

MEMORANDUM OF UNDERSTANDING

between

BROWARD COUNTY

and

INKTEL DIRECT GOVERNMENT BPO SERVICES, INC.

For

CALL CENTER FOR PARATRANSIT SERVICES

Invitation for Bids No. V0709118B1

This is a Memorandum of Understanding "MOU" between BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY," and INKTEL DIRECT GOVERNMENT BPO SERVICES, INC. a Florida corporation authorized to do business in the state of Florida, hereinafter referred to as "INKTEL."

WHEREAS, COUNTY on August 5, 2009, advertised the Invitation for Bid ("IFB") No.V0709118B1 for the Call Center for Paratransit Services; and

WHEREAS, the IFB sought a qualified firm to implement the COUNTY's first central reservation and scheduling call center for its TOPS paratransit service program; and

WHEREAS, the IFB consists of General Conditions, Special Instructions, Bid Sheet, Vendor Questionnaire, Attachment A, Specifications, Attachments B through G, and Addenda 1 through 4, collectively referred to as the ("IFB"); and

WHEREAS, at the Broward County Board of County Commissioners ("Board") meeting of December 1, 2009, INKTEL was awarded an open-end contract for the Call Center for Paratransit Services ("Agreement") consisting of the terms and conditions set forth in the IFB; and

WHEREAS, INKTEL began taking reservations at 8:00 a.m. on December 31, 2009, for paratransit transportation services which began at 4:40 a.m. on January 1, 2010; and

WHEREAS, the Agreement provides that Call Center Services shall be reimbursed on a one-way per trip basis ("Reimbursable Trip"); and

WHEREAS, the Agreement lists the types of services which are Reimbursable Trips; and

WHEREAS, the Agreement does not include customer service functions provided to paratransit clients as a Reimbursable Trip; and

WHEREAS, the Agreement includes the following definition: customer service, defined generally to include but not be limited to, the provision of assistance to clients with information about scheduled rides, the status of pick-ups, processing cancellations, compliments, complaints and eligibility inquiries; and

WHEREAS, the IFB in Addendum 4 added as a Reimbursable Trip: compliments and complaints logged into the Computer Trip Management System ("CTMS"); and

WHEREAS, the IFB did not include objective criteria which would differentiate a customer service call related to the status of a client pick-up and a complaint call seeking information about the status of a late client pick-up; and

WHEREAS, INKTEL invoiced and COUNTY approved and paid for services designated as "Where's My Ride Complaint Call" for the months of January, February, March and April, 2010, in a total amount of \$175,718.16; and

WHEREAS, INKTEL included in its May and June, 2010 invoice, services designated as "Where's My Ride Complaint Call" in a total amount of \$93,586.08; however, COUNTY did not include payment for such calls in the May and June 2010 payments to INKTEL; and

WHEREAS, a dispute arose between INKTEL and COUNTY as to the distinction between a customer service call and a complaint call; and

WHEREAS, INKTEL and COUNTY desire to resolve their dispute; and

WHEREAS, Paratransit clients receive a paratransit pick-up window when making their paratransit reservations which is the period of time at which a paratransit transportation provider's vehicle is required to arrive at the pre-arranged location ("Pick Up Window"); and

WHEREAS, the Pick Up Window is 30 minutes; and

WHEREAS, INKTEL and COUNTY desire to remove any subjectivity relating to the treatment of incoming calls seeking the status of a paratransit client's ride or as alternatively referred to as "Where's my Ride Calls" under the Agreement; and

WHEREAS, INKTEL and COUNTY desire to clarify the treatment of incoming calls seeking the status of a paratransit client's ride/"Where's my ride calls" under the terms of the Agreement as either a customer service call (not a reimbursable trip) or as a complaint call (Reimbursable Trip) based upon whether the call is answered within or without of the Pick Up Window and to address the charges to COUNTY by INKTEL for

services designated as "Where's My Ride Complaint Call" for the months of January through June 2010; NOW THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, COUNTY and INKTEL agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties.
2. For calls seeking the status of a paratransit ride/"Where's my ride calls," the determination of whether the call shall be treated as a customer service call (not reimbursable) or as a complaint (Reimbursable Trip) shall be determined based upon whether the call is received by INKTEL prior to, during, or after the Pick Up Window. Any call seeking status of a paratransit ride/"Where's my ride call" that is received by INKTEL prior to or during to the Pick Up Window shall be deemed a customer service function and shall not be reimbursable under the Agreement. Any call seeking the status of a paratransit ride/"Where's my ride call" that is received by INKTEL after the Pick Up Window has passed, shall be logged into the CTMS as a complaint and shall be a Reimbursable Trip. For example, for a Pick Up Window recorded in the CTMS as 10:00 a.m.-10:30 a.m., a call seeking ride status shall not be a reimbursable if it is received by INKTEL at 10:30 a.m. or any time prior to 10:30 a.m.; however, if the call is received at 10:31 a.m. or later, the call shall be logged into the CTMS system as a complaint and may be invoiced as a Reimbursable Trip.
3. During the period of January through June 2010, INKTEL invoiced COUNTY for Trips designated on their invoices as "Where's My Ride Complaint Call" in the following amounts:

