**Project Name and
Description:**

Invoice Service Period	Contract Number	Contract Execution Date	Contract End Date
-			

Task no.	Task name	Budgeted amount	Percent previously billed	Percent complete this period	Percent complete to date	Complete	Previously billed	Billed this period	Remaining budget
1	Project Management	\$ 1,000.00	10.0%	10.0%	20.0%	No	\$ 100.00	\$ 100.00	\$ 800.00
2	Task 2		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
3	Task 3		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
4	Task 4		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
5	Task 5		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
6	Task 6		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
7	Task 7		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
8	Task 8		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
9	Task 9		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
10	Task 10		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
11	Task 11		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
12	Task 12		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
13	Task 13		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
14	Task 14		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
15	Task 15		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
16	Task 16		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
17	Task 17		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
18	Task 18		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
19	Task 19		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
20	Task 20		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$ -	\$ -
Totals:		\$ 1,000.00					\$ 100.00	\$ 100.00	\$ 800.00

Total Amount Due: \$ 100.00

I certify to the best of my knowledge and belief that the information provided herein is true, complete, and accurate. I am aware that the provision of false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative consequences including, but not limited to violations of U.S. Code Title 18, Sections 2, 1001, 1343 and Title 31, Sections 3729-3730 and 3801-3812.

Authorized Signature:

Name Printed:

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION REPORTING

CONSULTANT NAME

Street Address

City, State, Zip Code

Telephone #

Consultant LOGO

Service Period 1/0/00 - 1/0/00

DBE Contract Amount: \$ 100.00

DBE Firm Name	Amount Allocated	Notes
Company ABC	\$ 100.00	
Company Name B		
Company Name C		
Company Name D		
Company Name E		
Company Name F		
Company Name G		
Company Name H		
Company Name I		
Company Name J		

Total DBE Allocated: \$ 100.00

DBE Firm	Amount allocated	Percent previously billed	Percent billed this period	Percent billed to date	Amount previously billed	Amount billed this period	Amount billed to date	Amount remaining
Company ABC	\$ 100.00	50.0%	50.0%	100.0%	\$ 50.00	\$50.00	\$ 100.00	\$ -
Company Name B	\$ -	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$0.00	\$ -	\$ -
Company Name C	\$ -	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$0.00	\$ -	\$ -
Company Name D	\$ -	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$0.00	\$ -	\$ -
Company Name E	\$ -	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$0.00	\$ -	\$ -
Company Name F	\$ -	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$0.00	\$ -	\$ -
Company Name G	\$ -	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$0.00	\$ -	\$ -
Company Name H	\$ -	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$0.00	\$ -	\$ -
Company Name I	\$ -	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$0.00	\$ -	\$ -
Company Name J	\$ -	#DIV/0!	#DIV/0!	#DIV/0!	\$ -	\$0.00	\$ -	\$ -
Totals:	\$ 100.00				\$ 50.00	\$ 50.00	\$ 100.00	\$ -

INVOICE TASK DETAIL

Task No:

1

Task Name:

Project Management

Budgeted Amount

\$ 1,000.00

100.0%

Previously billed

\$ (100.00)

-10.0%

Billed this period

\$ (100.00)

-10.0%

Remaining Budget

\$ 800.00

80.0%

Percent complete:

20.0%

Billed this period details:

Salary Costs:

Prime Consultant Name

\$ 50.00

Sub-Consultant 1

\$ 50.00

Sub-Consultant 2

\$ -

Sub-Consultant 3

\$ -

Sub-Consultant 4

\$ -

Sub-Consultant 5

\$ -

Sub-Consultant 6

\$ -

Sub-Consultant 7

\$ -

Notes:

DBE Firm

Other Direct Expense:

Travel

\$ -

Equipment

\$ -

Materials

\$ -

Other

\$ -

Notes:

Billed this period

\$ 100.00

Progress Report:

In this space, provide a narrative of the work performed this period towards completing the deliverable(s) for this Task according to the contract scope of service. Do not use acronyms and explain any technical jargon. Make sure the narrative is viewable by resizing the cell if needed.

You must include one of the following in this space:

1. **Progress report narrative** - including sub-consultant work included on this invoice.
2. **See attached progress report** - add a separate document detailing the progress.
3. **No work this period** - there are no charges for the task as shown in the \$0 "Billed this period" line above.
4. **Task complete** - all work and billing on this Task is completed.

Certificate of Disbursement of Previous Periodic Payment to Subcontractors

Contract No. 26-05

Date _____

Contract Name GENERAL PLANNING CONSULTANT SERVICES

Period of Work Invoiced For: _____/_____/_____ to _____/_____/_____

The Contractor for the above referenced contract, hereby certifies that all Subcontractors and vendors having interest in this contract have received their pro rata share of all previous periodic payments made to date by the BMPO for all work, materials and equipment furnished under the contract.

Firm

(Signature of Authorized Representative)

NOTARY STATEMENT
STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me the _____ day of _____,

20__, by _____ who is personally known to me or who has

produced _____ as identification and who did/did not take an oath.

Signature of Notary

My Commission Expires _____

Subcontractor's Certificate of Previous Payment

Note: The Prime Contractor shall attach this statement to current payment invoices, completed by each Subcontractor whose work appears on the previous payment invoice.

KNOW ALL MEN BY THESE PRESENTS, that (name) _____

representing _____, whose

address is _____, with the

title of _____, whom after being first duly sworn, upon oath

deposes and says that pursuant to the provisions of the contract for:

CONTRACT NO. 26-05

CONTRACT NAME: GENERAL PLANNING CONSULTANT SERVICES

that all monies due him/her, in accordance with the agreed upon payment schedule, have been paid to him/her by _____, the Firm.

NOTARY STATEMENT

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____,

20__, by _____ who is personally known to me or who has

produced _____ as identified and who did/did not take an oath.

WITNESS my hand and official seal, this _____ day of _____, 20__.

