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Purchasing Department
www.pbcgov.com/purchasing

**BOARD OF COUNTY COMMISSIONERS
NOTICE OF SOLICITATION
BID #11-012/LM**

BUS BRAKE KITS, TREAT & SUPPLY, TERM CONTRACT

**FOR NON-MANDATORY PRE-BID CONFERENCE INFORMATION,
SEE TERM AND CONDITION # 9 OF THIS SOLICITATION.**

BID OPENING DATE: DECEMBER 22, 2010 AT 2:00 P.M.

It is the responsibility of the bidder to ensure that all pages are included. Therefore, all bidders are advised to examine closely this package. Any questions regarding the completeness of this package should be immediately directed to Palm Beach County Purchasing Department (561) 616-6800.

It is requested that all bids be submitted in triplicate, one original and two copies.

BIDDERS SHALL SUBMIT, IN A SEALED PACKAGE OR CONTAINER, AT LEAST ONE ORIGINAL, SIGNED IN INK BY AN AGENT OF THE COMPANY HAVING AUTHORITY TO BIND THE COMPANY OR FIRM. FAILURE TO DO SO SHALL BE CAUSE FOR REJECTION OF YOUR BID.

Protests can be accepted only during the five (5) business day posting period.

CAUTION

As they are issued, all amendments to solicitations will be posted under the applicable solicitation on our website at <http://www.pbcgov.com/purchasing>. It is the vendor's sole responsibility routinely to check this website for any amendments that may have been issued prior to the deadline for receipt of bids.

Palm Beach County shall not be responsible for the completeness of any Invitation for Bid that was not downloaded from the above website or obtained directly from the Purchasing Department.

**In accordance with the provisions of ADA,
this document may be requested in an alternate format.**

**50 South Military Trail, Suite 110, West Palm Beach, FL 33415-3199
(561) 616-6800 FAX: (561) 616-6811**

BOARD OF COUNTY COMMISSIONERS
Palm Beach County
INVITATION FOR BID

BID NO: 11-012/LM BID TITLE: Bus Brake Kits, Treat & Supply, Term Contract
PURCHASING DEPARTMENT CONTACT: Laura Mengel, Buyer TELEPHONE NO.: 561-616-6817
FAX NO.: 561-242-6717 EMAIL ADDRESS: lmengel@pbcgov.com

All bid responses must be received on or before December 22, 2010, prior to 2:00 p.m., Palm Beach County local time, at which time all bids shall be publicly opened and read. **SUBMIT BID TO:** Palm Beach County Purchasing Department, 50 South Military Trail, Suite 110, West Palm Beach, Florida 33415-3199.

This Invitation for Bid, General Conditions, Instructions to Bidders, Special Conditions, Specifications, Attachments, Amendments (if issued), and/or any other referenced document form a part of this bid solicitation and response thereto, and by reference are made a part thereof. The selected awardee shall be bound by all terms, conditions and requirements in these documents.

PURPOSE AND EFFECT: It is the purpose and intent of this invitation to secure bids for item(s) and/or services as listed herein. The selected awardee is hereby placed on notice that acceptance of its bid by Palm Beach County shall constitute a binding contract.

GENERAL CONDITIONS, INSTRUCTIONS AND INFORMATION FOR BIDDERS
GENERAL CONDITIONS

1. GENERAL INFORMATION

Bidders are advised that this package constitutes the complete set of specifications, terms, and conditions which forms the binding contract between Palm Beach County and the successful bidder. Changes to this invitation for bid may be made only by written amendment issued by the County Purchasing Department. Bidders are further advised to closely examine every section of this document, to ensure that all sequentially numbered pages are present, and to ensure that it is fully understood. Questions or requests for explanations or interpretations of this document must be submitted to the Purchasing Department contact in writing in sufficient time to permit a written response and, if required, will be provided to all prospective bidders, prior to bid opening. Oral explanations or instructions given by any County agent are not binding and should not be interpreted as altering any provision of this document. Bidder certifies that this bid is made without reliance on any oral representations made by the County.

The obligations of Palm Beach County under this award are subject to the availability of funds lawfully appropriated for its purpose.

2. LEGAL REQUIREMENTS

a. **COMPLIANCE WITH LAWS AND CODES:** Federal, State, County and local laws, ordinances, rules and regulations that in any manner affect the items covered hereinafter apply. Lack of knowledge by the bidder shall in no way be a cause for relief from responsibility. The successful bidder shall strictly comply with Federal, State and local building and safety codes. Equipment shall meet all State and Federal Safety regulations. Bidder certifies that all products (materials, equipment, processes, or other items supplied in response to this bid) contained in its bid meets all ANSI, NFPA and all other Federal and State requirements. Bidder further certifies that, if it is the successful bidder, and the product delivered is subsequently found to be deficient in any of the aforementioned requirements in effect on date of delivery, all costs necessary to bring the product into compliance shall be borne by the bidder.

In compliance with Chapter 442, Florida Statutes, any toxic substance resulting from this bid shall be accompanied by a properly completed Material Safety Data Sheet (MSDS).

The Uniform Commercial Code (Florida Statutes, Chapter 672) shall prevail as the basis for contractual obligations between the successful bidder and Palm Beach County for any terms and conditions not specifically stated in the Invitation for Bid.

b. **DISCRIMINATION PROHIBITED:** Palm Beach County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. The successful bidder is prohibited from discriminating against any employee, applicant, or client because of race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, or gender identity and expression.

c. **INDEPENDENT CONTRACTOR RELATIONSHIP:** The successful bidder is, and shall be, in the performance of all work, services, and activities under this Contract, an Independent Contractor and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the successful bidder's sole direction, supervision, and control. The successful bidder shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the successful bidder's relationship, and the relationship of its employees, to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

d. **CRIMINAL HISTORY RECORDS CHECK ORDINANCE:** Pursuant to Ordinance 2003-030, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), the County shall conduct fingerprint based criminal history record checks on all persons not employed by the County who repair, deliver, or provide goods or services for, to, or on behalf of the County. A fingerprint based criminal history record check shall be conducted on all employees and subcontractors of vendors, including repair persons and delivery persons, who are unescorted when entering a facility determined to be critical to the public safety and security of the County. County facilities that require this heightened level of security are identified in Resolution R-2003-1274, as may be amended. The bidder is solely responsible for understanding the financial, schedule, and staffing implications of this Ordinance. Further, the bidder acknowledges that its bid price includes any and all direct or indirect costs associated with compliance of this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the County.

e. **PUBLIC ENTITY CRIMES:** F.S. 287.133 requires Palm Beach County to notify all bidders of the following: "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 on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids 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 F.S. 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list."

- f. **NON-COLLUSION:** Bidder certifies that it has entered into no agreement to commit a fraudulent, deceitful, unlawful, or wrongful act, or any act which may result in unfair advantage for one or more bidders over other bidders. Conviction for the Commission of any fraud or act of collusion in connection with any sale, bid, quotation, proposal or other act incident to doing business with Palm Beach County may result in permanent debarment.

No premiums, rebates or gratuities are permitted; either with, prior to or after any delivery of material or provision of services. Any such violation may result in award cancellation, return of materials, discontinuation of services, and removal from the vendor bid list(s), and/or debarment or suspension from doing business with Palm Beach County.

- g. **LOBBYING:** Bidders are advised that the "Palm Beach County Lobbyist Registration Ordinance" prohibits a bidder or anyone representing the bidder from communicating with any County Commissioner, County Commissioner's staff, or any employee authorized to act on behalf of the Commission to award a particular contract regarding its bid, i.e., a "Cone of Silence".

The "Cone of Silence" is in effect from the date/time of the deadline for submission of the bid, and terminates at the time that the Board of County Commissioners, or a County Department authorized to act on their behalf, awards or approves a contract, rejects all bids, or otherwise takes action which ends the solicitation process.

Bidders may, however, contact any County Commissioner, County Commissioner's staff, or any employee authorized to act on behalf of the Commission to award a particular contract, via written communication i.e., facsimile, e-mail or U.S. mail.

Violations of the "Cone of Silence" are punishable by a fine of \$250.00 per violation.

- h. **CONFLICT OF INTEREST:** All bidders shall disclose with their bid the name of any officer, director, or agent who is also an employee or a relative of an employee of Palm Beach County. Further, all bidders shall disclose the name of any County employee or relative of a County employee who owns, directly or indirectly, an interest of ten percent or more in the bidder's firm or any of its branches.
- i. **SUCCESSORS AND ASSIGNS:** The County and the successful bidder each binds itself and its successors and assigns to the other party in respect to all provisions of this Contract. Neither the County nor the successful bidder shall assign, sublet, convey or transfer its interest in this Contract without the prior written consent of the other.
- j. **INDEMNIFICATION:** Regardless of the coverage provided by any insurance, the successful bidder shall indemnify, save harmless and defend the County, its agents, servants, or employees from and against any and all claims, liability, losses and/or causes of action which may arise from any negligent act or omission of the successful bidder, its subcontractors, agents, servants or employees during the course of performing services or caused by the goods provided pursuant to these bid documents and/or resultant contract.
- k. **PUBLIC RECORDS:** Any material submitted in response to this invitation for bid is considered a public document in accordance with Section 119.07, F.S. This includes material which the responding bidder might consider to be confidential or a trade secret. Any claim of confidentiality is waived upon submission, effective after opening pursuant to Section 119.07, F.S.
- l. **INCORPORATION, PRECEDENCE, JURISDICTION:** This Invitation for Bid shall be included and incorporated in the final award. The order of contractual precedence shall be the bid document (original terms and conditions), bid response, and purchase order or term contract order. Any and all legal action necessary to enforce the award or the resultant contract shall be held in Palm Beach County and the

contractual obligations shall be interpreted according to the laws of Florida.

- m. **LEGAL EXPENSES:** The County shall not be liable to a bidder for any legal fees, court costs, or other legal expenses arising from the interpretation or enforcement of this contract, or from any other matter generated by or relating to this contract.

