

SCHOOL DISTRICT OF PALM BEACH COUNTY
PURCHASING DEPARTMENT
3300 Forest Hill Boulevard, Suite A-323
West Palm Beach, FL 33406-5813
(561) 434-8216 – Main Phone
(561) 963-3823 - Fax

December 20, 2005

ADDENDUM NO. 1

INVITATION TO NEGOTIATE NO.06C-001N

TITLE: INVITATION TO NEGOTIATE FOR UNDERWRITER SERVICES

RETURN DATE: January 4, 2006, by 2:00 PM EST.

This addendum modifies the above listed ITN as follows:

1. **Question:** On the District's website, we were able to locate financials for FY ended June 30, 2003. If something more recent is available, please provide a copy.

District Answer: The most recent financials are available via a link on the following website. The FY 2005 CAFR will be available on the same site one day next week.
<http://www.palmbeach.k12.fl.us/FinMan/FINANCIALDIVISIONS/Treasury/nTreasury%20Links.htm>

2. **Question:** In Section 11.8 Approach/Methodology, it states the response to this question (11.8 A-G) be limited to three (3) pages. Given the amount of information requested, will the District consider easing this page limitation to perhaps 5 or 6 pages, so in order to provide the responders additional room to more fully respond to the questions?

District Answer: The page limit for section 11.8 is now 6 pages.

3. **Question:** 11.10 What debt service structure should proposers use when providing a fee proposal? Also, what final maturity should we assume? For example, should we assume a 25-year final maturity and stand alone level debt service? Should this fee proposal include fees for fixed rate debt only? Or should we provide fees for variable rate debt issuance also?

District Answer: Fees should be calculated for three types of transactions: Fixed Rate, Auction Rate and Variable Rate. All should assume level debt service payments.

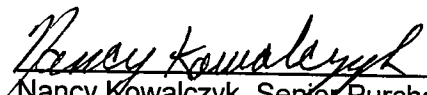
4. **Question:** 11.11 Is this question for proposers responding as co-managing underwriter only? How do the point assignments under Question 11.11 correlate with the point scoring per Section 13.0 (Evaluation Criteria) of the ITN for proposers responding to serve as Senior Manager?

District Answer: Question 11.11 should be answered by all proposers. However, no points are assigned for that question in the selection process for senior managers. Points will be assigned in the selection process for co-managers.

5. **Question:** Section 11.8 Approach/Methodology of ITN 06C-001N is the only question that appears to have a page limit and it says no more than 3 pages. This restriction will not allow us to address adequately the 7 (A-G) separate questions that are asked. May we assume it is a 3 page limit for each of the questions (A-G) asked within Section 11.8?

District Answer: There is now a 6 page limit for section 11.8.

This addendum is for information only and need not be returned with your ITN. By virtue of signing the Invitation to Negotiate, respondent agrees to this addendum.



Nancy Kowalczyk, Senior Purchasing Agent



Sharon Swan, Purchasing Director

**SCHOOL DISTRICT OF PALM BEACH COUNTY
PURCHASING DEPARTMENT
INVITATION TO NEGOTIATE (ITN)**

REQUIRED RESPONSE FORM

06C-001N

DATE: December 7, 2005

TITLE: ITN FOR UNDERWRITER SERVICES

This information package should be submitted to the School District of Palm Beach County, Purchasing Department, 3300 Forest Hill Boulevard, Suite A-323, West Palm Beach, Florida 33406-5813, no later than 2:00 PM on January 4, 2006, and plainly marked ITN-06C-001N. Information Packages are due and will be opened at this time.

Anti-Collusion Statement / Public Domain

I, the undersigned responder have not divulged, discussed, or compared this information package with any other responder and have not colluded with any other responder in the preparation of this information package in order to gain an unfair advantage in the award of this information package.

I acknowledge that all information contained herein is part of the public domain as defined in the Public Records Act, Chapter 119, F.S.

Information Package Certification

I hereby certify that I am submitting the following information as my company's information package. Information Package must be signed by an officer or employee having authority to legally bind the responder.

RESPONDER (firm name): _____

STREET ADDRESS: _____

CITY & STATE: _____

PRINT NAME OF AUTHORIZED REPRESENTATIVE: _____

SIGNATURE OF AUTHORIZED REPRESENTATIVE: _____

TITLE: _____ DATE: _____

CONTACT PERSON: _____

CONTACT PERSON'S ADDRESS: _____

TELEPHONE: _____ FAX: _____ TOLL FREE: _____

E-MAIL ADDRESS: _____ INTERNET URL: _____

RESPONDER TAXPAYER IDENTIFICATION NUMBER: _____

NOTE: Entries must be completed in ink or typewritten. An original manual signature is required.

SCHOOL DISTRICT OF PALM BEACH COUNTY, FLORIDA

INVITATION TO NEGOTIATE FOR

UNDERWRITER SERVICES

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INVITATION TO NEGOTIATE NO. 06C-001N

SCHOOL DISTRICT OF PALM BEACH COUNTY

INVITATION TO NEGOTIATE FOR UNDERWRITER SERVICES

1.0 INTRODUCTION

- 1.1 This is an Invitation to Negotiate (ITN) for UNDERWRITER SERVICES to the School District of Palm Beach County, Florida (the District).
- 1.2 The District is seeking information packages from qualified firms offering to provide Underwriting Services for a period of three (3) years with two one-year renewals.
- 1.3 The District will select one or more firms to serve as Senior Manager(s) and additional firms to serve as Co-Managers. Senior Managers will manage all "new money" deals on a rotation basis. Co-Managers may manage other deals they propose that are approved by the School Board.
- 1.4 The firms will be selected, based on qualifications, to provide the best possible support and distribution to the District. Towards the goal, the team will be comprised of national, regional and minority owned firms. Throughout the duration of the term of this contract, should market conditions warrant, the District reserves the right to elevate an awarded Co-Manager firm into the role of Senior Manager. Additionally, the District reserves the right to identify a firm(s) as alternate Co-Managers.
- 1.5 As the financial markets continue to evolve, the District will depend on these firms to bring forward new and creative methods of financing.
- 1.6 The District has determined that the use of an Invitation to Bid or a Request for Proposal will not result in the best value to the District. Therefore, it is using this Invitation to Negotiate, which will allow the District to select the most qualified firm(s) and negotiate the price along with other issues, as needed resulting in the best value for this service.
- 1.7 Document files may be examined, during normal working hours, ten days after information packages have been opened.