Signature of Notary

My Commission Expires _____

FINAL RELEASE ON CONTRACT AND AFFIDAVIT

STATE OF _____)
COUNTY OF _____)

Before me, the undersigned authority, personally appeared _____,
who after being duly sworn, deposes and says:

In accordance with the Contract Documents and in consideration of _____
Dollars (\$_____) paid, <Contractor> releases and waives for itself and its
Subcontractors, material-person, successors and assigns, all claims, demands, damages, costs and
expenses, whether in contract or in tort, against the Broward Metropolitan Planning Organization
("BMPO") existing under the laws of the State of Florida relating in any way to the performance
of Agreement No. _____ between THE BMPO and <Contractor>.

(1) <Contractor> certifies for itself and its Subconsultants, material-person, successors
and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for
which the BMPO might be sued or for which a lien or a demand against any payment bond might
be filed, have been fully satisfied and paid.

(2) <Contractor> agrees to indemnify, defend and save harmless the BMPO from all
demands or suits, actions, claims of liens or other charges filed or asserted against the BMPO arising
out of the performance by <Contractor> of the Work covered by this Final Release on Contract
and Affidavit.

(3) This Final Release on Contract and Affidavit shall not be construed to represent,
expressed or implied, any release on behalf of the BMPO of any of the contractual covenants and
obligations of <Contractor>.

<Contractor>:

_____ By: _____
President

_____ Date: _____
Witnesses

[Corporate Seal]

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____, as _____ of
_____, a _____ Corporation, on behalf of the Corporation. This person is
personally known to me or has produced a _____ (state) driver's license no. _____ as
identification.

My Commission Expires:

(AFFIX NOTARY SEAL)

Notary Public (Signature)

(Printed Name)

(Title or Rank)

(Serial Number, if any)

ATTACHMENT “F”

CONTRACTOR PERFORMANCE EVALUATION FORM

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

Contractor Performance Evaluation

The BMPO will periodically evaluate the Contractor's performance utilizing the Contractor Performance Evaluation Form in this Attachment. This evaluation will be done at an interval no less than once per year during a Task Work Order term. For Task Work Orders with a term less than one year, the evaluation may be performed intermittently as determined by the BMPO. The BMPO assigned evaluator will complete the Contractor Performance Evaluation Form and provide a copy to the Contractor for review and response. Written Contractor responses will be incorporated into the evaluations. In any instances where the performance is below satisfactory, the Contractor will have thirty (30) days to provide a written response to the BMPO.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

CONTRACTOR PERFORMANCE EVALUATION FORM

CONTRACTOR: _____

ADDRESS: _____

PROJECT NAME: _____

CONTRACT NO. _____ AWARD DATE: _____

EVALUATION NO. _____ DATE: _____ PERIOD COVERED: _____ TO _____

EVALUATED BY: _____

(Signature & Title)

	CONTRACTUAL	ACTUAL *
PRICE:		
COMPLETION DATE:		
TIME TO COMPLETE		

Ratings:

E = Excellent

G = Good

S = Satisfactory

U = Unsatisfactory

N/A = Not Applicable

* = For Final Evaluation Only. Actual includes contractual plus all Amendments and Change orders.

BROWARD METROPOLITAN PLANNING ORGANIZATION

EVALUATION OF CONTRACTOR'S PERFORMANCE

EVALUATED ITEM	EVALUATION NO.			
	1	2	3	4
Quality of Contractor's Work				
Adherence to Contract Specs/Scope of Services				
Quality of Subcontractor's Work				
Quality of Project Manager/Supervisory Personnel				
Protection of BMPO Property				
Minimal Interference with BMPO Operations				
Timely Submission of Reports, Project Schedules and Deliverables				
Adherence to Project Schedule				
Compliance with Safety Standards				
Communication with BMPO Project Manager				
Attendance at Project Meetings				
Cooperation with Other Contractors				
Timely Notification of Possible Delays				

*** OVERALL EVALUATION ***				
-----------------------------------	--	--	--	--

COMMENTS: _____

***NOTE: PLEASE ATTACH BACKUP DOCUMENTATION FOR ALL EVALUATIONS RATED BELOW SATISFACTORY OR AS REQUESTED BY PROCUREMENT.**

Federal Transit Administration (FTA)

ATTACHMENT "G" FUNDING SUPPLEMENT

FOR ALL FEDERALLY FUNDED
PROCUREMENTS



**Broward Metropolitan Planning Organization
(BMPO)
TRADE CENTER SOUTH
100 WEST CYPRESS CREEK ROAD, SUITE 650
FORT LAUDERDALE, FL 33309**

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APPLICABLE PROVISIONS

☒ = Applicable to this solicitation and/or purchase

1. ☒ NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES INCLUDING THE CONTRACTOR AND ITS SUBCONTRACTORS
2. ☒ FALSE OR FRAUDULENT STATEMENTS OR CLAIMS - CIVIL AND CRIMINAL FRAUD
3. ☒ ACCESS TO THIRD PARTY CONTRACT RECORDS AND SITES OF PERFORMANCE
4. ☒ CHANGES TO FEDERAL REQUIREMENTS
5. ☒ CIVIL RIGHTS (TITLE VI, ADA, EEO) AND PROMOTING FREE SPEECH AND RELIGIOUS LIBERTY
6. ☒ DISADVANTAGED BUSINESS ENTERPRISES (DBEs)
7. ☒ INCORPORATION OF FTA TERMS
8. ☒ ENERGY CONSERVATION
9. ☒ FEDERAL TAX LIABILITY/FELONY CRIMINAL VIOLATION
10. ☐ VETERANS EMPLOYMENT. As provided by 49 U.S.C. § 5325(k)
11. ☒ TERMINATION (Appendix II to 49 C.F.R. Part 200)
12. ☒ DEBARMENT AND SUSPENSION
13. ☒ RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION
14. ☐ BUY AMERICA (For, Rolling Stock, Construction and Materials/Supplies)
15. ☒ LOBBYING
16. ☒ CLEAN AIR
17. ☒ CLEAN WATER
18. ☐ CARGO PREFERENCE (For, Rolling Stock, Construction and Materials/Supplies)
19. ☐ FLY AMERICA
20. ☐ FTA - CONSTRUCTION EMPLOYEE PROTECTIONS – DAVIS–BACON ACT (40 U.S.C. §§ 3141-3144 and 3146-3148 and 49 C.F.R. Part 5)
21. ☐ CONSTRUCTION EMPLOYEE PROTECTIONS – COPELAND ANTI-KICKBACK ACT (for the actual construction, alternation and/or repair, including painting and decorating of a public building or public work)
22. ☐ BONDING REQUIREMENTS (2 CFR §200.325)
23. ☐ CONTRACT WORK HOURS & SAFETY STANDARDS ACT
24. ☐ SEISMIC SAFETY
25. ☒ NONCONSTRUCTION EMPLOYEE PROTECTION – CONTRACT WORK HOURS & SAFETY STANDARDS ACT
26. ☐ TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS
27. ☐ CHARTER SERVICE OPERATIONS
28. ☐ SCHOOL BUS OPERATIONS
29. ☐ DRUG USE AND TESTING
30. ☐ ALCOHOL MISUSE AND TESTING