3. BID SUBMISSION

- a. **SUBMISSION OF RESPONSES:** All bid responses must be submitted on the provided Invitation for Bid "Response" Form. Bid responses on vendor letterhead/quotation forms shall not be accepted. Responses must be typewritten or written in ink, and must be signed in ink by an agent of the company having authority to bind the company or firm. **FAILURE TO SIGN THE BID RESPONSE FORM AT THE INDICATED PLACES SHALL BE CAUSE FOR REJECTION OF THE BID.** Bid responses are to be submitted to the Palm Beach County Purchasing Department no later than the time indicated on the solicitation preamble, and must be submitted in a sealed envelope or container bearing the bid number for proper handling.
- b. **CERTIFICATIONS, LICENSES AND PERMITS:** Unless otherwise directed in sub-paragraph d. (Local Preference) or the Special Conditions of this bid, bidder should include with its bid a copy of all applicable Certificates of Competency issued by the State of Florida or the Palm Beach County Construction Industry Licensing Board in the name of the bidder shown on the bid response page. It shall also be the responsibility of the successful bidder to submit, prior to commencement of work, a current Local Business Tax Receipt (Occupational License) for Palm Beach County and all permits required to complete this contractual service at no additional cost to Palm Beach County. A Palm Beach County Local Business Tax Receipt (Occupational License) is required unless specifically exempted by law. In lieu of a Palm Beach County Local Business Tax Receipt (Occupational License), the bidder should include the current Local Business Tax Receipt (Occupational License) issued to the bidder in the response. It is the responsibility of the successful bidder to ensure that all required certifications, licenses and permits are maintained in force and current throughout the term of the contract. Failure to meet this requirement shall be considered default of contract.
- c. **SBE BID DOCUMENT LANGUAGE**

Item 1 - Policy

It is the policy of the Board of County Commissioners of Palm Beach County, Florida, that SBE(s) have the maximum practical opportunity to participate in the competitive process of supplying goods, services and construction to the County. To that end, the Board of County Commissioners adopted a Small Business Ordinance which is codified in Sections 2-80.21 through 2-80.34 (as amended) of the Palm Beach County Code, which sets forth the County's requirements for the SBE program, and is incorporated in this solicitation. Compliance with the requirements contained in this section shall result in a bidder being deemed responsive to SBE requirements. The provisions of this Ordinance are applicable to this solicitation, and shall have precedence over the provisions of this solicitation in the event of a conflict.

Although preferences will not be extended to certified M/WBEs, unless otherwise provided by law, businesses eligible for certification as an M/WBE are encouraged to maintain their certification in order to assist in the tracking of M/WBE availability and awards of contracts to M/WBEs. This information is vital to determining whether race and gender neutral programs assist M/WBE firms or whether race and gender preferences are necessary in order to address any continued discrimination in the market.

Item 2 - SBE Goals

The County has established a minimum goal of 15% SBE participation for all County solicitations, inclusive of all alternates and change orders. This goal is a minimum, and no rounding will be accepted.

Item 3 - Ranking of Responsive Bidders

Bidders who meet the SBE goal will be deemed to be responsive to the SBE requirement.

- a. In evaluating competitive bids or quotes between \$1,000 and one million dollars (\$1,000,000) where the low bidder is non-responsive to the SBE requirement, the contract shall be awarded to the low bidder responsive to the SBE requirement as long as the bid does not exceed the low bid amount by 10%; or
- b. In the event there are no bidders responsive to the SBE requirement, the contract shall be awarded to the bidder with the greatest SBE participation in excess of seven percent (7%) participation, as long as the bid does not exceed the low bid amount by ten percent (10%).
- c. In evaluating bids in excess of one million dollars (\$1,000,000), the contract shall be awarded to the low bidder responsive to the SBE requirements provided that such bid does not exceed the lowest responsive bid by more than one hundred thousand dollars (\$100,000) plus three percent (3%) of the total bid in excess of one million dollars (\$1,000,000);
- d. In the event there are no bidders responsive to the SBE goal, the contract shall be awarded to the bidder with the greatest SBE participation in excess of seven percent (7%) participation, provided that such bid does not exceed the lowest responsive bid by more than one hundred thousand dollars (\$100,000) plus three percent (3%) of the total bid in excess of one million dollars (\$1,000,000).

total dollar value of a contract performed by the SBE. Prior to issue, total dollar value of a contract will be determined by the PBC user department by defining factors to be considered as value. Total dollar value of retail contracts shall be determined by Gross Receipts.

- b. The County may count toward its SBE goals the total value of a contract awarded to an eligible SBE firm that subsequently is decertified or whose certification has expired after a contract award date or during the performance of the contract.
- c. The County or Prime may count toward its SBE goal a portion of the total dollar value of a contract with a joint venture, eligible under the standards for certification, equal to the percentage of the ownership and control of the SBE partner in the joint venture.
- d. The County or Prime may count toward its SBE goal the entire expenditures for materials and equipment purchased by an SBE subcontractor, provided that the SBE subcontractor has the responsibility for the installation of the purchased materials and equipment.
- e. The County or Prime may count the entire expenditure to an SBE manufacturer (i.e., a supplier/distributor that produces goods from raw materials or substantially alters the goods before resale).
- f. The County or Prime may count sixty percent (60%) of its expenditure to SBE suppliers/distributors that are not manufacturers.
- g. The County or Prime may count toward its SBE goal second and third tiered SBE subcontractors; provided that the Prime submits a completed Schedule 2 form for each SBE subcontractor.
- h. The County or Prime may only count toward its SBE goal the goods and services in which the SBE is certified.

Item 4 - Bid Submission Documentation

SBE bidders, bidding as prime contractors, are advised that they must complete Schedule 1 listing the work to be performed by their own workforce as well as the work to be performed by any SBE or M/WBE subcontractor. Failure to include this information on Schedule 1 will result in the participation by the SBE prime bidders own workforce NOT being counted towards meeting the SBE goal. This requirement applies even if the SBE contractor intends to perform 100% of the work with their own workforce.

Bidders are required to submit with their bid the appropriate SBE-M/WBE schedules in order to be deemed responsive to the SBE requirements. SBE-M/WBE documentation to be submitted is as follows:

Schedule 1 - List of Proposed SBE and M/WBE Participation

This list shall contain the names of all SBE and M/WBE prime and subcontractors intended to be used in performance of the contract, if awarded. This schedule shall also be used if an SBE prime bidder is utilizing ANY subcontractors.

(Only Job Order Contracting (JOC) contracts and Task Authorizations for annual contracts may be excluded from this requirement.)

Schedule(s) 2 - Letter(s) of Intent to Perform as an SBE or M/WBE Subcontractor

A Schedule 2 for each SBE and/or M/WBE Subcontractor listed on Schedule 1 shall be completed and signed by the proposed SBE and/or M/WBE Subcontractor. Subcontractors shall specify the type of work to be performed, the cost or percentage shall also be specified. Additional sheets may be used as needed. In lieu of a Schedule 2, a detailed responsive proposal may be acceptable.

Item 5 - SBE Certification

Only those firms certified by Palm Beach County at the time of bid opening shall be counted toward the established SBE goals. Upon receipt of a complete application, IT TAKES UP TO NINETY (90) DAYS TO BECOME CERTIFIED AS AN SBE WITH PALM BEACH COUNTY. It is the responsibility of the bidder to confirm the certification of any proposed SBE; therefore, it is recommended that bidders visit the on-line Vendor Directory at www.pbcgov.org/osba to verify SBE certification.

Item 6 - Counting SBE Participation (and M/WBE Participation for Tracking Purposes)

- a. Once a firm is determined to be an eligible SBE according to the Palm Beach County certification procedures, the County or the Prime may count toward its SBE goals only that portion of the

Item 7 - Responsibilities After Contract Award**Schedule 3 – SBE-M/WBE Activity Form**

This form shall be submitted by the prime contractor with each payment application when SBE and/or M/WBE subcontractors are utilized in the performance of the contract. This form shall contain the names of all SBE and M/WBE subcontractors, specify the subcontracted dollar amount for each subcontractor and show amount drawn and payments to date issued to subcontractors. This form is intended to be utilized on all non-professional services contracts.

Schedule 4 – SBE-M/WBE Payment Certification

A schedule 4 for each SBE and/or M/WBE sub shall be completed and signed by the proposed SBE and/or M/WBE after receipt of payment from the prime. When applicable, the prime shall submit this form with each application submitted to the county for payment to document payment issued to a sub in the performance of the contract.

All bidders hereby assure that they will meet the SBE participation percentages submitted in their respective bids with the subcontractors contained on Schedules 1 and 2 and at the dollar values specified. Bidders agree to provide any additional information requested by the County to substantiate participation.

The successful bidder shall submit an SBE-M/WBE Activity Form (Schedule 3) and SBE-M/WBE Payment Certification Forms (Schedule 4) with each payment application. Failure to provide these forms may result in a delay in processing payment or disapproval of the invoice until they are submitted. The SBE-M/WBE Activity Form is to be filled out by the Prime Contractor and the SBE-M/WBE Payment Certification Forms are to be executed by the SBE or M/WBE firm to verify receipt of payment.

Item 8 - SBE Substitutions

After contract award, the successful bidder will only be permitted to replace a certified SBE subcontractor who is unwilling or unable to perform. Such substitution must be done with other certified SBE's in order to maintain the SBE percentages submitted with the bid. Requests for substitutions must be submitted to the user Department and OSBA.