Month	Number of Trips	Unit Price	Trip Costs
January	16,256	\$2.76	\$ 44,866.56
February	15,234	\$2.76	\$ 42,045.84
March	16,237	\$2.76	\$ 44,814.12
April	15,939	\$2.76	\$ 43,991.64
May	17,620	\$2.76	\$ 48,631.20
June	16,288	\$2.76	<u>\$ 44,954.88</u>
			\$269,304.24

COUNTY has paid INKTEL for the "Where's My ride Complaint Call" as reflected on the January through April 2010 invoices in the total amount of \$175,718.16; however, COUNTY has not paid for the "Where's My Ride Complaint Call" as set forth on the INKTEL invoices for the months of May and June 2010 in the amount of \$93,586.08.

4. The Trips designated on INKTEL's invoices as "Where's My Ride Complaint Call" included all calls received by INKTEL by paratransit clients seeking the status of their pick up and therefore included customer service calls which the County asserts are not reimbursable under the Agreement.
5. COUNTY and INKTEL desire to resolve their dispute regarding charges invoiced by INKTEL for "Where's My Ride Complaint Calls" in the following manner:

INKTEL's reimbursement for Trips designated on their invoices as "Where's My Ride Complaint Call" shall be limited to fifty percent of the total "Where's My Ride Complaint Call" reflected on INKTEL's January through June 2010 invoices for a total amount of \$134,652.12, resulting in an overpayment by COUNTY to INKTEL in the amount of \$41,066.04. INKTEL shall return to COUNTY the amount of \$41,066.04. The amount of \$41,066.04 shall be returned to COUNTY over the period of twelve months in the form of a monthly set-off of INKTEL invoices in the amount of \$3,422.17 per month, which set off shall begin on the first monthly invoice submitted to COUNTY for payment following the approval of this Memorandum of Understanding. In the event that the Agreement shall be terminated for any reason, prior to COUNTY's receipt of \$41,066.04, any amount that remains outstanding shall be paid to COUNTY within fifteen days of the termination date.

6. INKTEL hereby waives and releases any and all claims INKTEL has or may have against COUNTY (including its elected officials and employees) related to, resulting from, or in connection with the clarification of "Where's my Ride Calls" as Reimbursable Trips in the Agreement and the payments related to the clarification as set forth herein. This waiver expressly includes, but is not limited to, any and all claims for damages related to, resulting from, or in connection with, and any right to challenge (in any forum), any of the actions referenced within this Memorandum of Understanding. This waiver shall become effective upon ratification of this Memorandum by the County Commission and execution by a duly authorized representative of the County.
7. **NON-ADMISSION OF LIABILITY.** Nothing contained in this Memorandum of Understanding shall constitute or be construed as an admission of liability, fault or violation of law by either party. Rather, the parties acknowledge that this Memorandum of Understanding is a settlement of a disputed claim.
8. The Agreement shall remain in full force and effect except as specifically amended herein. In case of a perceived conflict between the terms of the Agreement and the Memorandum of Understanding, the terms of the Memorandum of Understanding shall govern.

9. This Memorandum of Understanding shall be effective upon proper execution by all parties hereto.
10. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.
11. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this document that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
12. Preparation of the Memorandum of Understanding has been a joint effort of COUNTY and INKTEL, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.
13. Except as set forth in this Memorandum of Understanding no modification, amendment, or alteration in the terms or conditions contained in the Agreement shall be effective unless contained in a written document and executed by the parties hereto.
14. Multiple copies of this Memorandum of Understanding may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties here have made and executed this Memorandum of Understanding on the respective dated under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the _____ day of _____, 20____, and INKTEL DIRECT GOVERNMENT BPO SERVICES, INC., signing by and through its _____, duly authorized to execute same.

COUNTY:

ATTEST:

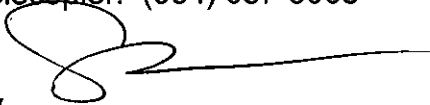
County Administrator and Ex-Officio
Clerk of the Board of County
Commissioners of Broward County,
Florida

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

By _____
Mayor

_____ day of _____, 20_____.

Approved as to form by
Office of County Attorney
Broward County, Florida
JEFFREY J. NEWTON, County Attorney
Governmental Center, Room 423
115 South Andrews Avenue
Ft. Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By  _____
Sharon V. Thorsen
Senior Assistant County Attorney



MEMORANDUM OF UNDERSTANDING BETWEEN BROWARD COUNTY AND INKTEL
DIRECT GOVERNMENT BPO SERVICES, INC

INKTEL:

INKTEL DIRECT GOVERNMENT BPO
SERVICES, INC.

Witnesses:

Jason Schlenker
Witness 1 Signature

Jason Schlenker
Witness 1 Print/Type Name

Luis Gonzalez
Witness 2 Signature

Luis Gonzalez
Witness 2 Print/Type Name

By: JAP
Printed Name: J. Ricky Arrion
Title: CEO

(CORPORATE SEAL)

SVT:slw
8/11/10
TransportationInktelCallCenter.
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