- 31. ☐ PATENT AND RIGHTS IN DATA
- 32. ☐ SPECIAL NOTIFICATION REQUIREMENT FOR STATES (**ONLY APPLIES IF STATE REQUIRES THIS - SEE NOTE TO PROCUREMENT UNDER THIS PROVISION**)
- 33. ☒ RECYCLED PRODUCTS
- 34. ☐ CONFORMANCE WITH NATIONAL ITS ARCHITECTURE
- 35. ☐ ADA ACCESS
- 36. ☐ BUS TESTING
- 37. ☐ PRE-AWARD AND POST-DELIVERY AUDIT REQUIREMENTS
- 38. ☐ TVM CERTIFICATION
- 39. ☒ PROHIBITION ON CERTAIN TELECOMMUNICATIONS & VIDEO SURVEILLANCE SERVICES OR EQUIPMENT
- 40. ☒ SAFE OPERATION OF MOTOR VEHICLES
- 41. ☒ TRAFFICKING IN PERSONS

CONTRACT SUBJECT TO FEDERAL FINANCIAL ASSISTANCE/APPLICATION OF PROVISIONS AND CLAUSES

This Contract/Project is funded in whole or in part by grants from the Federal Transit Administration (FTA) of the United States Department of Transportation. The award of any contract is subject to the requirements of financial assistance contracts between the Broward Metropolitan Planning Organization (hereinafter referred to as "the BMPO") and the U.S. Department of Transportation requiring compliance with purchasing procedures and standards as set forth in various federal statutes and regulations including 49 CFR Part 18, and the FTA Circular 4220.1F. The Contractor/Proposer/Bidder (may also be referred to herein as only "Contractor" unless expressly indicated otherwise) is required to comply with all terms and conditions prescribed for third-party contracts by FTA. The Contractor is responsible for ensuring its compliance with all applicable FTA requirements. Additionally, the Contractor is responsible for ensuring that subcontractors, at as many tiers of the Project as required, perform in accordance with the terms, conditions and specifications of the Contract, including all applicable FTA requirements. Upon request of the BMPO or FTA, the Contractor shall provide evidence of the steps it has taken to ensure its compliance with the FTA requirements, as well as evidence of the steps it has taken to ensure subcontractor performance, and/or submit evidence of each subcontractor's compliance at all tiers. The following provisions and required Contract provisions shall be incorporated by reference in the Contract. These provisions are in addition to other General Terms and Conditions, Special Terms and Conditions, Solicitation Documents and Bid or Proposal Forms which may also be incorporated by reference in any resulting Contract. Some provisions require the Proposer, Bidder or Contractor to execute and submit certain required certifications with the Proposal, Bid or Agreement. Failure to execute and submit required certifications with the Proposal, Bid or Contract Documents may render a Proposal or Bid non-responsive or an Agreement null and void. The BMPO has provided guidance to the Contractor by indicating applicable provisions and certifications in this Federal Funding Supplement. However, the BMPO shall not be liable to the Contractor whatsoever for any mistakes or errors in determining the application of the provisions or certifications to the Agreement.

PROVISIONS 1 THROUGH 9 AND PROVISION 39 APPLY TO ALL CONTRACTS

1. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES INCLUDING THE CONTRACTOR AND ITS SUBCONTRACTORS

- A. The BMPO 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 the BMPO, 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. FALSE OR FRAUDULENT STATEMENTS OR CLAIMS - CIVIL AND CRIMINAL FRAUD

- 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 CFR Part 31, apply to its actions pertaining to this Project. Upon execution or performance 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, 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. ACCESS TO THIRD PARTY CONTRACT RECORDS AND SITES OF PERFORMANCE

- A. For a period of three years following Contract closing, the Contractor shall maintain, preserve and make available to the BMPO, the FTA Administrator, the Comptroller General of the United States, and any of their authorized representatives, access at all reasonable times, complete and readily accessible, all books, records, accounts, reports, papers, including but not limited to, data, documents, reports, statistics, subagreements, leases, third party contracts, arrangements, other third party agreements of any types and supporting materials of Contractor, which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions.
- B. Contractor also agrees, pursuant to 49 CFR 633.17, to provide the FTA Administrator or their authorized representatives, including any project management oversight contractor, access to Contractor's records, information and construction sites (including all Work and materials) 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.
- C. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor agrees to maintain, complete and readily accessible, all books, records, accounts, reports, including but not limited to, data, documents, reports, statistics, subagreements, leases, third party contracts, arrangements, other third party agreements of any types and supporting materials 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 or in the event the Contractor is informed in writing to extend the three (3) year period, in which case the Contractor agrees to maintain same until the BMPO, the FTA Administrator, the US 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).
- D. The Contractor shall maintain, and the BMPO shall have the right to examine and audit, all records and other evidence sufficient to reflect properly all prices, costs or rates negotiated and invoiced in performance of this Contract. This right of examination shall include inspection at all reasonable times of the Contractor's offices engaged in performing the Contract.
- E. If this Contract is completely or partially terminated, the Contractor shall make available the records relating to the Work terminated until three years after any resulting final termination settlement. The Contractor shall make available records relating to appeals under the Claims and Disputes clause in the General Terms and Conditions or to litigation or the settlement of claims arising under or relating to this Contract until such appeals, litigation, or claims are finally resolved.
- F. This provision entitled "Access to Third Party Contract Records and Sites of Performance" applies with equal force and effect to any subcontractors at any tier hired by the Contractor to perform Work under this Contract. The Contractor shall insert this provision in all subcontracts at all tiers under this Contract and require subcontractor compliance therewith.