- d. **LOCAL PREFERENCE ORDINANCE:** In accordance with the Palm Beach County Local Preference Ordinance, a preference will be given to (1) bidders having a permanent place of business in Palm Beach County; (2) bidders having a permanent place of business in the Glades that are able to provide the goods or services within the Glades
- a. **Glades Local Preference:** Pursuant to the Palm Beach County Local Preference Ordinance, a 5% Glades Local Preference is given when a Glades Business offers to provide the goods or services that will be procured for use in the Glades. If the lowest responsive, responsible bidder is a local, non-local, or regional business, all bids received from responsive, responsible Glades businesses will be decreased by 5%. The original bid amount is not changed; the 5% decrease is calculated only for the purposes of determining local preference.
- b. **Local Preference:** Pursuant to the Palm Beach County Local Preference Ordinance, a 5% Local Preference is given to bidders having a permanent place of business in Palm Beach County. If the lowest responsive, responsible bidder is a non-local or regional business, all bids received from responsive, responsible local businesses will be decreased by 5%. The original bid amount is not changed; the 5% decrease is calculated only for the purposes of determining local preference.
- c. To receive either a Glades Local Preference or a Local Preference, a bidder must have a permanent place of business in existence prior to the County's issuance of this Notice of Solicitation/Invitation for Bid. A permanent place of business means that the bidder's headquarters is located in Palm Beach County or in the Glades, as applicable; or, the bidder has a permanent office or other site in Palm Beach County or in the Glades, as applicable, where the bidder will produce a substantial portion of the goods or services to be purchased. A valid Business Tax Receipt issued by the Palm Beach County Tax Collector is required, unless the bidder is exempt from the business tax receipt requirement by law, and will be used to verify that the bidder had a permanent place of business prior to the issuance of this Notice of Solicitation/Invitation for Bid. Please note that in order to receive a local preference, the bidders name and Palm Beach County address listed on the business tax receipt must be the same bidders name and Palm Beach County address that is included in the bid submitted by the bidder to the County and that the attached "Certification of Business Location" and Business Tax Receipt must accompany the bid at the time of bid submission. Failure to submit this information will cause the bidder to not receive a local preference. Palm Beach County may require a bidder to provide additional information for clarification purposes at any time prior to the award of the contract."
- e. **DRUG FREE WORKPLACE CERTIFICATION:** In compliance with Florida Statute (Section 287.087) attached form "Drug-Free Workplace Certification" should be fully executed and submitted with bid response in order to be considered for a preference whenever two (2) or more bids which are equal with respect to price, quality, and service are received by Palm Beach County. . .
- f. **CONDITIONED OFFERS:** Bidders are cautioned that any condition, qualification, provision, or comment in their bid, or in other correspondence transmitted with their bid, which in any way modifies, takes exception to, or is inconsistent with the specifications, requirements, or any of the terms, conditions, or provisions of this solicitation, is sufficient cause for the rejection of their bid as non-responsive.
- g. **PRICING:**
- (1) Prices offered must be the price for new merchandise and free from defect. Unless specifically requested in the bid specifications, any bids containing modifying or escalation clauses shall be rejected.
 - (2) The price offered must be in accordance with the unit of measure provided on the bid response page(s). One (1) space or line requires only one (1) single, fixed unit price.
- Anything other than a single, fixed unit price shall result in the rejection of your bid.
- (3) All unit prices bid should be within two (2) decimal points. If bidder's pricing exceeds two (2) decimal points, Purchasing reserves the right to round up or down accordingly.
 - (4) Bidder warrants by virtue of bidding that prices shall remain firm for a period of ninety (90) days from the date of bid opening to allow for evaluation and award.
 - (5) Bidder warrants by virtue of bidding that prices shall remain firm for the initial and any subsequent term unless modified by a special condition.
 - (6) In the event of mathematical error(s), the unit price shall prevail and the bidder's total offer shall be corrected accordingly. **BIDS HAVING ERASURES OR CORRECTIONS MUST BE INITIALED IN INK BY THE BIDDER PRIOR TO BID OPENING. IF THE CORRECTION IS NOT PROPERLY INITIALED, OR IF THE INTENT OR LEGIBILITY OF THE CORRECTION IS NOT CLEAR, THE BID SHALL BE REJECTED.**
 - (7) Bidders may offer a cash discount for prompt payment. However, such discounts shall not be considered in determining the lowest net cost for bid evaluation purposes unless otherwise specified in the special conditions. Bidders should reflect any discounts to be considered in the unit prices bid.
- h. **SUBMITTING NO BID or NO CHARGE:** Bidders not wishing to bid on some items sought by this solicitation should mark those items as "no bid." If some items are to be offered at no charge, bidders should mark those items as "no charge." Items left blank shall be considered a "no bid" for that item, and the bid shall be evaluated accordingly. Bidders who do not wish to submit bids on any item in this solicitation, should return a "Statement of No Bid" in an envelope plainly marked with the bid number and marked "NO BID."
- i. **ACCEPTANCE/REJECTION OF BIDS:** Palm Beach County reserves the right to accept or to reject any or all bids. Palm Beach County also reserves the right to (1) waive any non-substantive irregularities and technicalities; (2) reject the bid of any bidder who has previously failed in the proper performance of a contract of a similar nature, who has been suspended or debarred by another governmental entity, or who is not in a position to perform properly under this award; and (3) inspect all facilities of bidders in order to make a determination as to its ability to perform.
- Palm Beach County reserves the right to reject any offer or bid if the prices for any line items or subtitle items are materially unbalanced. An offer is materially unbalanced if it is mathematically unbalanced, and if there is reason to believe that the offer would not result in the lowest overall cost to the County, even though it is the lowest evaluated offer. An offer is mathematically unbalanced if it is based on prices which are significantly less than fair market price for some bid line item and significantly greater than fair market price for other bid line items. Fair market price shall be determined based on industry standards, comparable bids or offers, existing contracts, or other means of establishing a range of current prices for which the line items may be obtained in the market place. The determination of whether a particular offer or bid is materially unbalanced shall be made in writing by the Purchasing Director, citing the basis for the determination.
- j. **NON-EXCLUSIVE:** The County reserves the right to acquire some or all of these goods and services through a State of Florida contract under the provisions of Section 287.042, Florida Statutes, provided the State of Florida contract offers a lower price for the same goods and services. This reservation applies both to the initial award of this solicitation and to acquisition after a term contract may be awarded. Additionally, Palm Beach County reserves the right to award other contracts for goods and services falling within the scope of this solicitation and resultant contract when the specifications differ from this solicitation or resultant contract, or for goods and services specified in this solicitation when the scope substantially differs from this solicitation or resultant contract.

k. **OFFER EXTENDED TO OTHER GOVERNMENTAL ENTITIES:** Palm Beach County encourages and agrees to the successful bidder extending the pricing, terms and conditions of this solicitation or resultant contract to other governmental entities at the discretion of the successful bidder.

l. **PERFORMANCE DURING EMERGENCY:** By submitting a bid, bidder agrees and promises that, during and after a public emergency, disaster, hurricane, flood, or acts of God, Palm Beach County shall be given "first priority" for all goods and services under this contract. Bidder agrees to provide all goods and services to Palm Beach County during and after the emergency at the terms, conditions, and prices as provided in this solicitation on a "first priority" basis. Bidder shall furnish a 24-hour phone number to the County in the event of such an emergency. Failure to provide the stated priority during and after an emergency shall constitute breach of contract and make the bidder subject to sanctions from doing further business with the County.

m. **SALES PROMOTIONS / PRICE REDUCTIONS:** Should sales promotions occur during the term of the contract that lower the price of the procured item, the successful bidder shall extend to the County the lower price offered by the manufacturer on any such promotional item. Further, any price decreases effectuated during the contract period by reason of market change or otherwise, shall be passed on to Palm Beach County.

n. **GUA PURCHASES UNDER \$100,000:** Pursuant to Section 2-54(f)(11), Palm Beach County Code, purchases under \$100,000 made for the Glades Utility Authority "GUA" may be awarded only to those vendors located in the Glades, as defined in the Palm Beach County Code. It is the County's intent to award this solicitation to the lowest, responsive, responsible bidder located in the Glades. However, if no response is received from a vendor located in the Glades, the good or service shall be re-solicited to all vendors and awarded to the lowest, responsive, responsible bidder.

4. BID OPENING/AWARD OF BID

a. **OBSERVING THE PUBLISHED BID OPENING TIME:** The published bid opening time shall be scrupulously observed. It is the sole responsibility of the bidder to ensure that their bid arrives in the Purchasing Department prior to the published bid opening time. Any bid delivered after the precise time of bid opening shall not be considered, and shall be returned to the bidder unopened if bidder identification is possible without opening. Bid responses by telephone, electronics, or facsimile shall not be accepted. Bidders shall not be allowed to modify their bids after the published bid opening time.

b. **POSTING OF AWARD RECOMMENDATION:** Recommended awards shall be publicly posted for review, at the Purchasing Department and on the Purchasing Department website at www.pbcgov.com/purchasing prior to final approval, and shall remain posted for a period of five (5) business days. Bidders desiring a copy of the bid posting summary may request same by enclosing a self-addressed, stamped envelope with their bid. (NOTE: As a service to bidders, the County provides an unofficial list of award postings on our web site.) The official posting, in the Purchasing Department shall prevail if a discrepancy exists between the referenced listings.

c. **PROTEST PROCEDURE:** Protest procedures are provided in the Palm Beach County Purchasing Code. Protests must be submitted in writing, addressed to the Director of Purchasing, via hand delivery, mail or fax to 561/242-6705. Protest must identify the solicitation, specify the basis for the protest, and be received by the Purchasing Department within five (5) business days of the posting date of the recommended award. The protest is considered filed when it is received by the Purchasing Department. Failure to file protest as outlined in the Palm Beach County Purchasing Code shall constitute a waiver of proceedings under the referenced County Code.

5. CONTRACT ADMINISTRATION

a. **DELIVERY AND ACCEPTANCE:** Deliveries of all items shall be made as soon as possible. Deliveries resulting from this bid are to be made during the normal working hours of the County. Time is of the essence and delivery dates must be met. Should the successful bidder fail to deliver on or before the stated dates, the County reserves

the right to CANCEL the order or contract and make the purchase elsewhere. The successful bidder shall be responsible for making any and all claims against carriers for missing or damaged items.

Delivered items shall not be considered "accepted" until an authorized agent for Palm Beach County has, by inspection or test of such items, determined that they appear to fully comply with specifications. The Board of County Commissioners may return, at the expense of the successful bidder and for full credit, any item(s) received which fail to meet the County's specifications or performance standards.

b. **FEDERAL AND STATE TAX:** Palm Beach County is exempt from Federal and State taxes. The authorized agent for Purchasing shall provide an exemption certificate to the successful bidder, upon request. Successful bidders are not exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the County, nor are successful bidders authorized to use the County's Tax Exemption Number in securing such materials.

c. **PAYMENT:** Payment shall be made by the County after commodities/services have been received, accepted and properly invoiced as indicated in the contract and/or order. Invoices must bear the order number. The Florida Prompt Payment Act is applicable to this solicitation.

d. **CHANGES:** The Director of Purchasing, Palm Beach County, by written notification to the successful bidder may make minor changes to the contract terms. Minor changes are defined as modifications which do not significantly alter the scope, nature, or price of the specified goods or services. Typical minor changes include, but are not limited to, place of delivery, method of shipment, minor revisions to customized work specifications, and administration of the contract. The successful bidder shall not amend any provision of the contract without written notification to the Director of Purchasing, and written acceptance from the Director of Purchasing or the Board of County Commissioners.

e. **DEFAULT:** The County may, by written notice of default to the successful bidder, terminate the contract in whole or in part if the successful bidder fails to satisfactorily perform any provisions of this solicitation or resultant contract, or fails to make progress so as to endanger performance under the terms and conditions of this solicitation or resultant contract, or provides repeated non-performance, or does not remedy such failure within a period of 10 days (or such period as the Director of Purchasing may authorize in writing) after receipt of notice from the Director of Purchasing specifying such failure. In the event the County terminates this contract in whole or in part because of default of the successful bidder, the County may procure goods and/or services similar to those terminated, and the successful bidder shall be liable for any excess costs incurred due to this action.