2.0 INSTRUCTIONS TO RESPONDER

- 2.1 All information packages should be received no later than 2:00 PM, on January 4, 2006,. If an information package is transmitted by US Mail or other delivery medium, the responder(s) will be responsible for its timely delivery to the Department of Purchasing, Suite A-323, 3300 Forest Hill Boulevard, West Palm Beach, Florida 33406-5813.
- 2.2 Any information package received after the stated time and date, may not be considered. Packages not considered will be returned unopened to the responder(s) after the negotiated contract has been awarded by the school board.
- 2.3 One manually signed original and SIX (6) photocopies of the information package should be sealed in one package and clearly labeled "INVITATION TO NEGOTIATE FOR **UNDERWRITER SERVICES**" on the outside of the package. The legal name, address, responder's contact person, and telephone number must also be clearly annotated on the outside of the package.
- 2.4 All information packages must be signed by an officer or employee having authority to legally bind the responder(s).

INVITATION TO NEGOTIATE NO. 06C-001N

- 2.5 Information Packages not conforming to the instructions provided herein will be subject to disqualification at the sole option of the District.
- 2.6 DELIVERY OF ITNS: When hand delivering your ITN, responders must follow the School District's security access procedures. The procedures are as follows:
 - A. Park in visitors' parking area.
 - B. Enter building through the front door.
 - C. Proceed to the Purchasing Department located in A-wing, third floor, Room A-323.
 - D. Present ITN to Purchasing Department receptionist for official date/time stamping.

RESPONDERS SHOULD ALLOW AT LEAST 30 MINUTES TO FOLLOW THE ABOVE PROCEDURES AND SUBMIT THEIR ITN TO THE PURCHASING DEPARTMENT RECEPTIONIST, NO LATER THAN THE DATE AND TIME DESIGNATED IN THE ITN.

3.0 TIME SCHEDULE

- 3.1 The District will attempt to use the following time schedule which will result in selection of a responder(s).

December 15, 2005	All written questions and inquiries are due by 5 PM.
January 4, 2006,	Responses due no later than 2:00 PM.
January 13, 2006	*Evaluation Committee Meeting
January 17–19, 2006	Negotiations
January 27, 2006	*Finance Committee
February 15, 2006	Recommend negotiated agreement(s) to the School Board for approval.

* This is an open, public meeting.

- 3.2 Notification of any changes to the time schedule will be made to responders by US certified mail, e-mail or fax.

4.0 AWARD

- 4.1 The District reserves the right to waive any irregularities and technicalities and may, at its sole discretion, request a clarification or other information to evaluate any or all information packages.
- 4.2 The District reserves the right, before negotiating the contract, to require responder(s) to submit evidence of qualifications or any other information the District may deem necessary.
- 4.3 The District reserves the right, prior to Board approval, to cancel the ITN or portions thereof, without penalty.
- 4.4 The District will negotiate with, the highest ranked, firm(s) in order to secure the qualified vendor(s) to provide the service described herein.

5.0 TERM OF CONTRACT / RENEWAL

- 5.1 The term of this contract shall be for three years beginning March 13, 2006, and may, by mutual agreement between the School Board and the awardee, be renewable for two additional one-year periods. The Board, through the Purchasing Department, will, if considering renewing, request a

INVITATION TO NEGOTIATE NO. 06C-001N

letter of intent to renew from the awardee prior to the end of the current contract period. If needed, the contract will be extended 90 days beyond the contract expiration date. The awardee will be notified when the Board has acted upon the recommendation. All prices shall be firm for the term of this contract. The awardee agrees to this condition by signing their information package.

6.0 ITN INQUIRIES

- 6.1 Any questions concerning conditions and specifications should be submitted in writing and received no later than 5:00 p.m. EST, December 15, 2005. Questions received in writing by the time and date specified will be answered in writing. Mrs. Kowalczyk is authorized only to direct the attention of prospective responders to various portions of the ITN so that they may read and interpret such for themselves. Neither Mrs. Kowalczyk nor any employee of the District is authorized to interpret any portion of this ITN or give information as to the requirements of the ITN in addition to that contained in the written documents.

Send all inquiries to attention:

Mrs. Nancy Kowalczyk, Senior Purchasing Agent
Purchasing Department
School District of Palm Beach County
3300 Forest Hill Boulevard
West Palm Beach, FL 33406
(561) 434-8172 FAX (561) 963-3823
kowalczyk@palmbeach.k12.fl.us

- 6.2 If necessary, an addendum will be mailed or delivered to all who are known by the Purchasing Department to have received a complete set of information package documents.
- 6.3 Copies of addendum will be made available for inspection at the District's Purchasing Department where information package documents will be kept on file.
- 6.4 No verbal or written information which is obtained other than by information in this document or by addendum to this ITN will be binding on the District.

7.0 BENEFICIAL INTEREST AND DISCLOSURE OF OWNERSHIP AFFIDAVIT

- 7.1 The School District is requesting this affidavit to include a list of every "person" (as defined in Section 1.01(3), Florida Statutes to include individuals, children, firms, associates, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and combinations) holding 5% or more of the beneficial interest in the disclosing entity. The affidavit must be returned to the Purchasing Department with the ITN or within three days of request. See ATTACHMENT F.

8.0 LOBBYING

- 8.1 RESPONDERS ARE HEREBY ADVISED THAT LOBBYING IS NOT PERMITTED WITH ANY DISTRICT PERSONNEL OR BOARD MEMBERS RELATED TO OR INVOLVED WITH THIS ITN. ALL ORAL OR WRITTEN INQUIRIES MUST BE DIRECTED THROUGH THE PURCHASING DEPARTMENT.
- 8.2 LOBBYING IS DEFINED AS ANY ACTION TAKEN BY AN INDIVIDUAL, FIRM, ASSOCIATION, JOINT VENTURE, PARTNERSHIP, SYNDICATE, CORPORATION, AND ALL OTHER GROUPS

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WHO SEEK TO INFLUENCE THE GOVERNMENTAL DECISION OF A BOARD MEMBER OR DISTRICT PERSONNEL AFTER ADVERTISEMENT.

- 8.3 ANY RESPONDER OR ANY INDIVIDUALS THAT LOBBY ON BEHALF OF RESPONDER DURING THE TIME SPECIFIED WILL RESULT IN NON CONSIDERATION FOR NEGOTIATIONS.