4. CHANGES TO FEDERAL REQUIREMENTS

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed herein or included in the current Master Agreement between the BMPO and FTA, as they may be amended or promulgated from time to time during the term of this Contract ("Federal Requirements"). Contractor's failure to so comply shall constitute a material breach of this Contract. Contractor may contact either the BMPO or FTA for a copy of the current FTA Master Agreement or access it from FTA's website (www.transit.dot.gov). The Federal Requirements and any changes to the Federal Requirements during the term of the Agreement are incorporated herein by reference and made a part hereof. The Federal Requirements and any changes to them shall apply to both the Contractor and all subcontractors.

5. CIVIL RIGHTS (TITLE VI, ADA, EEO) AND PROMOTING FREE SPEECH AND RELIGIOUS LIBERTY

The following requirements apply to the Contract (except provision C(4) which applies only to construction projects):

- 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, Federal transit law at 49 U.S.C. § 5332, and FTA Circular 4704. Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, creed, national origin, sex (including sexual orientation and gender identity), age, or disability. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- B. Promoting Free Speech and Religious Liberty. The Contractor shall ensure it complies with all provisions of the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.
- C. Equal Employment Opportunity – The following equal employment opportunity requirements apply to the underlying Contract:
 - 1. Race, Color, Religion, 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 CFR 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 activities undertaken in the course of this Contract. 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 Title 1 of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq. and 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 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.
4. The following EEO clauses apply to all Agreements for construction (41 C.F.R. Chapter 60).

During the performance of this Agreement the Contractor agrees as follows:

- a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
- b) 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. **The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.**
- c) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- d) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or

another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

- e) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and **shall post copies of the notice in conspicuous places available to employees and applicants for employment.**
- f) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- g) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- h) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- i) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (a) through (f) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

- D. The Contractor shall:
1. Prohibit discrimination based on race, color, religion, national origin, sex (including gender identity), disability, or age.
 2. Prohibit the:
 - a) Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332;
 - b) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; or
 - c) Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.
- a) Follow the most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance; but FTA does not require an Indian Tribe to comply with FTA program- specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.
- E. Contractor 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.

6. DISADVANTAGED BUSINESS ENTERPRISES (DBEs)

- A. This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises (DBEs) in Department of Transportation Financial Assistance Programs.
- B. The Contractor 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 this DOT-assisted Contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this contract or such other remedy as BMPO deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- C. The Contractor is required to pay its subcontractors performing Work related to this Contract for satisfactory performance of that Work no later than 30 days after the Contractor's receipt of payment for that Work from BMPO. In addition, the Contractor shall return any retainage payments to subcontractors within 30 days after incremental acceptance of the subcontractor's Work by BMPO and Contractor's receipt of the partial retainage payment related to the subcontractor's Work.
- D. The Contractor must promptly notify BMPO, whenever a DBE subcontractor performing Work related to this Contract is terminated or fails to complete its Work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of Work. The contractor may not terminate any DBE subcontractor and perform that Work through its own forces or those of an affiliate without prior written consent of BMPO.
- E. BMPO sets an annual overall goal for the participation of DBEs. This Contract contains a minimum level of DBE participation, and is awarded in reliance upon the Contractor's representations that it can attain such DBE participation levels in addition to all other of Contractor's representations, certifications and submittals as required by this Contract.

- C. The Contractor shall cooperate with BMPO with regard to maximum utilization of DBEs and will use its best efforts to insure that DBEs shall have the maximum practicable opportunity to compete for subcontract work under this Contract. The Contractor shall assist BMPO in verifying compliance with the DBE requirements of this Contract, if any, by submitting status reports itemizing payments to all DBE subcontractors with each monthly request for payment. Upon Contract completion, the Contractor shall submit a summary of payments, by subcontract, made to all subcontractors to BMPO's Administrative Compliance Officer.

7. INCORPORATION OF FTA TERMS

The Agreement is subject to the requirements of the Federal Transit Administration Master Agreement effective February 9, 2021, as amended (see link below), as applicable to the Federal fiscal year in which the Solicitation Documents or Contract are issued/awarded ("FTA Master Agreement") (see link below). In addition, all contractual provisions required by U.S. DOT, as set forth in FTA Circular 4220.1F (entitled, "Third Party Contracting Guidance") dated November 1, 2008, as amended, are hereby incorporated by reference ("FTA Circular") (see link below). In the event of a conflict between the provisions of the General Terms and Conditions and either the FTA Master Agreement or the FTA Circular, the applicable FTA document will control. In the event of a conflict between the FTA Master Agreement and the FTA Circular, the FTA Master Agreement shall control. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any the BMPO requests which would cause the BMPO to be in violation of the FTA Master Agreement or the FTA Circular. Both the FTA Master Agreement and the FTA Circular are incorporated herein by reference and made a part hereof.

FTA Master Agreement (link to FY21 Master Agreement is provided, but Contractor is obligated to obtain most recent FTA Master Agreement from FTA's website at www.transit.dot.gov): www.transit.dot.gov/sites/fta.dot.gov/files/2021-02/FTA-Master-Agreement-v28-2021-02-09.pdf

FTA Circular: [Third Party Contracting Guidance \(Circular 4220.1F\) \(dot.gov\)](http://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Third%20Party%20Contracting%20Guidance%20%28Circular%204220.1F%29.pdf) OR www.transit.dot.gov/sites/fta.dot.gov/files/docs/Third%20Party%20Contracting%20Guidance%20%28Circular%204220.1F%29.pdf

8. ENERGY CONSERVATION

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan, if any, issued in compliance with the Energy Policy and Conservation Act. This requirement applies to the Contractor and all subcontractors.

9. FEDERAL TAX LIABILITY/FELONY CRIMINAL VIOLATION

The Contractor shall certify that it: (a) does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and (b) was not convicted of the felony criminal violation under any Federal law (including a conviction of an

offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. §3559) within the preceding twenty-four (24) months (see Exhibit 8 entitled, “Federal Tax Liability/Felony Criminal Violation Certification”). U.S. DOT Order 4200.6

The Contractor shall require all subcontractors, regardless of tier, to complete the same certification regardless of the value of the subcontract.