If it is determined that the successful bidder was not in default or that the default was excusable (e.g., failure due to causes beyond the control of, or without the fault or negligence of, the successful bidder), the rights and obligations of the parties shall be those provided in Section 5f, "Termination for Convenience."

f. **TERMINATION FOR CONVENIENCE:** The Director of Purchasing may, whenever the interests of the County so require, terminate the contract, in whole or in part, for the convenience of the County. The Director of Purchasing shall give five (5) days prior written notice of termination to the successful bidder, specifying the portions of the contract to be terminated and when the termination is to become effective. If only portions of the contract are terminated, the successful bidder has the right to withdraw, without adverse action, from the entire contract.

Unless directed differently in the notice of termination, the successful bidder shall incur no further obligations in connection with the terminated work, and shall stop work to the extent specified and on the date given in the notice of termination. Additionally, unless directed differently, the successful bidder shall terminate outstanding orders and/or subcontracts related to the terminated work.

- g. **ACCESS AND AUDITS:** The bidder shall maintain adequate records related to all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Contract. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the bidder's place of business.

6. **PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL
AUDIT REQUIREMENTS:**

Pursuant to Ordinance No. 2009-049, as amended, Palm Beach County's Office of Inspector General is authorized to review past, present and proposed County contracts, transactions, accounts, and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud.

THIS IS THE END OF "GENERAL CONDITIONS."

SPECIAL CONDITIONS

7. GENERAL/SPECIAL CONDITION PRECEDENCE

In the event of conflict between General Conditions and Special Conditions, the provisions of the Special Conditions shall have precedence.

8. LOCAL PREFERENCE, GLADES LOCAL PREFERENCE, AND SBE ORDINANCE

The Palm Beach County Local Preference, Glades Local Preference, and SBE Ordinances **DO NOT APPLY TO THIS SOLICITATION**. The Drug Free Workplace Certification complies with Federal Government provisions of 49 CFR Part 655. Identical tie bids/proposals – In accordance with Section 287.087, FS, a preference shall be given to vendors submitting with their bids/proposals the enclosed certification that they have implemented a Drug Free Workplace Program which meets the requirements of 49 CFR Part 655, provided however, that any preference given shall be made in conformity with the requirements pursuant to the Palm Beach County Code, Chapter 2, Article III, Section 2-80-21 through 2-80-34. In the event tie bids are received from vendors who have not submitted with their bids/proposals a completed Drug Free Workplace Certification form, the award will be made in accordance with Palm Beach County's Purchasing Procedures pertaining to tie bids.

9. PRE-BID CONFERENCE (NON-MANDATORY)

All interested parties are invited to attend a pre-bid conference which is scheduled to be held at Palm Beach County **Purchasing Department, Suite 109, 50 South Military Trail, West Palm Beach, FL 33415** on **December 7, 2010** commencing at **10:00 A.M.**

At this time, the County's representative will be available to answer questions relative to this Invitation for Bid (IFB). Any suggested modifications may be presented in writing to, or discussed with the County's representative(s) as possible amendments to the Invitation for Bid. Changes to this Invitation for Bid may be made only by written amendment issued by the County Purchasing Department. Oral explanations or instructions given by any County representative are not binding and should not be interpreted as altering any provision of this document. Bidder certifies that their bid is made without reliance on any oral representations made by the County.

In accordance with the provisions of ADA, auxiliary aids or services will be provided upon request with at least three days notice.

10. QUALIFICATION OF BIDDERS

This bid shall be awarded only to a responsive and responsible bidder, qualified to provide the goods and/or service specified. The bidder shall, upon request, promptly furnish the County sufficient evidence in order to confirm a satisfactory performance record. Such information may include an adequate financial statement of resources, the ability to comply with required or proposed delivery or performance schedule, a satisfactory record of integrity and business ethics, the necessary organization, experience, accounting and operation controls, and technical skills, and be otherwise qualified and eligible to receive an award under applicable laws and regulations.

The bidder should submit the following information with their bid response; however, if not included, it shall be the responsibility of the bidder to submit all evidence, as solicited, within a time frame specified by the County (normally within two working days of request). Failure of a bidder to provide the required information within the specified time frame is considered sufficient cause for rejection of their bid. **Information submitted with a previous bid shall not satisfy this provision.**

- List a minimum of three (3) references in which similar goods and/or services have been provided within the past three (3) years including scope of work, contact names, addresses, telephone numbers and dates of service. A contact person shall be someone who has personal knowledge of the bidder's performance for the specific requirement listed. Contact person must have been informed that they are being used as a reference and that the County may be calling them. **DO NOT** list persons who are unable to answer specific questions regarding the requirement.

11. AWARD (LOT-BY-LOT)

Palm Beach County shall award this bid to the lowest, responsive, responsible bidder on a lot-by-lot basis. The County reserves the right to reject bids which would result in an award which is financially disadvantageous to the County. An award may be considered financially disadvantageous when it would result in an award to a bidder for less than \$1,000, or when it would result in awards of multiple small fragments. This policy is predicated on avoidance of increased administrative costs and operational complexity. Therefore, it is necessary for a bidder to bid on every item in the particular lot for which the bidder submits a bid in order to have a bid considered. It is also required that the bidder carefully consider each item, and make sure that each one meets the specifications as indicated. In the event that one item does not meet such specifications for that lot, the entire lot will be considered non-responsive. Additionally, if a bidder enters a No Bid, or N/A for any item in that lot, they will be considered non-responsive for that lot.

12. METHOD OF ORDERING (TERM CONTRACT)

A contract shall be issued for a term of twenty-four (24) months or until the estimated amount is expended, at the discretion of the County. The County will order on an "as needed" basis.

13. F.O.B. POINT

The F.O.B. point shall be destination, which shall be 3201 Electronics Way, West Palm Beach, Florida 33401 and 100 N. Congress Avenue, Delray Beach, Florida 33445. Bid responses showing other than F.O.B. destination shall be rejected. Bidder retains title and assumes all transportation charges, responsibility, liability and risk in transit, and shall be responsible for the filing of claims for loss or damages.

14. DELIVERY

Delivery shall be required within thirty (30) calendar days after receipt of term contract delivery order (DO) unless a modified delivery date has been requested by the successful bidder and approved in writing by the Purchasing Director or his/her designee. Failure of the successful bidder to perform to the delivery requirement is sufficient cause for default and termination of the contract.

15. SAMPLES (UPON REQUEST)

Bidders shall provide, without cost to the County, samples of requested items. Samples may be used in addition to documentation provided by a bidder to show compliance to technical specifications. Upon request, the County will return undestroyed samples to the unsuccessful bidders, at the bidder's expense. Each individual sample must be labeled with bidder's name, manufacturer's brand name and number, bid number and IFB item reference. Requests for return of samples must be received with the sample and shall include return instructions with shipping authorization and name of carrier. If these instructions are not received, the commodities shall be disposed of by Palm Beach County at its discretion.

16. AS SPECIFIED

A term contract delivery order (DO) will be issued to the successful bidder with the understanding that all items delivered must meet the specifications herein. Palm Beach County will return, at the expense of the successful bidder, items not delivered as specified.

At the option of Palm Beach County, item(s) from any delivery may be submitted to an independent testing laboratory to determine conformity to respective specifications. Bidders shall assume full responsibility for payment of any and all charges for testing and analysis of any product offered or delivered that does not conform to the minimum required specifications.

17. QUANTITY

The quantities shown are estimated. Palm Beach County reserves the right to increase or decrease the total quantities as necessary to meet actual requirements. Unless stipulated otherwise, Palm Beach County will accept NO minimum order requirements. Additionally, bidders are cautioned to bid in accordance with the unit specified on the bid response page.

18. RENEWAL OPTION

The successful bidder shall be awarded a contract for twenty-four (24) months with the option to renew for three (3) additional twelve (12) month periods. The option for renewal shall only be exercised upon mutual written agreement and with all original terms, conditions and unit prices adhered to with no deviations. Any renewal shall be subject to the appropriation of funds by the Board of County Commissioners.

19. INFORMATION AND DESCRIPTIVE LITERATURE (BRAKE DRUM, SHOES (INCLUDING LINING) HARDWARE PARTS, METHOD AND TREATMENT MATERIAL) (Brand Name "or equal")

Unless otherwise stated in these specifications, any manufacturer's names, trade names, brand names, information or catalog numbers listed in this specification are for information and not intended to limit competition. When the phrase "or equal" is used, the bidder may offer any brand/manufacturer for which they are an authorized dealer/distributor/reseller, which meets or exceeds the specifications for any item listed in the bid. Bidder **shall** enter the manufacturer and manufacturer part number on the bid response page. Unless offering the specified manufacturers(s)/model(s), the bidder **shall** submit with their bid response, manufacturer cut sheets, sketches, descriptive literature and/or complete specifications for said item(s). Literature shall provide sufficient detail to verify compliance to bid specifications. **The failure of the descriptive literature to show that the item(s) offered conforms to the requirements of this solicitation shall result in the rejection of the bid.** Reference to literature submitted with a previous bid or literature which has been created by any entity other than the manufacturer shall not satisfy this provision. The County reserves the sole right to determine acceptance of offered item (s) as an approved equal. Note: At the sole discretion of Palm Beach County, samples may be requested, after bid submittal, to complete and/or verify compliance to bid specifications.