9.0 SCOPE OF SERVICES

- 9.1 The District currently projects the need to finance over \$900 million of capital projects over the term of this contract. The District will encourage members of the underwriting team to develop creative financial solutions that minimize costs, while complying with the District's Debt Management Policy (http://www.palmbeach.k12.fl.us/policies/6_085.htm).
- 9.2 The District expects its underwriters to be highly experienced and able to develop, propose and complete financing transactions on behalf of the District. These transactions may include the following:
- 9.2.1 The issuance of long-term, fixed and variable rate, debt, including but not limited to Certificates of Participation (COPs), General Obligation Bonds (GOBs) and Sales Tax Revenue Bonds.
- 9.2.2 The defeasance or refunding of District debt. This includes current and advance refundings and the use of "forward" and "crossover" refunding structures.
- 9.2.3 Other financial transactions including, but not limited to, derivative transactions, commercial paper, and other matters as designated by the District.
- 9.3 All respondents are hereby notified that there is no guarantee that any of the obligations described above will be issued.
- 9.4 The District reserves the right to sell all, or any portion of, its debt through a competitive solicitations process. The District also reserves the right to enter inter separate negotiations for derivative transactions.

10.0 EVALUATION COMMITTEE MEETINGS

- 10.1 As stated in Section 3.1 and Section 12.2 a committee will be convened on January 13, 2006 at 9 am at the Fulton Holland Educational Service Center, 3300 Forest Hill Blvd., West Palm Beach, FL. 33406 to review and evaluate responsive information packages, for the purposes of making a decision as to which firm(s) to negotiate with, per F.S. 286.011, this is an open public meeting. Notification will also be posted for review by interested parties at the School District Purchasing Department, 3300 Forest Hill Boulevard, Suite A-323, West Palm Beach, FL 33406.

11.0 PREPARATION AND SUBMISSION

- 11.1 In order to maintain comparability and enhance the review process, it is requested that information packages be organized in the manner specified below. Include all information in your information package. It is requested that SIX (6) copies of the information package be submitted with the original information package.
- 11.2 Title Page: Show the ITN number, subject, name of the responder, address, telephone number, email address and the date.
- 11.3 Table of Contents: Include a clear identification of the material by section and by page number.

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- 11.4 Letter of Transmittal: Give the names of the persons who will be authorized to make representations for the responder, their titles, addresses and telephone numbers.
- 11.5 Invitation to Negotiate: Required Response Form (page 1 of ITN) with all required information completed and all signatures as specified.
- 11.6 Experience and Qualifications of the Firm:
- A. State whether the information package is being submitted for the role of Senior Manager and/or Co-Manager.
 - B. State where the firm is based nationally, regionally or locally (Florida).
 - C. Provide the current credit rating(s) from all rating agencies for your firm as well as any firms that may serve as a counterparty. Indicate any changes to those ratings over the last five years.
 - D. Describe the structure of the organization including the location of the primary office from which the service is to be provided and the number of public finance staff employed at that office. Include a table showing the number of public staff (non-sales force) employed in Palm Beach County, Florida and nationally.
 - E. Provide a brief summation of the firm's ability and qualifications to serve as an investment banker in the District's proposed financings. Emphasize the strengths of the firm in any relevant areas that you feel the District should weigh in its selection. Any inter-firm comparisons must include supporting documentation of the firm's claims. Misrepresentations concerning an inter-firm comparison is grounds for disqualification of this information package.
 - F. In a tabular format, summarize your firm's annual capital position for 2001-2005. Include total capital, equity capital and net capital for each year. Additionally, provide your firm's most recent statement of capital from your annual financial statements for the last two (2) years.
 - G. Describe any litigation or regulatory action filed against the firm in the last five (5) years relating to its providing investment banking services and the resolution thereof.
 - H. Provide a brief discussion of the firm's marketing strategy and distribution capabilities of Florida tax-exempt securities as applicable to the District's issuance of Certificates of Participation. State whether your firm has offices and sales representatives in the State of Florida, and/or Palm Beach County.
 - I. List transactions managed by the firm since January 2003 in a tabular format. Include transactions that are similar to those the District has completed in the past few years. The transactions should be categorized by role of Senior Manager or Co-Manager) as follows: Florida School Districts, Other Large School Districts (with at least 50,000 students), Other Florida Municipal Issuers, Other National Issuers. Include Issuer Name, Issue Amount, Par Value, Type of Transaction.
 - J. (This requirement is for firms responding as Senior Managers Only): List three recent large financings where your firm served as senior managing underwriter. The financings should be AAA rated and similar in nature to transactions completed by the District over the last few years or that may be considered during the term of this contract. Describe the structure of the transaction and your firm's performance. Discuss market conditions, distribution of bonds and other factors that impacted the pricing. Prepare a table including the following: Sale Date, Per Amount by maturity, Coupon/Yield, Spread to natural AAA MMD, detailed Underwriters Discount including takedown by maturity and all components of expenses.
 - K. Provide contact information for three (3) individuals that will serve as references for your firm. The individuals should represent entities similar to the District, preferably large School Districts or other municipal issuers in Florida.

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11.7 Qualifications of Staff:

- A. Give the names of individuals who will be assigned to this contract, including their resumes and expand on their experience in the area they will be serving.
- B. Detail transactions managed by the primary individual that will be responsible for the District's financings since January 2003 in a tabular format. Include transactions that are similar to those the District has completed in the past few years. The transactions should be categorized by issuer as follows: Florida School Districts, Other Large School Districts, (with at least 50,000 students), Other Florida Municipal Issuers, Other National Issuers. Include Issuer Name, Issue Amount, Par Value, Type of Transaction, Role.
- C. Provide the location of the underwriting desk that will be responsible for pricing the District's financings. Include a resume detailing experience of the firm's underwriter at this location who will have responsibility for the pricing.

11.8 Approach / Methodology: Restrict your response to this question to three (3) pages.

- A. Discuss the trading differentials between bond insurers in today's market.
- B. Discuss your firm's philosophy in allocating certificates to co-managers (designation or group net).
- C. Describe any unique or innovative approaches to marketing certificates that the firm has provided to clients (primarily Florida clients) related to capital funding.
- D. Discuss your firm's ability and willingness to commit capital to underwrite bonds or certificates if market conditions so warrant. Provide examples from transactions in which you served as senior manager within the last three years which required you to underwrite large amounts of unsold bonds during the initial pricing. Also, discuss the circumstances that led to your decision to underwrite bonds.
- E. Describe any unique or innovative services (including structured products) the firm has provided to clients (primarily Florida clients) in the issuance of Certificates of Participations, Revenue Bonds, General Obligation Bonds, or other capital funding methods that could be utilized by the District.
- F. Discuss your firm's experience with swaps and other interest rate risk management products. Indicate whether your firm served as a principal or as an agent. Outline instances in which your firm has provided financial solutions for public sector clients using these types of products.
- G. Regarding swaps, under what circumstances, if any, should the Board forfeit its ability to call bonds and enter into a synthetic fixed rate transaction? When, if ever, is it advantageous to assume alternate rate risk in such a transaction?