**PROVISION 10 APPLIES TO ALL CAPITAL PROJECTS
(AS THAT TERM IS DEFINED IN 49 U.S.C §5302(3) – SEE BELOW)**

10. VETERANS EMPLOYMENT. As provided by 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 shall include paragraphs 10.A. (1) and (2) above in all its subcontracts.

The term “capital project” means a project for: (A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing; (B) rehabilitating a bus; (C) remanufacturing a bus; (D) overhauling rail rolling stock; (E) preventive maintenance; (F) leasing equipment or a facility for use in public transportation; (G) a joint development improvement that— (i) enhances economic development or incorporates private investment, such as commercial and residential development; (ii) (I) enhances the effectiveness of public transportation and is related physically or functionally to public transportation; or (II) establishes new or enhanced coordination between public transportation and other transportation; (iii) provides a fair share of revenue that will be used for public transportation; (iv) provides that a person making an agreement to occupy space in a facility constructed under this paragraph shall pay a fair share of the costs of the facility through rental payments and other means; and (v) may include— (I) property acquisition; (II) demolition of existing structures; (III) site preparation; (IV) utilities; (V) building foundations; (VI) walkways; (VII) pedestrian and bicycle access to a public transportation facility; (VIII) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals; (IX) renovation and improvement of historic transportation facilities; (X) open space; (XI) safety and security equipment and facilities (including lighting, surveillance, and related intelligent transportation system applications); (XII) facilities that incorporate community services such as daycare or health care; (XIII) a capital project for, and improving, equipment or a facility for an

intermodal transfer facility or transportation mall; and (XIV) construction of space for commercial uses; (H) the introduction of new technology, through innovative and improved products, into public transportation; (I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts— (i) not to exceed 10 percent of such recipient’s annual formula apportionment under sections 5307 and 5311; or (ii) not to exceed 20 percent of such recipient’s annual formula apportionment under sections 5307 and 5311, if, consistent with guidance issued by the Secretary, the recipient demonstrates that the recipient meets at least 2 of the following requirements: (I) Provides an active fixed route travel training program that is available for riders with disabilities. (II) Provides that all fixed route and paratransit operators participate in a passenger safety, disability awareness, and sensitivity training class on at least a biennial basis. (III) Has memoranda of understanding in place with employers and the American Job Center to increase access to employment opportunities for people with disabilities. (J) establishing a debt service reserve, made up of deposits with a bondholder’s trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter; (K) mobility management— (i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but (ii) excluding operating public transportation services; (L) associated capital maintenance, including— (i) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and (ii) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used; (M) associated transit improvements; or (N) technological changes or innovations to modify low or no emission vehicles (as defined in section 5339(c)) or facilities.

PROVISION 11 APPLIES TO AWARDS EXCEEDING \$10,000

11. TERMINATION (Appendix II to 49 C.F.R. Part 200)

See the BMPO’s Agreement provisions.

PROVISIONS 12 AND 13 APPLY TO ALL AWARDS EXCEEDING \$25,000

12. DEBARMENT AND SUSPENSION

- A. The Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. Part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the

contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- 1) Debarred from participation in any federally assisted Award;
 - 2) Suspended from participation in any federally assisted Award;
 - 3) Proposed for debarment from participation in any federally assisted Award;
 - 4) Declared ineligible to participate in any federally assisted Award;
 - 5) Voluntarily excluded from participation in any federally assisted Award; or
 - 6) Disqualified from participation in any federally assisted Award.
- B. By signing and submitting its Bid or Proposal and Exhibit 9, entitled, "Debarment & Suspension (Nonprocurement) Certification," the Bidder or Proposer certifies as follows:
- 1) The certification in this clause is a material representation of fact relied upon by the BMPO. If it is later determined by the BMPO that the Bidder or Proposer knowingly rendered an erroneous certification, in addition to remedies available to the BMPO, 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 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer.
- C. In addition to all other requirements of this provision, the Bidder or Proposer and all subcontractors shall use the System for Award Management (SAM) to prove they are not debarred or to identify debarred companies [see <https://www.sam.gov/SAM/>]. Post award, the Contractor shall use SAM if any new subcontractors are added to the Agreement and provide such documentation to the BMPO in compliance with this provision.
- D. The Bidder or Proposer further agrees to include this provision requiring such compliance in all of its lower tier covered transactions.

13. RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION

- A. FTA Interest. FTA has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the award of the Agreement, the Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.

- B. Notification to FTA; Flow Down Requirement. If a current or prospective legal matter that may affect the Federal Government emerges, the BMPO is obligated to promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region IV. the BMPO is required to include a similar notification requirement in all of its Third Party Agreements, which includes this Agreement. Pursuant to this same FTA requirement, the Contractor is required to include an equivalent provision to Provision 14 in all of its subcontractor or subconsultant agreements at every tier.
- 1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
 - 2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
 - 3) Additional Notice to U.S. DOT Inspector General. the BMPO must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the the BMPO has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the BMPO and FTA, or an agreement involving a principal, officer, employee, agent, or the Contractor. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the BMPO. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all the BMPO divisions, including divisions tasked with law enforcement or investigatory functions.
- C. Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA's prior written concurrence. (d) Enforcement. The Recipient must pursue its legal rights and remedies available under any Third-Party Agreement or any federal, state, or local law or regulation.
- Please see the FTA Master Agreement, as amended, for other defined terms used in this provision.
- D. See other related provisions in the BMPO General Terms and Conditions.

PROVISION 14 APPLIES TO AWARDS EXCEEDING THE SIMPLIFIED ACQUISITION THRESHOLD, EXCEPT FOR ROLLING STOCK WHERE THE THRESHOLD IS \$150,000

14. BUY AMERICA (For, Rolling Stock, Construction and Materials/Supplies)

The Buy America requirements apply to all contracts, which include the purchases of steel, iron and manufactured goods, including construction, the acquisition of goods, or the acquisition of rolling stock or capital leases, subject to the applicable threshold amounts.