If bidding an "or-equal" brand, all brands offered shall be compatible to ensure a complete working brake kit.

20. OPTIONS

Options shall be ordered at the sole discretion of Palm Beach County. To the best of the bidder's knowledge, the bidder's price for services shown as "OPTIONS" on the Bid Response page do not exceed the bidder's sales price to its most favored customer for the same services in like quantity, or the current market price, whichever is lower. If the County should become aware of lower prices being offered by the bidder other than as stated above, the bidder agrees to remedy the price differential.

NOTE: Options shall not be considered in the evaluation of the award.

21. BRAKE KITS

The scope of these specifications is to ensure the delivery of a complete brake kit ready for operations. The apparent silence of any specification or part number as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning only that the best commercial practice is to prevail, and that only material and workmanship of the finest quality are to be used. Omission of any essential detail from these specifications does not relieve the supplier from the furnishing of a complete kit.

During the term of this contract and in order to meet the requirements of new buses, brake components may change or be added to this contract. The cost for these changes or additions shall be determined by current manufacturers' invoicing to the successful bidder added to the offered treatment rate.

22. WARRANTY

The successful bidder shall furnish a minimum 60,000 mile warranty on all parts furnished hereunder against, including but not limited to, wear, cracking, hot spots and/or distortion and defect in materials and/or workmanship. Should any defect in materials or workmanship, excepting ordinary wear and tear, appear during the above stated warranty period, the successful bidder shall repair or replace same at no cost to Palm Beach County.

23. ATTACHMENT(S)

Attachments "A" & "B" are included and are considered to be a component of this bid, and shall be completed and submitted with your bid response. **Failure to do so shall render your bid non-responsive.**

**SPECIFICATIONS
BID #11-012/LM**

BUS BRAKE KITS, TREAT & SUPPLY, TERM CONTRACT

PURPOSE AND INTENT

The sole purpose and intent of this Invitation for Bid (IFB) is to secure firm, fixed pricing and establish a term contract for the purchase of bus brake kits, treat and supply for Palm Beach County Palm Tran. All items shall meet or exceed all industry and safety standards.

GENERAL

Palm Tran is the provider of public transportation for Palm Beach County, Florida. Palm Beach County is approximately fifty (50) miles long and forty (40) miles wide, and has a population of over one million residents. Palm Tran services this population seven (7) days a week and operates 145 buses. Each bus travels over 50,000 miles per year.

Delivery shall be between the hours of 7:00 AM and 4:00 PM, Monday through Friday.

SUCCESSFUL BIDDER'S RESPONSIBILITIES

The successful bidder shall supply all parts of the kits, apply treatment, and deliver to either of the two Palm Tran heavy maintenance facilities.

The successful bidder shall provide Palm Tran, at the time of delivery, a certificate of compliance to qualify treatment procedures to specific components and applications.

The successful bidder shall provide to Palm Tran, at the time of delivery, documentation that the supplied untreated brake drums have 100% USA labor and material with a minimum hardness of 187 HBW and minimum tensile strength of 30,000 psi.

The successful bidder shall provide Palm Tran, at the time of delivery, documentation that the supplied lining was constructed of Asbestos Free Organic Compound, with a minimum Friction Rating of FF and minimum GAWR 25,000 lbs.

Brake hardware kit shall include, at a minimum, brake cams, all bushings, rollers, anchor pins, springs and seals.

Before treatment, the successful bidder shall trim drums and shoes to match each other.

The successful bidder shall supply matched (machine trued) bus brake kits.

TECHNICAL REQUIREMENTS

Treatment #1 – Diamond Treated

- a. Drum shall be free from defects and voids.
- b. Drum concentricity shall be within 0.010 inches TIR.
- c. Treatment surface finish shall be 80 Ra maximum.
- d. Treatment surface hardness of swept area is 70 Rc to 76 Rc.
- e. Minimum treatment density shall be 90% for treated area.

Treatment #2 – Cryotherm/Thermal Balance, a computer controlled process that exposes metal and plastic part to subzero temperatures.

- a. Drum shall be free from defects and voids.
- b. For consistent results the Thermal Balance Brakes machine shall identify the precise cold temperature range for a given metal.
- c. The finished product shall meet or exceed the Manufacturing Standards set by The Federal Motor Vehicle Safety Standards Title 49 Codes of Federal Regulations Part 571 Standard No: 121 – Air Brake Systems – Scope and Purpose.
- d. Concentricity – all brake drums shall meet I.A.W. Federal guide lines.
- e. Treatment surface hardness shall remain the same.

****REVISED****

BID RESPONSE

BID #11-012/LM

BUS BRAKE KITS, TREAT & SUPPLY, TERM CONTRACT

LOT 1 - DIAMOND TREATED

ITEM NO.	DESCRIPTION	ESTIMATED 24 MONTH QUANTITY	UNIT PRICE (PER KIT)	TOTAL OFFER
1.	FRONT BRAKE KIT, FOR USE ON TRANSIT COACH BUSES YEARS 2001, 2002, 2003 BRAKE DRUM: WEBB #61950B, OR EQUAL MFR. OFFERED: <u>Webb</u> MFR. MODEL # OFFERED: <u>61950B-2AM</u> BRAKE SHOE ON STEEL CORE: MERITOR # SMA2124704QP, OR EQUAL MFR. OFFERED: <u>Marathon - New</u> MFR. MODEL # OFFERED: <u>4704 QP HS</u> BRAKE SPRING KIT: TRUCK TRAILER TRANSIT (TTT) #TBK-FLAGFLF, OR EQUAL MFR. OFFERED: <u>OTR</u> MFR. MODEL # OFFERED: <u>OTR 4702</u>	14 KITS	\$ <u>1163.74</u>	\$ <u>16292.36</u>
2.	REAR BRAKE KIT, FOR USE ON TRANSIT COACH BUSES YEAR 2003 BRAKE DRUM: WEBB #66864, OR EQUAL MFR. OFFERED: <u>Webb</u> MFR. MODEL # OFFERED: <u>66864-2D</u> BRAKE SHOE ON STEEL CORE: MERITOR # 4707QP, OR EQUAL MFR. OFFERED: <u>Marathon - New</u> MFR. MODEL # OFFERED: <u>4707 QP KVT</u> BRAKE SPRING KIT: TRUCK TRAILER TRANSIT (TTT) #TBK-FLAGRHFM, OR EQUAL MFR. OFFERED: <u>OTR</u> MFR. MODEL # OFFERED: <u>4515 Q30</u>	30 Kits	\$ <u>787.64</u>	\$ <u>23629.20</u>

All unit prices bid should be within two (2) decimal points. If bidder's pricing exceeds two (2) decimal points, Purchasing reserves the right to round up or down accordingly.

continued...

FIRM NAME: Power Brake, LLC

****REVISED****

BID RESPONSE

BID #11-012/LM

BUS BRAKE KITS, TREAT & SUPPLY, TERM CONTRACT

(continued)

LOT 1 - DIAMOND TREATED

ITEM NO.	DESCRIPTION	ESTIMATED 24 MONTH QUANTITY	UNIT PRICE (PER KIT)	TOTAL OFFER
3.	<p>FRONT BRAKE KIT, FOR USE ON TRANSIT COACH BUSES YEARS 2004, 2006, 2007, 2008, 2009</p> <p>BRAKE DRUM: WEBB #65600B, OR EQUAL</p> <p>MFR. OFFERED: <u>Webb</u></p> <p>MFR. MODEL # OFFERED: <u>65600B-2AM</u></p> <p>BRAKE SHOE ON STEEL CORE: MERITOR # SR3014715QP, OR EQUAL</p> <p>MFR. OFFERED: <u>Marathon-New</u></p> <p>MFR. MODEL # OFFERED: <u>4715 QPKVT</u></p> <p>BRAKE SPRING KIT: TRUCK TRAILER TRANSIT (TTT) #TBK-FLAGFLF, OR EQUAL</p> <p>MFR. OFFERED: <u>Euclid</u></p> <p>MFR. MODEL # OFFERED: <u>E-91644</u></p>	30 Kits	\$ <u>918.96</u>	\$ <u>27568.80</u>
4.	<p>REAR BRAKE KIT, FOR USE ON TRANSIT COACH BUSES YEARS 2004, 2006, 2007, 2008, 2009</p> <p>BRAKE DRUM: WEBB #64115B, OR EQUAL</p> <p>MFR. OFFERED: <u>Webb</u></p> <p>MFR. MODEL # OFFERED: <u>64115B-2D</u></p> <p>BRAKE SHOE ON STEEL CORE: MERITOR # 4592A, OR EQUAL</p> <p>MFR. OFFERED: <u>Marathon-New</u></p> <p>MFR. MODEL # OFFERED: <u>4592AD KVT</u></p> <p>BRAKE SPRING KIT: TRUCK TRAILER TRANSIT (TTT) #TBK-FLAGRHFM, OR EQUAL</p> <p>MFR. OFFERED: <u>Dayton</u></p> <p>MFR. MODEL # OFFERED: <u>08-125200</u></p>	60 Kits	\$ <u>1542.81</u>	\$ <u>92,568.60</u>
LOT 1 - TOTAL OFFER (ITEMS #1 - #4) \$ <u>160058.96</u>				

All unit prices bid should be within two (2) decimal points. If bidder's pricing exceeds two (2) decimal points, Purchasing reserves the right to round up or down accordingly.

FIRM NAME: Power Brake, LLC continued...