11.9 Replacement of Firm's Staff: All key personnel assigned by the firm will be clearly identified at the initiation of the contract. The replacement of any key staff assigned to work with the District is subject to approval by the District prior to any change occurring. Individuals replacing key personnel must have credentials equivalent or superior to the individuals whom they replace. Resumes of replacement personnel are to be submitted to the District for review and the District reserves the right to interview and or reject any proposed change(s) in staff for the duration of this contract.

11.10 Cost of Services: Submit your pricing proposal for this project. The original signed document **must** be included with your information package; no additional copies are requested / required. **The original must be placed in a sealed envelope and will be opened after the ranking process is complete.** Indicate separately the maximum management fee and any and all itemized expenses (including underwriter's counsel fees and expenses), which your firm would propose as senior managing underwriter for a \$100 and \$200 million Certificates of Participation financing. Indicate which components of the fee proposal, including itemized expenses, would be fixed and which would be priced on a per certificate basis. Two fees should be offered for underwriter's counsel: one with disclosure counsel, one without disclosure counsel. For purposes

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of your price proposal, assume that the senior managing underwriter will receive 100% of the management fee and the co-managing underwriters will not be reimbursed for expenses. Also assume that the District's goals for the financing call for allocating 40% of certificates/risk to the senior managing underwriter and 60% of certificates/risk to the co-managing underwriters. Total compensation for each District offering will be determined by negotiations between the senior managing underwriter, on behalf of the underwriters, and the District and its Financial Advisor.

- 11.11 **Minority/Women Business Participation:** Responders are to indicate the extent and nature of the M/WBE's scope of work with specificity as it relates to the services described in the ITN. Responder(s) shall provide certification with the District, or the State of Florida, Office of Supplier Diversity, or its successors. Responder(s) that are District, or State of Florida Office of Supplier Diversity, or its successors certified minority, women, or disadvantage business enterprises, at the time of submittal, will be awarded a maximum of ten points. Maximum points will be awarded for 15% or greater minority participation. Points will be pro-rated for less than 15% minority participation. Responders that do not meet the above requirement may sub-contract minority business participation in accordance with Section 31.0 and receive participation points

Points for utilization of certified M/WBE subcontractors shall be assigned as follows:

15% and over	10 points
9% - 14%	8 points
4% - 8%	6 points
1% - 3%	4 points
0%	0 points

- 11.12 **Insurance:** Provide proof of your company's insurance as required in Section 16.0 of this ITN or submit a letter of your intention to have the required insurance within ten days of notification by the District.

12.0 INFORMATION PACKAGE EVALUATION PROCESS:

- 12.1 ITNs are received and publicly opened. Only names of respondents are read at this time.
- 12.2 An Evaluation Committee, consisting of District personnel and the Finance Committee, will convene, review and discuss all information packages submitted.
- 12.3 The Evaluation Committee will assign points in the evaluation and recommendation process in accordance with the evaluation criteria listed in Evaluation Criteria, Section 13.0.
- 12.4 The Evaluation Committee reserves the right to interview any or all responders and to require a formal presentation with the key people who will administer and be assigned to work on the contract before recommendation of award. This interview is to be based upon the written information package received.
- 12.5 The Evaluation Committee will evaluate and rank responsive replies against all evaluation criteria and shall select, based on the ranking, the vendor(s) with which to commence negotiations. The Evaluation Committee or their designees shall negotiate and recommend award of the contract to the responsible and responsive firm(s) that will provide the best value to the District.
- 12.6 The School Board's Finance Committee will review the recommendation of the Evaluation Committee and forward a recommendation to the School Board.
- 12.7 The Purchasing Department will prepare and submit an agenda item to the Superintendent of Schools, Palm Beach County, Florida.

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12.8 The Superintendent will recommend to the School Board, the award of any contract resulting from this ITN.

13.0 EVALUATION CRITERIA

The Evaluation Committee shall rank all information packages received which meet the submittal requirements. The following factors will be considered in ranking the information packages received:

Qualified responders will be issued purchase orders authorizing a maximum cost of services on an as-needed basis.

	<u>MAXIMUM POINTS BY ROLE:</u>	
	For Senior Manager	For Co-Manager
A. <u>Experience and Qualifications of the Firm</u>	35	35
B. <u>Qualifications of Staff</u>	35	30
C. <u>Approach / Methodology</u>	30	25
D. <u>Minority/Women Business Participation</u>	0	10
	<hr/>	<hr/>
Total	100	100

14.0 LEGAL REQUIREMENTS

14.1 It shall be the responsibility of the contractor to be knowledgeable of all federal, state, county and local laws, ordinances, rules and regulations and School Board Policy that in any manner affect the items covered herein which may apply. Specifically, responder(s) is to adhere to School Board Policies 3.12 and 3.13, pursuant to the following, with respect to any criminal arrests and convictions, and is on notice thereto that any employees involved in any Chapter 435, Florida Statutes offenses are precluded from continuing to work on the project and must be replaced. Failure to comply may result in the immediate termination of the vendor's contract at the sole discretion of the School District. Lack of knowledge by the responder(s) will in no way be a cause for relief from responsibility.

14.2 Responder(s) doing business with the District are prohibited from discriminating against any employee, applicant, or client because of race, creed, color, national origin, religion, sex or age with regard to but not limited to the following: employment practices, rates of pay or other compensation methods, and training selection.

15.0 CONFLICT OF INTEREST

15.1 All responders must disclose the name of any officer, director, or agent who is also an employee of the District. All responders must disclose the name of any District employee who owns, directly or indirectly, any interest in the responders' business or any of its branches.

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16.0 INSURANCE REQUIREMENTS

- 16.1 Proof of the following insurance will be furnished by the awarded responders/bidders to the School District of Palm Beach County by Certificate of Insurance. All insurance must be issued by a company or companies approved by the School District.
- 16.2 Original Certificates of Insurance meeting the specific required provision specified within this contract/agreement shall be forwarded to the Palm Beach County School District's Purchasing Department, ATTN: Mrs. Kowalczyk, Senior Purchasing Agent, and approved prior to the start of any work or the possession of any school property. Renewal certificates must be forwarded to the same department prior to the policy renewal date.
- 16.3 Thirty days written notice must be provided to the Palm Beach County School District via certified mail in the event of cancellation. The notice must be sent to the Purchasing Department.
- 16.4 The awarded bidders shall provide complete copies of any insurance policy for required coverage within seven days of the date of request by the Purchasing Department but in any respect at least 30 days prior to the commencement of any term. For all contracts with a bid amount of \$500,000 or more the actual INSURANCE POLICY must be included with the Certificate of Insurance.