The Contractor agrees to comply with 49 USC 5323(j) 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 product is subject to a general waiver. General waivers are listed in 49 CFR 661.7. Separate requirements for rolling stock are set out at 49 USC 5323(j)(2)(C) and 49 CFR 661.11.

Rolling stock (which includes train control, communication, traction power equipment and rolling stock prototypes) must be assembled in the United States and have a seventy percent (70%) domestic content. For rolling stock purchases for which the average cost of the vehicle is more than \$300,000, the cost of steel or iron produced in the United States and used in the rolling stock frames or car shells will be included in the domestic content calculation, regardless of whether the frame or car shell is produced in the United States. For rolling stock rebuilds the Buy America domestic content requirement is 100%. For rolling stock overhauls, the Buy America domestic content is 100%, unless the agency contracts with the original equipment manufacturer (OEM) and then it is currently 60%.¹

The Contractor shall be responsible for ensuring that lower tier contractors and subcontractors are in compliance with these requirements. The \$150,000 threshold amount for rolling stock applies only to the Contract; all subcontracts under this threshold amount are subject to Buy America. The Contractor shall provide the fully executed Buy America Certification provided in Exhibit 10.

Compliance with these Buy America requirements shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements."

Limitation on Certain Rolling Stock Procurements.— Award of a contract or subcontract shall not be made if prohibited by 49 U.S.C §5323(u) which prohibits such awards to an entity for the procurement of rolling stock for use in public transportation if the manufacturer of the rolling stock:

- (a) is incorporated in or has manufacturing facilities in the United States; and
- (b) is owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in a country that—
 - (i) is identified as a nonmarket economy country (as defined in section 771(18) of the Tariff

¹ Per 49 CFR Part 661 (Docket Nos. FTA-2016-0019 & FTA-2016-0020) Notice of Policy on the Implementation of the Phased Increase in Domestic Content under the Buy America Waiver for Rolling Stock and Notice of Public Interest Waiver of Buy America Domestic Content Requirements for Rolling Stock Procurement in Limited Circumstances, FTA Response to Question E on Page 60282 of the Federal Register, Vol. 81, No. 170/Sept. 1, 2016.

Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this subsection;
(ii) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list defined in subsection (g)(3) of that section; and
(iii) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

The "Simplified Acquisition Threshold" means the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. **For FY21 the Simplified Acquisition Threshold is \$250,000.**

PROVISION 15 APPLIES TO AWARDS EXCEEDING \$100,000

15. LOBBYING

Contractors and all subcontractors who submit a proposal or bid for a Contract award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not use 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 the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. § 1352. Such disclosures are forwarded from tier to tier up to the BMPO. The Contractor shall complete the affidavit/certification provided in Exhibit 11 entitled, "Restrictions on Lobbying and Non-Collusion Affidavit/Certification." Should the certification required by 49 C.F.R. Part 20 differ from Exhibit 11, the Contractor shall be required to complete the form in 49 C.F.R. Part 20.

PROVISIONS 16 AND 17 APPLY TO AWARDS EXCEEDING \$150,000

16. CLEAN AIR

- A. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401-7671q. Contractor agrees to report each violation to the BMPO and understands and agrees that the BMPO will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- B. Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

17. CLEAN WATER

- A. 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 -1388. Contractor agrees to report each violation to the BMPO and understands and agrees that the BMPO will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- B. Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

PROVISIONS 18 AND 19 APPLY ONLY TO THE TRANSPORT OF PROPERTY OR PERSONS

18. CARGO PREFERENCE (For, Rolling Stock, Construction and Materials/Supplies)

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

The Contractor agrees:

- A. to use privately owned United States-Flag commercial vessels to ship at least 50 percent 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 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" 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 BMPO (through the Contractor in the case of a subcontractor's bill-of-lading); and
- 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.

19. FLY AMERICA

Contractor agrees to comply with 49 U.S.C. § 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R 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. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum of unavailability adequately explaining (to the BMPO's sole satisfaction) 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.

For the purpose of Provision 16, the following definitions shall apply:

"International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

**PROVISIONS 20 AND 21 APPLIES ONLY TO ALL CONSTRUCTION, ALTERATION OR
REPAIR CONTRACTS IN EXCESS OF \$2,000
(SEE PROVISION 22 FOR ADDITIONAL REQUIREMENTS)**

20. FTA - CONSTRUCTION EMPLOYEE PROTECTIONS – DAVIS–BACON ACT (40 U.S.C. §§ 3141-3144 and 3146-3148 and 49 C.F.R. Part 5)

(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)(2) 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 (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 29 CFR Part 5.5(a)(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 classifications and wage rates conformed under paragraph (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 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) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), 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; and (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(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 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 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 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 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 - the BMPO 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, the BMPO 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) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three 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. Contractors 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 the BMPO 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 section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. 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). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005- 00014-1), U.S. Government Printing Office, Washington, DC 20402. 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 BMPO, for transmission to the Federal Transit Administration, 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 BMPO. (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: That the

Payroll for the payroll period contains the information required to be maintained under section 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 the Federal Transit Administration 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 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 journeymen 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 of the Wage and Hour Division of the U.S. Department of Labor 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 into 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 subcontractor 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 DavisBacon 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.

21. CONSTRUCTION EMPLOYEE PROTECTIONS – COPELAND ANTI-KICKBACK ACT (for the actual construction, alternation and/or repair, including painting and decorating of a public building or public work)

The Contractor and its subcontractors shall comply with the Copeland “Anti-Kickback” Act (“Act”) requirements of 29 C.F.R. 5.5(a)(1) through (10), which are incorporated by reference into this Contract. 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 Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

The Contractor shall also comply with the following requirements:

a) Section 1 of the Act, as amended, 18 U.S.C. § 874, applies to all Contracts:

- (i) Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both;

b) Section 2 of the Act, as amended, 18 U.S.C. § 3145, applies to construction and repair Contracts exceeding \$2,000:

- (i) In General.—The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the prior week.

- (ii) (ii) Application — The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001; and
- c) U.S. DOL regulations “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States,” 29 CFR Part 3, which are incorporated by reference in this contract.
- d) For additional requirements of the Act not specified in this Article, see preceding Article FTA 17 – Construction Employee Protections – Davis Bacon Act.