****REVISED****

BID RESPONSE

BID #11-012/LM

BUS BRAKE KITS, TREAT & SUPPLY, TERM CONTRACT

LOT 2 - CRYOTHERM/THERMAL BALANCE

ITEM NO.	DESCRIPTION	ESTIMATED 24 MONTH QUANTITY	UNIT PRICE (PER KIT)	TOTAL OFFER
1.	<p>FRONT BRAKE KIT, FOR USE ON TRANSIT COACH BUSES YEARS 2001, 2002, 2003</p> <p>BRAKE DRUM: WEBB #61950B, OR EQUAL</p> <p>MFR. OFFERED: <u>Webb</u></p> <p>MFR. MODEL # OFFERED: <u>61950B-1</u></p> <p>BRAKE SHOE ON STEEL CORE: MERITOR # SMA2124704QP, OR EQUAL</p> <p>MFR. OFFERED: <u>Marathon-New</u></p> <p>MFR. MODEL # OFFERED: <u>4704QPHS</u></p> <p>BRAKE SPRING KIT: TRUCK TRAILER TRANSIT (TTT) #TBK-FLAGFLF, OR EQUAL</p> <p>MFR. OFFERED: <u>OTR</u></p> <p>MFR. MODEL # OFFERED: <u>OTR4702</u></p>	8 KITS	\$ <u>965.74</u>	\$ <u>7725.91</u>
2.	<p>REAR BRAKE KIT, FOR USE ON TRANSIT COACH BUSES YEAR 2003</p> <p>BRAKE DRUM: WEBB #66864, OR EQUAL</p> <p>MFR. OFFERED: <u>Webb</u></p> <p>MFR. MODEL # OFFERED: <u>66864-1</u></p> <p>BRAKE SHOE ON STEEL CORE: MERITOR # 4707QP, OR EQUAL</p> <p>MFR. OFFERED: <u>Marathon-New</u></p> <p>MFR. MODEL # OFFERED: <u>4707 QPKVT</u></p> <p>BRAKE SPRING KIT: TRUCK TRAILER TRANSIT (TTT) #TBK-FLAGRHFM, OR EQUAL</p> <p>MFR. OFFERED: <u>OTR</u></p> <p>MFR. MODEL # OFFERED: <u>4515 Q30</u></p>	20 Kits	\$ <u>568.64</u>	\$ <u>11,372.80</u>

All unit prices bid should be within two (2) decimal points. If bidder's pricing exceeds two (2) decimal points, Purchasing reserves the right to round up or down accordingly.

continued...

FIRM NAME: Power Brake, LLC

****REVISED****

BID RESPONSE

BID #11-012/LM

BUS BRAKE KITS, TREAT & SUPPLY, TERM CONTRACT

(continued)

LOT 2 - CRYOTHERM/THERMAL BALANCE

ITEM NO.	DESCRIPTION	ESTIMATED 24 MONTH QUANTITY	UNIT PRICE (PER KIT)	TOTAL OFFER
3.	FRONT BRAKE KIT, FOR USE ON TRANSIT COACH BUSES YEARS 2004, 2006, 2007, 2008, 2009 BRAKE DRUM: WEBB #65600B, OR EQUAL MFR. OFFERED: <u>Webb</u> MFR. MODEL # OFFERED: <u>65600B-1</u> BRAKE SHOE ON STEEL CORE: MERITOR # SR3014715QP, OR EQUAL MFR. OFFERED: <u>Marathon-New</u> MFR. MODEL # OFFERED: <u>4715 QPKVT</u> BRAKE SPRING KIT: TRUCK TRAILER TRANSIT (TTT) #TBK-FLAGFLF, OR EQUAL MFR. OFFERED: <u>Euclid</u> MFR. MODEL # OFFERED: <u>E-9644</u>	20 Kits	<u>\$720.96</u>	<u>\$14,419.20</u>
4.	REAR BRAKE KIT, FOR USE ON TRANSIT COACH BUSES YEARS 2004, 2006, 2007, 2008, 2009 BRAKE DRUM: WEBB #64115B, OR EQUAL MFR. OFFERED: <u>Webb</u> MFR. MODEL # OFFERED: <u>64115B-1</u> BRAKE SHOE ON STEEL CORE: MERITOR # 4592A, OR EQUAL MFR. OFFERED: <u>Marathon-New</u> MFR. MODEL # OFFERED: <u>4592 ADKVT</u> BRAKE SPRING KIT: TRUCK TRAILER TRANSIT (TTT) #TBK-FLAGRHFM, OR EQUAL MFR. OFFERED: <u>Dayton</u> MFR. MODEL # OFFERED: <u>08-125200</u>	40 Kits	<u>\$1344.81</u>	<u>\$53,792.40</u>

All unit prices bid should be within two (2) decimal points. If bidder's pricing exceeds two (2) decimal points, Purchasing reserves the right to round up or down accordingly.

continued...

FIRM NAME: Power Brake, LLC

**BID RESPONSE
BID #11-012/LM**

BUS BRAKE KITS, TREAT & SUPPLY, TERM CONTRACT

(continued)

LOT 2 – CRYOTHERM/THERMAL BALANCE

LOT 2 – TOTAL OFFER (ITEMS #1 - #4) \$ 87,310.31

All unit prices bid should be within two (2) decimal points. If bidder's pricing exceeds two (2) decimal points, Purchasing reserves the right to round up or down accordingly.

OPTIONS:

Offered treatment rate shall not be used in the evaluation process:

DIAMOND <u>TREATMENT ONLY</u> TRANSIT BRAKE KIT	\$ <u>338.00</u> per kit
CRYOTHERM/THERMAL BALANCE <u>TREATMENT ONLY</u> TRANSIT BRAKE KIT	\$ <u>180.00</u> per kit

Is Qualification of Bidders information included, per Term and Condition #10?

YES XINITIAL PL

Is Information and Descriptive Literature included, per Term & Condition #19?

YES XINITIAL PL

Is Attachment "A" & "B", Special Contract Provisions, completed and submitted per Term & Condition # 23?

YES XINITIAL PL

*** PLEASE AFFIX SIGNATURE WHERE INDICATED
(FAILURE TO DO SO SHALL RESULT IN THE REJECTION OF YOUR BID)**

By signature on this document, bidder acknowledges and agrees that its offer includes and accepts all terms, conditions, and specifications of the County's bid solicitation as originally published, without exception, change or alteration of any kind, except as may have been published by the County in official amendments prior to this date of submittal.

FIRM NAME: (Enter the entire legal name of the bidding entity)

DATE:

Power Brake, LLC

12.16.2010

*** SIGNATURE**

PRINT NAME: Thomas D. Cox

PRINT TITLE: CEO

ADDRESS: 4351 B 34th ST. N.

CITY / STATE: St. Petersburg, FL ZIP CODE: 33714

TELEPHONE # (727) 526-1333

E-MAIL: Tom@Powerbrake1.com

TOLL FREE # ()

FAX #: (727) 526-1306

APPLICABLE LICENSE(S) NUMBER: #

TYPE:

FEDERAL ID # 22-3934354

ATTACHMENT "A"
SPECIAL CONTRACT PROVISIONS

BID NO. 11-012/LM
Palm Beach County
Board of County Commissioners
TRANSPORTATION DEPARTMENT

This solicitation is subject to the following conditions, which are outlined in greater detail in U.S. Department of Transportation (USDOT) regular 49 CFR part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;" Federal Transit Administration (FTA) Circular 4220.1F, "Third Party Contracting Guidelines," dated June 19, 2003, as may be amended; and other laws and regulations governing procurement activities for Palm Beach County programs and projects. Conditions imposed by the FTA are also described in Appendix A to FTA's "Best Practices Procurement Manual," available at: <http://www.fta.dot.gov/library/admin/BPPM/appA1.html>. References to the Code of Federal Regulations (CFR) website are available at: <http://www.gpoaccess.gov/cfr/index.html>.

If you are unable or unwilling to comply with these conditions, or need clarification as to applicability of an individual requirement, contact Eugene M. Bitteker, Manager Contracts, Procurement & Stores, Palm Beach County Palm Tran, 3201 Electronics Way, West Palm Beach, Florida 33407; telephone (561) 841-4254, fax (561) 656-7429; or email ebitteker@pbcgov.org.

PART A

GENERAL CONDITIONS – APPLICABLE TO THIS SOLICITATION

1. STATEMENT OF FINANCIAL ASSISTANCE. This procurement is funded in part by a contract between Palm Beach County and the U.S. Department of Transportation, Federal Transit Administration. Therefore, the following Special Contract Provisions apply to this procurement.
2. Prohibited Interest. No employee, officer, or agent of Palm Beach County shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent of Palm Beach County, or any member of his or her immediate family, his or her partner, or an organization which employs, or is about to employ any of the above, has a financial or other interest in the firm selected for award (contractor). No Palm Beach County employee, officer, or agent shall solicit or accept gratuities, favors, or anything of monetary value from any contractor, potential contractor, or parties to subagreements.
3. Interest of Members of Congress. No member of, or delegate to, the Congress of the United States shall be admitted to a share or part of this solicitation or to any benefit arising therefrom.
4. No Government Obligation to Third Parties. The contractor agrees, absent express written consent of the Federal Government, that the Federal Government shall not be subject to any obligations or liabilities to any third party contractor, or any subrecipient, or any other party pertaining to any matter resulting from this solicitation. The contractor agrees to include a similar provision in each subcontract financed in whole or in part with federal assistance provided by the FTA.
5. Program Fraud and False or Fraudulent Statements. The contractor acknowledges the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §3801, et seq., and U.S. Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its activities in connection with this project. The contractor certifies or affirms the truthfulness and accuracy of any statement it has made, makes, or may make pertaining to this solicitation. In addition to other penalties that may apply, the contractor further acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the contractor to the extent the Federal Government may deem appropriate. The contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with federal assistance authorized for 49 USC §5307, the Federal Government reserves the right to impose the penalties of 18 USC §1001 and 49 USC §5307(n) (1) on the contractor, to the extent the Federal Government deems appropriate.
6. Federal Changes. The contractor shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA(2) dated October 1, 2007) between Palm Beach County and the FTA, as they may be promulgated or amended from time to time during the term of the contract resulting from this solicitation. Contractor's failure to comply shall constitute a material breach of this contract.
7. Incorporation of Federal Transit Administration (FTA) Terms. The provisions contained in the Special Contract Provisions include, in part, standard terms and conditions required by the U.S. Department of Transportation (USDOT), whether or not expressly set forth in the contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, dated June 19, 2003, as amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this solicitation. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any Palm Beach County request which would cause the County to be in violation of the FTA terms and conditions.
8. Access to Records. The contractor agrees to provide Palm Beach County, the FTA Administrator, the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of the contractor which are directly pertinent to this solicitation for the purposes of making audits, examinations, excerpts, and transcriptions.