A. **WORKERS' COMPENSATION:** Responder(s) must comply with FSS 440, Workers' Compensation and Employees' Liability Insurance with minimum statutory limits.

B. **COMMERCIAL GENERAL LIABILITY:** Awarded responders/bidders shall procure and maintain, for the life of this contract/agreement, Commercial General Liability Insurance. This policy shall provide coverage for death, bodily injury, personal injury, products and completed operations liability and property damage that could arise directly or indirectly from the performance of this agreement. It must be an occurrence form policy. **THE SCHOOL DISTRICT OF PALM BEACH COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED ON THE CERTIFICATE FOR COMMERCIAL GENERAL LIABILITY INSURANCE.**

The minimum limits of coverage shall be \$1,000,000 per occurrence, Combined, Single Limit for Bodily Injury Liability and Property Damage Liability.

C. **BUSINESS AUTOMOBILE LIABILITY:** Awarded responders/bidders shall procure and maintain, for the life of the contract/agreement, Business Automobile Liability Insurance. **THE SCHOOL DISTRICT OF PALM BEACH COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED ON THE CERTIFICATE FOR BUSINESS AUTOMOBILE LIABILITY INSURANCE.**

The minimum limits of coverage shall be \$1,000,000 per occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This coverage shall be an "Any Auto" form policy. The insurance must be an occurrence form policy.

In the event the contractor does not own any vehicles, we will accept hired and non-owned coverage in the amounts listed above. In addition, we will require an affidavit signed by the contractor indicating the following:

_____ (Company Name) does not own any vehicles. In the event we acquire any vehicles throughout the term of this contract/agreement, _____ (Company Name) agrees to purchase "Any Auto" coverage as of the date of acquisition.

INVITATION TO NEGOTIATE NO. 06C-001N

D. PROFESSIONAL LIABILITY: The awarded responder/bidder shall procure and maintain Professional Liability Insurance for the life of this contract/agreement, plus two years after completion. This insurance shall provide coverage against such liability resulting from this contract. The minimum limits of coverage shall be \$ 5,000,000 with a deductible not to exceed \$500,000 for Senior Managers. For Co-Managers, the coverage shall be for \$1,000,000 with a deductible not to exceed \$100,000. The deductible shall be the responsibility of the insured.

This policy must be continued or tail coverage provided for two years after completion of the project.

17.0 INDEMNIFICATION / HOLD HARMLESS AGREEMENT

17.1 Awarded responders/bidders shall, in addition to any other obligation to indemnify the Palm Beach County School District and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the School District, their agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged;

A. bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting therefrom, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the contractor, subcontractor, anyone directly or indirectly employed by any of them, of anyone for whose acts any of them may be liable in the performance of the work; or

B. violation of law, statute, ordinance, governmental administration order, rule or regulation by contractor in the performance of the work; or

C. liens, claims or actions made by the contractor or any subcontractor or other party performing the work.

17.2 The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for the contractor of any subcontractor under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar.

17.3 This article will survive the termination of this contract.

18.0 PUBLIC RECORDS LAW

18.1 All proposal documents or other materials submitted by the responder in response to this ITN will be open for inspection by any person and in accord with Chapter 119, Florida Statutes.

19.0 PERMITS AND LICENSES

19.1 The responder(s) will be responsible for obtaining any necessary permits and licenses and will comply with laws, rules, and regulations whether state or federal and with all local codes and ordinances without additional cost to the District.

20.0 INTELLECTUAL PROPERTY RIGHTS

20.1 The responder(s) will indemnify and hold harmless, the District from liability of any nature or kind, including costs and expenses for or on account of any copyrighted, service marked,

INVITATION TO NEGOTIATE NO. 06C-001N

trademarked, patented or un-patented invention, process, article or work manufactured or used in the performance of the contract, including its use by the District. If the responder(s) uses any design, device, materials or works covered by letters, service mark, trademark, patent, copyright or any other intellectual property right, it is mutually agreed and understood without exception that the proposal prices will include all royalties of costs arising from the use of such design, device, or materials in any way involved in the work.

This article will survive the termination of any contract with the School District.

21.0 COST INCURRED IN RESPONDING

21.1 All costs directly or indirectly related to proposal preparation, representation or clarification shall be the sole responsibility of and be borne by the responder.

22.0 SUB-CONTRACTS

22.1 Nothing contained in this specification will be construed as establishing any contractual relationship between any sub-responder(s) and the District.

22.2 The responder(s) will be fully responsible to the District for the acts and omissions of the sub-responder(s) and their employees.

22.3 After award of contract, any changes in subcontractors or subresponders requires prior School District written approval.

23.0 INDULGENCE

23.1 Indulgence by the District on any non-compliance by the responder does not constitute a waiver of any rights under this ITN.

24.0 JOINT PROPOSAL

24.1 In the event multiple responders submit a joint information package in response to the ITN, a single responder shall be identified as the Prime Vendor. If offering a joint information package, Prime Vendor must include the name and address of all parties of the joint information package. Prime Vendor shall provide all bonding and insurance requirements, execute any Contract, complete the **REQUIRED RESPONSE FORM** shown herein, have overall and complete accountability to resolve any dispute arising within this contract. Only a single contract with one responder shall be acceptable. Prime Vendor responsibilities shall include, but not be limited to, performing of overall contract administration, preside over other responders participating or present at District meetings, oversee preparation of reports and presentations, and file any notice of protest and final protest as described herein. Prime Vendor shall also prepare and present a consolidated invoice(s) for services performed. The District shall issue only one check for each consolidated invoice to the Prime Vendor for services performed. Prime Vendor shall remain responsible for performing services associated with response to this ITN.