PROVISION 22 APPLIES TO ALL CONSTRUCTION OR FACILITY IMPROVEMENT CONTRACTS OR SUBCONTRACTS EXCEEDING THE SIMPLIFIED ACQUISITION THRESHOLD

22. BONDING REQUIREMENTS (2 CFR §200.326)

Refer to the BMPO's General Terms and Conditions/Payment and Performance Bond and the requirements for Bid/Proposal bonds in the solicitation documents.

See Provision 14 for a definition of the “Simplified Acquisition Threshold” and current Federal fiscal year amount.

PROVISION 23 APPLIES TO ALL CONTRACTS IN EXCESS OF \$100,000 THAT INVOLVE THE EMPLOYMENT OF MECHANICS OR LABORERS

23. CONTRACT WORK HOURS & SAFETY STANDARDS ACT

- (1) 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 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) 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 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 (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

- (3) Withholding for unpaid wages and liquidated damages - the BMPO 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 (2) of this section.
- (4) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

PROVISION 24 APPLIES TO ALL CONTRACTS FOR THE DESIGN OR CONSTRUCTION OF NEW BUILDINGS OR ADDITIONS TO EXISTING BUILDINGS

24. SEISMIC SAFETY

The 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 by the Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The 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. The Contractor must provide the Seismic Safety Certification (Exhibit 12) with the Bid/Proposal.

PROVISION 25 APPLIES ONLY TO CONTRACTS INVOLVING NONCONSTRUCTION ACTIVITIES

25. NONCONSTRUCTION EMPLOYEE PROTECTION – CONTRACT WORK HOURS & SAFETY STANDARDS ACT

The Contractor agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, and other participant at any tier of the Project, with the employee protection requirements for nonconstruction employees of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 et seq., in particular with the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702 and 3704, as supplemented by Department of Labor regulations in 29 C.F.R Part 5.

The requirements of 40 U.S.C. §3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or

articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

PROVISIONS 26 THROUGH 30 APPLY ONLY TO AGREEMENTS FOR TRANSIT OPERATIONS

26. TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS

Public Transportation Employee Protective Arrangements. If the Grant Agreement or Cooperative Agreement for the Project indicates that public transportation employee protective arrangements required by U.S. DOL apply to public transportation operations performed in connection with the Project, the Recipient agrees to comply with the applicable requirements for its Project as follows:

- (1) Standard Public Transportation Employee Protective Arrangements. To the extent that the Project involves public transportation operations and as required by Federal law, the Recipient agrees to implement the Project in accordance with the terms and conditions that the U.S. Secretary of Labor has determined to be fair and equitable to protect the interests of any employees affected by the Project and that comply with the requirements of 49 U.S.C. § 5333(b), and with the U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, US DOT regulations (49 CFR Part 21) or US Department of Labor regulations (41 CFR chapter 60), when required. and any amendments thereto. These terms and conditions are identified in U.S. DOL's certification of public transportation employee protective arrangements to FTA, the date of which appears in the Grant Agreement or Cooperative Agreement for the Project. The Recipient agrees to implement the Project in accordance with the conditions stated in that U.S. DOL certification. That certification and any documents cited therein are incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The requirements of this Subsection 24.d(1) of this Master Agreement do not apply to Projects for elderly individuals or individuals with disabilities that are authorized by 49 U.S.C. § 5310(a)(2) or subsection 3012(b) of SAFETEA- LU, or to Projects for nonurbanized areas authorized by 49 U.S.C. § 5311; separate requirements for those Projects are contained in Subsections 24.d(2) and (3), respectively, of this Master Agreement.
- (2) Public Transportation Employee Protective Arrangements for Elderly Individuals and Individuals with Disabilities for the Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program. To the extent that the U.S. Secretary of Transportation has determined or determines in the future that employee protective arrangements required by 49 U.S.C. § 5333(b) are necessary or appropriate for a governmental authority sub recipient participating a Project authorized by 49 U.S.C.

§ 5310(b)(2) or subsection 3012(b) of SAFETEA-LU, 49 U.S.C. § 5310 note, the Recipient agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor necessary to comply with the requirements of 49 U.S.C. § 5333(b), and the U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's certification of public transportation employee protective arrangements to FTA, the date of which appears in the Grant

Agreement. The Recipient agrees to implement the Project in compliance with the conditions stated in that U.S. DOL certification. That U.S. DOL certification and any documents cited therein are incorporated by reference and made part of the Grant Agreement.

- (3) Public Transportation Employee Protective Arrangements for Projects in Nonurbanized Areas Authorized by 49 U.S.C. § 5311. The Recipient 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, U.S. DOL implementing procedures, and any revisions thereto.

27. CHARTER SERVICE OPERATIONS

The Contractor agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S.C. chapter 53 or under 23 U.S.C. §§ 133 or 142 will engage in charter service operations, except as authorized by 49 U.S.C. § 5323(d) and FTA regulations, "Charter Service," 49 C.F.R. Part 604, and any subsequent Charter Service regulations or FTA directives that may be issued, except to the extent that FTA determines otherwise in writing. Any charter service agreement required by FTA regulations is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Contractor understands and agrees that in addition to any remedy specified in the charter service agreement, if a pattern of violations of that agreement is found, the violator will be barred from receiving Federal transit assistance in an amount to be determined by FTA or U.S. DOT.

28. SCHOOL BUS OPERATIONS

The Contractor agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S.C. chapter 53, or under 23 U.S.C. §§ 133 or 142 will engage in school transportation operations for the transportation of students or school personnel exclusively in competition with private school transportation operators, except as authorized by 49 U.S.C. §§ 5323(f) or (g), as applicable, and FTA regulations, "School Bus Operations," 49 C.F.R. Part 605, and any subsequent School Transportation Operations regulations or FTA directives that may be issued, except to the extent that FTA determines otherwise in writing. Any school transportation operations agreement required by FTA regulations is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Contractor understands and agrees that if it or an operator violates that school transportation operations agreement, the violator will be barred from receiving Federal transit assistance in an amount to be determined by FTA or U.S. DOT.