ATTACHMENT "A"
SPECIAL CONTRACT PROVISIONS

BID NO. 11-012/LM
Palm Beach County
Board of County Commissioners
TRANSPORTATION DEPARTMENT

Contractor also agrees, pursuant to 49 CFR 633.17, to provide the FTA Administrator or authorized representative (include a PMO contractor) access to contractor's construction sites and records pertaining to a major capital project, defined at 49 USC §5302(a)(1), which is receiving federal financial assistance through the programs described at 49 USC §§5307, 5309, or 5311. The contractor further agrees to maintain all books, records, accounts, and reports required under the contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until Palm Beach County, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto. Reference 49 CFR 18.39(i) (11).

9. Civil Rights. The following requirements apply to this solicitation:

- a. Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 USC §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 USC §6102, section 202 of the Americans with Disabilities Act of 1990, 42 USC §12132, and Federal transit law at 49 USC §5332, the contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the contractor agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.
- b. Equal Employment Opportunity. The following equal opportunity requirements apply to this solicitation:
 - (1) Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 USC §2000e, and federal transit laws at 49 USC §5332, the 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 implemented Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC §2000e note), and with any other applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the project. The 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, the 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 USC §623 and federal transit law at 49 USC §5332, the contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, contractor agrees to comply with any implementing requirements FTA may issue.
 - (3) Disabilities. In accordance with section 202 of the Americans with Disabilities Act, as amended, 42 USC §12112, the 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, the contractor agrees to comply with any implementing requirements FTA may issue.
- c. The contractor also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance provided by FTA, modified only to identify the affected parties.

10. Disadvantaged Business Enterprise (DBE) RESOLUTION 99-1617 PALM BEACH COUNTY

- a. It is the policy of Palm Beach County to recognize the authority and applicability of the United States Department of Transportation's rules and regulations governing Disadvantaged Business Enterprise (DBE) participation set forth in 49 CFR Part 26. Palm Beach County is committed to the implementation of these rules and regulations through its approved Disadvantaged Business Enterprise Program.

Furthermore, it is the object of the Palm Beach County that:

- i. Disadvantaged Business Enterprises shall be assured, to the maximum extent feasible, the opportunity to participate in the performance of contracts and subcontract financed in whole or in part with Federal funds; and

ATTACHMENT "A"
SPECIAL CONTRACT PROVISIONS

BID NO. 11-012/LM
Palm Beach County
Board of County Commissioners
TRANSPORTATION DEPARTMENT

- ii. No person, subject to the activities of Palm Beach County, shall discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.
- b. The bidder/offeror agrees to ensure that DBE firms as defined in Palm Beach County Resolution 99-1617 have the maximum opportunity to participate in the performance of contracts and subcontracts. In this regard, all bidders shall take all necessary and reasonable steps in accordance with Resolution 99-1617, to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Bidders/offerors shall not discriminate on the basis of race, color, national origin or sex.
11. Energy Conservation. The contractor agrees to comply with mandatory standards and policies related to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. The contractor further agrees to include a similar provision in each subcontract financed in whole or in part with federal assistance provided by FTA.
12. Full and Open Competition. FTA Circular 4220.1F imposes a prohibition against procurement actions and situations considered restrictive of full and open competition, examples of which include: (a) unreasonable requirements placed on firms in order for them to qualify to do business; (b) unnecessary experience and excessive bonding requirements; (c) noncompetitive pricing practices between firms or between affiliated companies; (d) noncompetitive awards to any person or firms on retainer contracts; (e) organizational conflicts of interest; (f) specification of brand name product requirements, without listing its salient characteristics or allowing "an equal" product to be provided; (g) any arbitrary action in the procurement process; (h) giving or assigning preference to companies providing domestic partnership or similar benefits; and (i) the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals, except in those cases where federal statutes expressly mandate or encourage geographic preference (geographic location may be a selection criterion in procurements for architectural and engineering services provided its application leave an appropriate number of qualified firms, given the nature and size of the project, to complete the project).

PART B

ADDITIONAL REQUIREMENTS – CONDITIONAL
(Please read each qualifying condition carefully)

13. Termination for Convenience or Default. If this solicitation is valued at \$10,000 or greater (with the exception of contracts with nonprofit organizations and institutions of higher education, for which the applicable threshold is \$100,000), Palm Beach County may terminate this contract, in whole or in part, at any time by written notice to the contractor when it is in the Government's best interest. The contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The contractor shall promptly submit its termination claim to Palm Beach County. If the contractor has any property in its possession belonging to the County, the contractor will account for the same, and dispose of it in the manner the County directs. If the contractor fails to deliver supplies or to perform the services within the time specified in the contract or any extension, or if the contractor fails to comply with any other provisions of the contract, Palm Beach County may terminate the contract for default. The County shall terminate the contract by default by delivering to the contractor a Notice of Termination specifying the nature of the default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If the contract is terminated while the contractor has possession of Palm Beach County-owned goods, the contractor shall, upon direction of the County's contract administrator, protect and preserve the goods until surrendered to Palm Beach County or its agent. The contractor and Palm Beach County shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that the contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County. Similar provisions apply to purchase orders and contracts for construction and architect/engineering services. Refer to Article 21 of the Best Procurement Practices Manual, incorporated as a reference herein.
14. Recycled Products. If this solicitation is for items designated in Subpart B, 40 CFR part 247 by the EPA, and the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year or has procured \$10,000 or more of such items in the previous fiscal year using federal funds, the contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 USC 6962), including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873.
15. Government-wide Debarment and Suspension. If this solicitation has a value of \$25,000 or more, this procurement is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The contractor agrees to comply with, and assures compliance of each third-party contractor and subrecipient at any tier, with 49 CFR 29, Subpart C, while this offer is valid and throughout the period of any contract that may arise from this offer. The contractor further agrees to include a provision requiring such compliance in any lower tier covered transaction it enters into.

ATTACHMENT "A"
SPECIAL CONTRACT PROVISIONS

BID NO. 11-012/LM
Palm Beach County
Board of County Commissioners
TRANSPORTATION DEPARTMENT

16. Buy America. If this solicitation exceeds \$100,000, the contractor agrees, to the extent applicable, 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. Separate requirements for rolling stock are set out at 49 USC §5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content. A bidder or offeror must submit to Palm Beach County the appropriate Buy America certification, model formats for which are contained as **Exhibit 1**, attached, with all bids or proposals on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

17. Breaches and Dispute Resolution. FTA Circular 4220.1F imposes the requirements at 49 CFR Part 18 upon all contracts in excess of \$100,000, which contain provision of conditions that allow for administrative, contractual, or legal remedies where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. Accordingly, should the provisions of the contract not address a particular subject or issue involving disputes, performance during disputes, claims for damages, remedies, or rights and remedies, the contractor agrees to comply with the provisions contained at 49 CFR Part 18, and further agrees to include a similar provision in all subcontracts over \$100,000.

18. Lobbying. Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by U.S. Department of Transportation regulation, "New Restrictions on Lobbying," 49 CFR Part 20, modified as necessary for 31 USC §1352. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 USC §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 USC §1352. Such disclosures are forwarded from tier to tier up to the recipient. A certification format is appended as **Exhibit 2**.

19. Clean Air. The Clean Air requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §7401, et seq. The contractor agrees to report each violation to Palm Beach County and agrees that Palm Beach County will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA regional office. The contractor further agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

20. Clean Water. If this solicitation is valued at \$100,000 or more, the contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. The contractor agrees to report each violation to Palm Beach County and agrees that Palm Beach County will, in turn, report each violation as required to assure notification to the FTA and the appropriate EPA regional office. The contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

21. Davis-Bacon and Copeland Anti-Kickback Acts. If this solicitation involves a construction project over \$2,000, the contractor agrees to comply with Davis-Bacon and Copeland Act requirements at 40 USC 3141, et seq., and 18 USC 874. The Acts apply to construction contracts and subcontracts that "at least partly are financed by a loan or grant from the Federal Government and, for the purposes of the Acts, include "actual construction, alteration and/or repair, including painting and decorating." The requirements of both Acts are incorporated into a single clause (see 29 CFR 3.11) and are enumerated at 29 CFR 5.5a. In accepting this order or contract, the contractor further agrees to include a similar requirement in all subcontracts financed in whole or in part with federal assistance provided by FTA.

22. Contract Work Hours and Safety Standards Act Requirements. If the solicitation involves a construction project in excess of \$2,000 or a non-construction project to which the Act applies over \$2,500, and is financed at least partly by loans or grants from the Federal Government, the contractor agrees to comply with the Contract Work Hours and Safety Standards Act, codified at 40 USC 3701, et seq. The contractor also agrees to include a similar requirement in all subcontracts financed in whole or in part with federal assistance provided by FTA.

23. Transit Employee Protective Agreements. If this solicitation involves transit operations performed by employees of a contractor recognized by FTA to be a transit operator, the contractor agrees to comply with the applicable transit employee protective requirements, as follows, and further agrees to include the applicable requirement(s) in each subcontract involving transit operations financed in whole or in part with federal assistance provided by FTA:

- a. General Transit Employee Protective Requirements -- To the extent that FTA determines that transit operations are involved, the contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees

ATTACHMENT "A"
SPECIAL CONTRACT PROVISIONS

BID NO. 11-012/LM
Palm Beach County
Board of County Commissioners
TRANSPORTATION DEPARTMENT

employed under the contract and to meet the employee protective requirements of 49 USC A5333(b) and U.S. Department of Labor guidelines at 29 CFR part 215, and any amendments thereto.

- b. Transit Employee Protective Requirements for Projects for Elderly Individuals and Individuals with Disabilities – If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 USC §5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 USC §5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed, the contractor agrees to comply with terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 USC §5333(b), 29 CFR Part 215, and any amendments thereto.
- c. Nonurbanized Areas – If the contract involves transit operations financed in whole or in part with federal assistance authorized by 49 USC §5311, the contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Labor and Transportation, dated May 31, 1979, and the procedures implemented by the U.S. Department of Labor or any revision thereto.