INVITATION TO NEGOTIATE NO. 06C-001N

25.0 SUB-CONTRACTING/MINORITY BUSINESS PARTICIPATION

- 25.1 The District strongly encourages the use of Minority/Woman owned business enterprises for participation as associates, joint-venturers, prime responders, and sub-responders in contracting opportunities.
- 25.2 In order to receive evaluation credit for M/WBE participants, the responder or firm(s) to be utilized by the responder must be certified by the District or the State of Florida at the time that the proposals are due. In order to receive evaluation credit for M/WBE participation, the proposal must identify the specific certified M/WBE firm or firms upon which evaluation credit is sought, shall indicate the extent and nature of the M/WBE's work, and shall include the percentage of the total engagement which will be received by the M/WBE firm in connection with the proposal. M/WBE participation in auxiliary services (e.g., graphics, printing and other services) is acceptable but will only be given evaluation credit if it augments the primary service of this ITN. ALL RESPONDERS MUST COMPLETE THE M/WBE SUBCONTRACTOR PARTICIPATION LETTER OF INTENT (FORM 1525). **ATTACHMENT A.**
- 25.3 Inquiries regarding listings of District and State Certified Minority, Woman and Disadvantaged Business Enterprises can be made to the District's Office of Diversity in Business Practices, 3300 Forest Hill Boulevard, Suite A-106, West Palm Beach, FL 33406, (561) 434-8508 or on our web site at <http://www.palmbeach.k12.fl.us/mwbe>. All companies using minority, woman, or disadvantaged sub-responders will complete the M/WBE SUBCONTRACTOR PARTICIPATION SUMMARY (FORM 1526) – **ATTACHMENT B.** This form must be submitted with all requests for payment.
- 25.4 Minority Business Enterprise (MBE) indicates a business entity which is owned and operated by a minority. In this instance, minority or handicapped group members are citizens of the United States or lawfully admitted permanent residents who are African American, Hispanics, Women, Native Americans, Asian-Pacific, Asian-Indian, and eligible others as outlined in Administrative Order 1-18.
- 25.5 The Palm Beach County School District only recognizes as acceptable for certification as minority/woman business enterprises those firms, vendors, and consultants that have successfully completed the certification requirements of the State of Florida Office of Supplier Diversity or the Palm Beach County School District's Office of Diversity in Business Practices. In the case of those firms or small business enterprises that are certified with the State of Florida Office of Supplier Diversity the firm shall be required to include a copy of their certification letter or certificate. The letter or certificate will only be deemed valid if the dates for certification have not expired. Any pending application with the Palm Beach County School District or the State of Florida Office of Supplier Diversity shall not be considered as certification of the vendor making application for consideration as a M/WBE firm.
- 25.6 The Palm Beach County School District does not currently by implication or direct means have reciprocity with any governmental or non-governmental entity, with the exception of the State of Florida Office of Supplier Diversity for the purpose of sharing and/or acceptance of M/WBE vendors, consultants, small business enterprises for certification.

26.0 THE JESSICA LUNDSFORD ACT

- 26.1 All individuals who are permitted access on school grounds when students are present, individuals who will have direct contact with children or any student of the School District, or who will have access to or control of school funds must be fingerprinted and background checked.

INVITATION TO NEGOTIATE NO. 06C-001N

Vendor agrees to undergo a background check and fingerprinting if he/she is an individual who meets any of the above conditions and to require that all individuals in the organization who meet any of the conditions to submit to a background check, including fingerprinting by the School District's Police Department, at the sole cost of Vendor. If Vendor can demonstrate to the Purchasing Department that it is not practicable to have the fingerprinting done by the School District's Police Department, Vendor will be permitted to have the fingerprinting and clearance done by another appropriate agency providing Level 2 FDLE and FBI screening, with the report of the results to be immediately transmitted to the School District's Police Department which shall be the sole determiner of clearance. Vendor shall not begin providing services contemplated by this Agreement until Vendor receives notice of clearance by the School District. The School Board, nor its members, officers, employees, or agents, shall not be liable under any legal theory for any kind of claim whatsoever for the rejection of Vendor (or discontinuation of Vendor's services) on the basis of these compliance obligations. Vendor agrees that neither the Vendor, nor any employee, agent or representative of the Vendor who has been convicted or who is currently under investigation for a crime delineated in Florida Statutes §435.04 will be employed in the performance of this contract.

27.0 DISQUALIFYING CRIMES

- 27.1 A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid/ITN on a contract to provide any goods or services to a public entity, may not submit a bid/ITN on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids/ITNs on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- 27.2 The Vendor or any subcontractor shall not employ any persons with multiple felonies and / or crimes against children. The Vendor must provide documented proof of efforts to comply with this requirement. The Owner may declare any non-compliance or lack of diligent effort by the Vendor to comply as a breach of contract and immediately terminate the services of the Vendor.
- 27.3 The responder(s) certifies by submission of this ITN, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any State or Federal department/agency.

28.0 USE OF OTHER CONTRACTS

- 28.1 The District reserves the right to utilize any other District contract, any State of Florida Contract, any contract awarded by any other city or county governmental agencies, any other school board, any other community college/state university system cooperative bid agreement, or to directly negotiate/purchase per School Board policy and/or State Board Rule 6A-1.012(6) in lieu of any offer received or award made as a result of this bid, if it is in the best interest to do so. The District also reserves the right to separately bid any single order or to purchase any item on this bid if it is in its best interest to do so.

29.0 ASSIGNMENT OF CONTRACT AND/OR PAYMENT

- 29.1 The responder shall not enter into subcontracts, or assign, transfer, convey, sublet, or otherwise dispose of the ensuing contract, or any or all of its right, title or interest herein, or its power to execute such contract to any person, company, or corporation without prior written consent of the District.

INVITATION TO NEGOTIATE NO. 06C-001N

- 29.2 The responder will be prohibited from publishing or releasing any information related to the requested services without the prior written permission of the School District. All reports and other documents resulting from the ensuing contract will remain the sole property of the District.

30.0 REQUIREMENTS FOR PERSONNEL ENTERING DISTRICT PROPERTY

- 30.1 Possession of firearms will not be tolerated on School District property; nor will violations of Federal and State laws and any applicable School Board policy regarding Drug Free Workplace be tolerated. Violations will be subject to the immediate termination provision heretofore stated in Section 14.1.
- 30.2 "Firearm" means any weapon (including a starter gun or antique firearm) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any destructive device; or any machine gun.
- 30.3 No person who has a firearm in their vehicle may park their vehicle on School District property. Furthermore, no person may possess or bring a firearm on School District property.
- 30.4 If any employee of an independent contractor or sub-contractor is found to have brought a firearm on School District property, said employee will be terminated from the School Board project by the independent contractor or sub-contractor. If the sub-contractor fails to terminate said employee, the sub-contractor's agreement with the independent contractor for the School Board project shall be terminated. If the independent contractor fails to terminate said employee or fails to terminate the agreement with the sub-contractor who fails to terminate said employee, the independent contractor's agreement with the School Board shall be terminated.
- 30.5 Responders are advised that they are responsible to ensure that no employee, agent or representative of their company who has been convicted or who is currently under investigation for a crime against children in accordance with FS 435.04 will enter onto any school site.