29. DRUG USE AND TESTING

The Contractor agrees to establish and implement a drug testing program that complies with 49 CFR Part 40 Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, or the the BMPO, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 40 and 655 and review

the testing process. The Contractor agrees further to certify annually its compliance with Part 40 and 655 before December 31st of every year and to submit the Management Information System (MIS) reports no later than February 15th of every year to the BMPO. **To certify compliance, the 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.**

30. ALCOHOL MISUSE AND TESTING

The Contractor agrees to establish and implement an alcohol testing program that complies with 49 CFR Parts 40 and 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or the Regional Transportation District, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 40 and 655 and review the testing process. The Contractor agrees further to certify annually its compliance with Parts 40 and 655 before December 31st of every year and to submit the Management Information System (MIS) reports no later than February 15th of every year to the BMPO. **To certify compliance, the 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.**

PROVISION 31 APPLIES ONLY TO PLANNING, RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS

31. PATENT AND RIGHTS IN DATA

The Contractor shall comply with the requirements of 37 C.F.R Part 401, as well as the BMPO's Agreement provisions.

PROVISION 32 APPLIES ONLY to STATES AND ORGANIZATIONS THAT ARE BEING FUNDED DIRECTLY BY THE STATE WITH FTA GRANT FUNDS.

32. SPECIAL NOTIFICATION REQUIREMENT FOR STATES

(NOTE TO PROCUREMENT: Per FTA guidance dated July 2011: “The notification requirements concerning federal assistance apply only to States and those organizations that are being funded directly by the State with FTA grant funds. This would include sub- grantees, lessees, or third party contractors of the State. Government agencies that are not part of the State government who are receiving FTA grant funds directly from FTA do not have to comply with the special notification requirements for States.” **Therefore this provision will ONLY apply to BMPO Contracts if the BMPO is obligated to comply through a State of Florida funding agreement.**)

- A. Types of Information. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
- (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 - (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 - (3) The amount of federal assistance FTA has provided for a State Program or Project.
- B. Documents. The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

PROVISION 33 APPLIES TO ALL APPLICABLE PROCUREMENTS AND CONTRACTS (AS DEFINED BELOW)

33. RECYCLED PRODUCTS

For all procurements and contracts involving items designated by the Environmental Protection Agency (EPA) where the Contractor purchase \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year exceeds \$10,000 ("Applicable Procurements and Contracts"). The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 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.

PROVISION 34 APPLIES TO ALL CONTRACTS AND SOLICITATIONS FOR INTELLIGENT TRANSPORTATION SYSTEMS

34. CONFORMANCE WITH NATIONAL ITS ARCHITECTURE

National Intelligent Transportation Systems ("ITS") Architecture and Standards. To the extent applicable, the Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA- LU § 5307(c), 23 U.S.C. § 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 any subsequent further implementing directives, except to the extent FTA determines otherwise in writing.

PROVISION 35 APPLIES TO ALL CONTRACTS FOR ROLLING STOCK OR FACILITIES' CONSTRUCTION OR RENOVATIONS

35. ADA ACCESS

- A. the BMPO must comply with: 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities; 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; 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; and 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.
- B. All deliverable items provided by the Contractor for the BMPO under this Contract shall comply with the above- referenced laws as well as all other applicable federal, state and local regulations and directives and any subsequent amendments thereto.

PROVISIONS 36 THROUGH 38 APPLY ONLY to ROLLING STOCK PROCUREMENTS

36. BUS TESTING

The Contractor [Manufacturer] agrees to comply with 49 U.S.C. §§ 5318 and 5323(c) and FTA's implementing regulation 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 the BMPO at a point in the procurement process specified by the BMPO which will be prior to the BMPO'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 the BMPO prior to the BMPO'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.

37. PRE-AWARD AND POST-DELIVERY AUDIT REQUIREMENTS

The Contractor agrees to comply with 49 U.S.C. § 5323(l) and (m) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

- A. Buy America Requirements: The Bidder/Proposer/Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America (using Exhibit 10). If the Bidder/Proposer/Contractor 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: The Contractor shall submit evidence that it will be capable of meeting the Bid or Proposal Contract Documents.
- C. Federal Motor Vehicle Safety Standards (FMVSS): The 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.

38. TVM CERTIFICATION

The Transit Vehicle Manufacturer (TVM) shall provide the BMPO with the Transit Vehicle Manufacturer (TVM) Certification of Compliance (see Exhibit 13) stating that it has complied with FTA's DBE requirements in 49 CFR Part 26.49. Along with Exhibit 13, the TVM shall also provide the BMPO with the most current letter from the FTA approving the TVM's DBE goal/methodology and eligibility to participate in the FTA DBE program as a TVM in accordance with 49 CFR Part 26.49. If the FTA has not yet approved the DBE Goal, the TVM shall make a certification to that effect as required by 49 CFR Part 26.49 and in addition submit to the BMPO a copy of the documents submitted to FTA for approval. **These documents shall be submitted with the solicitation response or the TVM's (or Proposer's/Bidder's/Offeror's, if same is not the TVM) submittal may be deemed non-responsive.**

PROVISION 39 THROUGH 41 APPLY TO ALL CONTRACTS

39. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

The Contractor shall comply with the requirements of 2 CFR 200.216 (see below).

200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

40. SAFE OPERATION OF MOTOR VEHICLES

- (a) Seat Belt Use. The Contractor agrees to comply with Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by: Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles.
- (b) Distracted Driving, Including Text Messaging While Driving. The Contractor agrees to comply with:
 - (1) Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225);
 - (2) U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and
 - (3) The following U.S. DOT Special Provision

pertaining to Distracted Driving: (i) The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Contract, or when performing any work for or on behalf of the Contract; and, (ii) The Contractor agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

41. TRAFFICKING IN PERSONS

Contractor and its subcontractors or their employees shall not: (A) engage in severe forms of trafficking in persons during the Contract Term; (B) procure a commercial sex act during the Contract Term; or (C) use forced labor in the performance of the Contract. Contractor shall inform the BMPO immediately of any information Contractor receives from any source alleging a violation of a prohibition in this section. The BMPO may terminate this Contract for any violation of this section; such right of termination is in addition to all other remedies for noncompliance that are available to the BMPO.

² Rolling stock procurements include both the manufacture of new vehicles, as well as the remanufacture of existing vehicles. It does not include overhauls.