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

25. Cargo Preference. The contractor agrees to use privately-owned U.S. 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 that such vessels are available at fair and reasonable rates for U.S. Flag commercial vessels. The contractor also agrees to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days 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 above to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590, and to Palm Beach County (through the contractor in the case of subcontractor's bill-of-lading). The contractor further agrees to include these requirements in all subcontracts issued pursuant to the contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

26. Drug and Alcohol Testing. If this solicitation involves the operation of a transit service or provides transit vehicle maintenance and/or repair services for or on behalf of Palm Beach County, the contractor agrees to participate in Palm Beach County Office of Transportation's drug and alcohol testing program or agrees to establish and implement its own drug and alcohol testing program that complies with 49 CFR Part 655. In the event the contractor subcontracts all or part of the transit service to a third party, a similar requirement including review and approval by the County's contract administrator must be included in any subsequent agreement. The contractor further agrees to certify, prior to the commencement of services under the contract and annually thereafter, compliance with current FTA regulations, including the submittal of the Management Information System (MIS) reports annually, to the Director, Office of Transportation. A certification format is appended as **Exhibit 3**.

27. Patent and Rights in Data. If this solicitation involves patent and rights in data requirements for federally-assisted research projects in which FTA finances in whole or in part the development of a product or information, the contractor agrees to be bound by the terms and conditions contained at 49 CFR Part 19, Appendix A, Section 5, and with any other implementing requirements FTA may issue. These patent and rights in data requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development and/or in writing the user's manual.

28. Privacy Act. If this solicitation involves the operation of a transit service or provides transit vehicle maintenance and/or repair services for or on behalf of Palm Beach County, and drug and alcohol enforcement activities files are organized so that information could be retrieved by personal identifier, the contractor agrees to comply with, and assures the compliance of its employees with, information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC 552a. Among other things, the contractor agrees to obtain the express consent of the Federal Government before the contractor or its employees operate a system of records on behalf of the Federal Government.

The contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violating the Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract. The contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with federal assistance provided by FTA.

ATTACHMENT "A"
SPECIAL CONTRACT PROVISIONS

BID NO. 11-012/LM

Palm Beach County
Board of County Commissioners
TRANSPORTATION DEPARTMENT

29. Charter Bus. If this is an Operational Service contract, the contractor agrees to comply with 49 USC 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

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

31. Conformance with ITS National Architecture. With respect to all Contracts involving the provision of Intelligent Transportation Systems ("ITS"), Contractor agrees to conform to the ITS National Architecture, as promulgated by the United States Department of Transportation, Intelligent Transportation Systems, Joint Program Office.

32. Seismic Safety. If this solicitation pertains to the construction of new buildings or additions to existing buildings, the contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with standards outlined in U.S. Department of Transportation Seismic Safety regulations at 49 CFR Part 41 and will certify compliance to the extent required. The contractor also agrees to ensure that all work performed under the contract, including work performed by a subcontractor, and is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

ATTACHMENT "A"
SPECIAL CONTRACT PROVISIONS

BID NO. 11-012/LM

Palm Beach County
Board of County Commissioners
TRANSPORTATION DEPARTMENT

By signing below I confirm that I have read and understand PART A GENERAL CONDITIONS – APPLICABLE TO THIS SOLICITATION and, PART B ADDITIONAL REQUIREMENTS – CONDITIONAL. FAILURE TO DO SO SHALL RENDER YOUR RESPONSE NON-RESPONSIVE.

COMPANY NAME: Power Brake, LLC
ADDRESS: 4351 B 34th ST. North
CITY/ STATE/ ZIP CODE: St. Petersburg, Florida, 33714
SIGNATURE: [Signature]
TYPE NAME: Thomas D. Cox DATE: 12/16/10

CONTRACTOR SHALL FULLY COMPLETE INFORMATION AS REQUIRED BY THIS SOLICITATION, INCLUDING THE EXHIBITS. IF APPLICABLE, THE FOLLOWING EXHIBITS AND ATTACHMENTS SHALL BE SIGNED AND RETURNED WITH OFFER. FAILURE TO DO SO SHALL RENDER YOUR RESPONSE NON-RESPONSIVE.

EXHIBIT 1**BUY AMERICA CERTIFICATION—ONLY APPLICABLE IF CONTRACT IS IN EXCESS OF \$100,000****EXHIBIT 2****RESTRICTIONS ON LOBBYING CERTIFICATION—ONLY APPLICABLE IF CONTRACT IS IN EXCESS OF \$100,000****EXHIBIT 3****DRUG & ALCOHOL TESTING PROGRAM COMPLIANCE CERTIFICATION—APPLICABLE FOR ALL CONTRACTS REGARDLESS OF VALUE****ATTACHMENT "B"****DRUG FREE WORKPLACE CERTIFICATION—APPLICABLE FOR ALL CONTRACTS REGARDLESS OF VALUE**

ATTACHMENT "A"
SPECIAL CONTRACT PROVISIONS

BID NO. 11-012/LM
Palm Beach County
Board of County Commissioners
TRANSPORTATION DEPARTMENT

EXHIBIT 1
BUY AMERICA CERTIFICATION

FOR PROCUREMENTS OF STEEL, IRON, AND MANUFACTURED PRODUCTS (INCLUDING ROLLING STOCK) OVER \$100,000

If this contract or purchase order is valued in excess of \$100,000 and involves the procurement of steel, iron, or manufactured products, the bidder or offeror hereby certifies that it:

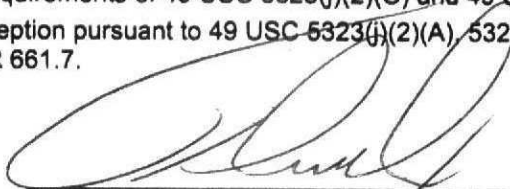
- ☒ Will meet the requirements of 49 USC 5323(j)(1) and the applicable regulations in 49 CFR part 661.5.
- ☐ Cannot meet the requirements of 49 USC 5323(j)(1) and 49 CFR part 661.5, but it may qualify for an exception pursuant to 49 USC 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 CFR 661.7.

If this contract or purchase order is valued in excess of \$100,000 and involves the procurement of buses, other rolling stock, and associated equipment, the bidder or offeror certifies that it:

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

12/16/10

(Date)



(Signature)
Power Brake, LLC

(Company)
CEO

(Title)

Note: This Buy America certification must be submitted to Palm Beach County with all bids or offers on FTA-funded contracts involving construction or the acquisition of goods or rolling stock, except those subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds.

ATTACHMENT "A"
SPECIAL CONTRACT PROVISIONS

BID NO. 11-012/LM
Palm Beach County
Board of County Commissioners
TRANSPORTATION DEPARTMENT

EXHIBIT 2
RESTRICTIONS ON LOBBYING CERTIFICATION

**FOR ALL PROCUREMENTS OVER \$100,000 INVOLVING
CONSTRUCTION/ARCHITECTURAL AND ENGINEERING/ACQUISITION OF ROLLING
STOCK/PROFESSIONAL SERVICE CONTRACTS/OPERATIONAL SERVICE CONTRACTS/
TURNKEY CONTRACTS**

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

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

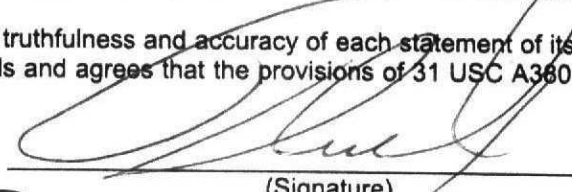
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph 2 herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 USC 1601, et seq.)]

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC §1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned understands and agrees that the provisions of 31 USC A3601, et seq., apply to this certification and disclosure, if any.

12/16/10
(Date)



(Signature)
Power Brake, LLC

(Company)
CEO

(Title)

Note: This certification must accompany each bid or offer exceeding \$100,000. Pursuant to 31 USC §3801(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

ATTACHMENT "A"
SPECIAL CONTRACT PROVISIONS

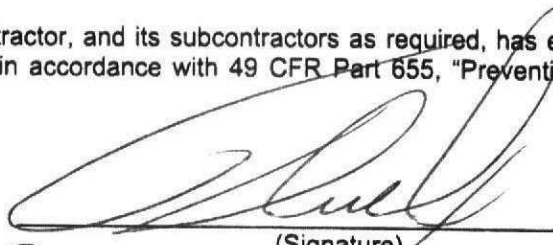
BID NO. 11-012/LM
Palm Beach County
Board of County Commissioners
TRANSPORTATION DEPARTMENT

EXHIBIT 3
DRUG & ALCOHOL TESTING PROGRAM COMPLIANCE CERTIFICATION

FOR TRANSIT OPERATIONAL SERVICE CONTRACTS

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

12/16/10
(Date)


(Signature)
Power Brake, LLC
(Company)
CEO
(Title)

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

ATTACHMENT "B"
SPECIAL CONTRACT PROVISIONS

BID NO. 11-012/LM
Palm Beach County
Board of County Commissioners
TRANSPORTATION DEPARTMENT

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 a controlled substance is prohibited in the offeror's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establishing a continuing drug-free awareness program to inform its employees about:
 - (i) The dangers of drug abuse in the workplace;
 - (ii) The offeror's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Giving all employees engaged in performance of the contract a copy of the statement required by subparagraph (1);
- (4) Notifying all employees, in writing, of the statement required by subparagraph (1), that as a condition of employment on a covered contract, the employee shall:
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer in writing of the employee's conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or of any state, for a violation occurring in the workplace NO later than five days after such conviction.
- (5) Notifying Palm Beach County government in writing within 10 calendar days after receiving notice under subdivision (4) (ii) above, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within 30 calendar days after receiving notice under subparagraph (4) of a conviction, taking one of the following actions with respect to an employee who is convicted of a drug abuse violation occurring in the workplace:
 - (i) Taking appropriate personnel action against such employee, up to and including termination; or
 - (ii) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency; and
- (7) Making a good faith effort to maintain a drug-free workplace program through implementation of subparagraphs (1) through (6).

(Signature)

(Vendor Signature)

Thomas D Cox

(Print Vendor Name)

STATE OF Florida
COUNTY OF Pine Hills

The foregoing instrument was acknowledged before me this 11 day of December, 2010,
by Tom Cox

as CEO (Name of person who's signature is being notarized)
of POWER BRAKE, LLC
(Title) (Name of Corporation/Company),

known to me to be the person described herein, or who produced _____
(Type of Identification)

as identification, and who did/did not take an oath.

NOTARY PUBLIC:

(Signature)

(Print Name)

(Print Name)



My commission expires: 398-0153