31.0 AGREEMENT

- 31.1 A purchase order and/or a contract will be released, after award, for any work to be performed as a result of this ITN. The information package, all attachments, any addendum released, negotiated, and the corresponding purchase order will constitute the complete agreement between responder and the District. Should there be any conflict between the terms of the ITN, response to the ITN, and the terms of the agreement, the terms of the agreement shall be final and binding and the ITN shall control where in conflict with the information package, and not addressed in the agreement.

32.0 POSTING OF ITN RECOMMENDATION/TABULATIONS

- 32.1 ITN recommendations and tabulations will be sent electronically to all responding parties.
- 32.2 Any person adversely affected by the decision or intended decision must file a notice of protest, in writing, within 72 hours after the posting. The formal written protest shall state with particularity the facts and law upon which the protest is based. On the event the Purchasing Department receives late response(s), the return of the sealed response(s) will be after the posting period has expired.
- 32.3 Any person who files an action protesting an ITN specification, a decision or intended decision pertaining to this ITN pursuant to FS 120.57(3)(b), shall post with the Purchasing Department, at

INVITATION TO NEGOTIATE NO. 06C-001N

the time of filing the formal written protest, a bond secured by an acceptable surety company in Florida payable to the School District of Palm Beach County in an amount equal to 1 percent (1%) of the total estimated contract value, but not less than \$500 nor more than \$5,000. Bond shall be conditioned upon the payment of all costs that may be adjudged against the protester in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. In lieu of a bond, a cashier's check, certified bank check, bank certified company check or money order will be acceptable form of security. If, after completion of the administrative hearing process and any appellate court proceedings, the District prevails, it shall recover all costs and charges included in the final order of judgment, including charges by the Division of Administrative Hearings. Upon payment of such costs and charges by the protester, the protest security shall be returned.

INVITATION TO NEGOTIATE NO. 06C-001N

Minority Certification applications are available through the Minority Business Enterprise located at:

Office of Diversity in Business Practices
School District of Palm Beach County
3300 Forest Hill Boulevard, Suite A-106
West Palm Beach, FL 33406-5871
Phone: (561) 434-8508
<http://www.palmbeach.k12.fl.us/mwbe>

Are you a minority vendor certified by: (Check if appropriate)

Palm Beach County School District _____
State of Florida _____

If yes, expiration date _____

Minority Classification _____

If you are not a certified minority vendor and intend to sub-contract with a certified minority firm(s), please list the vendors and the estimated dollar value below:

<u>Vendor</u>	<u>Estimated Dollar Value</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

For information on other bids currently being solicited for the School District of Palm Beach County, please call the BID HOTLINE at (561) 434-8111.

Bids/ITNs are available to view and print at no charge on the Purchasing Department's Internet Hotline. Simply go to <http://www.palmbeach.k12.fl.us/bids> and click on those documents you are interested in. This will allow you to register, view and print the solicitation.

6 ATTACHMENTS

DRUG-FREE WORKPLACE CERTIFICATION

Preference must be given to vendors submitting a certification with their bid/proposal certifying they have a drug-free workplace in accordance with Section 287.087, Florida Statutes. This requirement affects all public entities of the State and becomes effective January 1, 1991. The special condition is as follows:

IDENTICAL TIE BIDS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

COMPANY NAME

VENDOR'S SIGNATURE

Must be executed and returned with attached bid at time of bid opening to be considered.
PBSD 0580 New 3/91

STATEMENT OF NO RESPONSE

If you are not responding to this service/commodity, please complete and return this form to: **Department of Purchasing, School District of Palm Beach County, 3300 Forest Hill Boulevard, West Palm Beach, FL 33406-5813.** (Please print or type, except signature)

Failure to respond may result in deletion of vendor's name from the qualified bidder's list for the School District of Palm Beach County.

COMPANY NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

CONTACT PERSON: _____ TELEPHONE: _____

We, the undersigned, have declined to respond to your ITN No. **06C-001N** for **UNDERWRITER SERVICES** because of the following reasons:

_____ We do not offer this product or the equivalent.

_____ Insufficient time to respond to the invitation to negotiate.

_____ Remove our name from this solicitation list only.

_____ Our product schedule would not permit us to perform.

_____ Unable to meet bond requirements.

_____ Other. (Specify below)

REMARKS: _____

SIGNATURE: _____ DATE: _____

CONTRACT BETWEEN

THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA

AND

This contract entered into this ____ day of _____, 200_, between THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, a political subdivision of the state of Florida, (hereinafter referred to as the "School Board") and _____, located at _____, (hereinafter referred to as the "Contractor") to provide UNDERWRITER SERVICES.

SECTION I - Term of Contract

This contract shall be for the period beginning _____, 200_ through _____, 200_. The contract may be renewed for _____ additional one-year periods at the annual anniversary date. The contract will not extend beyond the _____ year.

SECTION II - Services

The Contractor shall provide UNDERWRITER SERVICES per specifications in ITN 06C-001N and the corresponding proposal submitted by the Contractor, which by reference herein becomes part of this contract. All addenda issued to ITN 06C-001N, if any, are also made a part of this contract.

SECTION III - Cost of Services

The Contractor shall be paid for services as negotiated in the ITN and awarded for UNDERWRITER SERVICES for the School Board of Palm Beach County.

SECTION IV - Terms and Conditions

The Contractor shall have the option to terminate the contract upon written notice to the authorized representative of the School Board. Such notice must be received at least 90 days prior to the effective date of termination. The School Board shall have the option to terminate the contract without cause upon written notice to the authorized representative of the Contractor. Such notice must be received at least 30 days prior to the effective date of termination and the Contractor shall only be entitled to compensation up to the date of termination. The Contractor shall not be entitled to lost profits.

INVITATION TO NEGOTIATE NO. 06C-001N

Early termination of the contract by the Contractor may prohibit the Contractor from submitting proposals for a period of three years from the date of completion of the contract. The School Board shall establish the expiration date of the contract for use thereof.

There shall be no assignment of the contract or compensation to be derived therefrom by the Contractor.

Included in this Agreement are the terms and conditions as described in the Invitation to Negotiate, ITN 06C-001N, which are incorporated by reference herein and made a part hereof.

SECTION V – Indemnification/ Hold Harmless Agreement

Awarded responders/bidders shall, in addition to any other obligation to indemnify the Palm Beach County School District and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the School District, their agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged;

- A. bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting therefrom, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of the contractor, subcontractor, anyone directly or indirectly employed by any of them, of anyone for whose acts any of them may be liable in the performance of the work; or
- B. violation of law, statute, ordinance, governmental administration order, rule or regulation by contractor in the performance of the work; or
- C. liens, claims or actions made by the contractor or any subcontractor or other party performing the work.

The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for the contractor of any subcontractor under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar.

This article will survive the termination of this contract.

INVITATION TO NEGOTIATE NO. 06C-001N

SECTION VI - Insurance

Insurance will be required as stated in ITN 06C-001N. The School Board of Palm Beach County shall be named as additional insured.

Funding out is to be included in Contracts more than a year...

SECTION VII – Cancellation of Award/Termination

In the event any of the provisions of this proposal are violated by the responder(s), the Superintendent or designee will give written notice to the responder(s) stating the deficiencies and unless the deficiencies are corrected within ten (10) days, recommendation will be made to the District for immediate cancellation. Upon cancellation hereunder, the District may pursue any and all legal remedies as provided herein and by law. In the event that it is subsequently determined that a cancellation under this paragraph was incorrect, the termination shall be converted to a termination for convenience pursuant to the next paragraph.

The District, reserves the right to terminate any contract resulting from this ITN, at any time and for no reason, upon giving 30 days prior written notice to the other party. If said contract should be terminated for convenience as provided herein, the District will be relieved of all obligations under said contract. The District will only be required to pay to the responder(s) that amount of the contract actually performed to the date of termination.

The awardee(s) will have the option to terminate the contract upon written notice to the Director of Purchasing. Such notice must be received at least 90 days prior to the effective date of termination.

Cancellation of contract by awardee may result in removal from bidders/responder list for a period of three years.

SECTION VIII - Funding Out, Termination, Cancellation .

Florida School Laws prohibit School Board from creating obligations on anticipation of budgeted revenues from one fiscal year to another without year-to-year extension provisions in the agreements.

It is necessary that fiscal funding out provisions be included in all ITNs in which the terms are for periods of longer than one year.

INVITATION TO NEGOTIATE NO. 06C-001N

Therefore, the following funding out provisions are an integral part of this ITN and must be agreed to by all responders:

The School Board may, during the contract period, terminate or discontinue the services covered in this ITN for lack of appropriated funds upon the same terms and conditions as set forth in Section VII Cancellation of Award / Termination.

Such prior written notice will state:

- A. That the lack of appropriated funds is the reason for termination, and
- B. Agreement not to replace the services being terminated with services similar to those covered in this ITN from another vendor in the succeeding funding period.

“This written notification will thereafter release the School Board of all further obligations in any way related to such equipment covered herein”.

This completed statement must be included as part of any contract submitted by the successful responder. No contract will be considered that does not include this provision for “funding out”.

SECTION IX - Default

In the event that the awarded responder(s) should breach this contract the District reserves the right to seek remedies in law and/or in equity.

SECTION X - Debarment

The Board shall have the authority to debar a person / corporation for cause for consideration or award of future contracts. The debarment shall be for a period commensurate with the seriousness of the causes, generally not to exceed three (3) years. When the offense is willful or blatant, a longer term of debarment may be imposed, up to an indefinite period.

SECTION XI – Federal and State Tax

The District is exempt from federal and state taxes for tangible personal property. The Purchasing Department Coordinator will sign an exemption certificate submitted by the successful responder(s). Responder(s) doing business with the District will not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the District, nor will any responder be authorized to use the District's Tax Exemption Number in securing such materials.

INVITATION TO NEGOTIATE NO. 06C-001N

SECTION XII - Amendment

This contract shall only be amended or modified in writing executed by both parties.

SECTION XIII - Strict Performance

The failure of either party to insist on strict performance of any covenant or conditions herein shall **not** be construed as a waiver of such covenants or conditions for any instance.

This contract shall be construed in accordance with the laws of the State of Florida.

If any litigation shall result from this agreement, venue shall lie in Palm Beach County, Florida.

This agreement shall not be construed against the party who drafted the same as both parties have had experts of their choosing review the same.

This agreement is binding on the parties hereto, their heirs, successor and/or assigns.

Section XIV

Should either party breach this agreement, the non-breaching party shall be entitled to all remedies as provided by law and equity.

In witness whereof, this contract has been executed on the day and year first above written.

(CONTRACTOR NAME)

THE SCHOOL BOARD OF PALM BEACH COUNTY,
FLORIDA

BY: _____

BY: _____
Thomas E. Lynch, Chairman

WITNESS: _____

Date

WITNESS: _____

Attest: _____
Arthur C. Johnson, Ph.D., Superintendent

Reviewed and Approved for Form and Legal Sufficiency:

DATE: _____

BY: _____
Attorney

INVITATION TO NEGOTIATE NO. 06C-001N

Project: UNDERWRITER SERVICES ITN No.: 06C-001N

Corporation Name: _____ Tax FEIN Number: _____

BENEFICIAL INTEREST AND DISCLOSURE OF OWNERSHIP AFFIDAVIT

STATE OF _____ COUNTY OF _____

Before me, the undersigned authority, personally appeared, _____, ("Corporate Representative") this _____ day of _____, 200____, who, first being duly sworn, as required by law, subject to the penalties prescribed for perjury, deposes and says:

- 1) Corporate Representative has read the contents of this Affidavit, has actual knowledge of the facts contained herein, and states that the facts contained herein are true, correct, and complete.
- 2) The following is a list of every "person" (as defined in Section 1.01(3), Florida Statutes to include individuals, children, firms, associates, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and combinations) holding 5% or more of the beneficial interest in the disclosing entity: (If more space is needed, attach separate sheet)

A. Persons or corporate entities owning 5% or more:

Name	Address	Percentage

B. Persons or corporate entities who hold by proxy the voting power of 5% or more:

Name	Address	Percentage

C. Stock held for others and for whom held:

Name	Address	Percentage
For Whom Held	Address	Percentage
For Whom Held	Address	Percentage

CORPORATE REPRESENTATIVE

By: _____

SWORN TO and subscribed before me this _____ day of _____, 200____, by _____. Such person(s). (Notary Public must check applicable box):

[] is/are personally known to me. [] produced a current driver license(s). [] produced _____ as identification.

(NOTARY PUBLIC SEAL)

Notary Public

(Print, Type or Stamp Name of Notary Public)