

EXHIBIT 2

INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF FORT LAUDERDALE FOR A JOINT GOVERNMENT CENTER CAMPUS

This Interlocal Agreement ("Agreement") is entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and the City of Fort Lauderdale, a Florida municipal corporation ("City") (individually referred to as a "Party" and collectively referred to as the "Parties").

RECITALS:

A. County and City are desirous of cooperating with one another to replace the current County Governmental Center and City's City Hall, and to jointly develop a new Government Center Campus (as hereinafter defined) to be occupied by both County and City.

B. County's Board of County Commissioners and City's Commission each find that this Agreement is in the public interest and advances the public health, safety, and welfare of the citizens and residents of County and City.

C. A Government Center Campus jointly developed and occupied by the Parties will provide cost savings through shared facilities and services and a more efficient building footprint, and will provide opportunities for County and City staff to interact, share, collaborate, and present a positive image of efficiency and cooperation to taxpayers and those considering investing in the community.

D. This Agreement provides for the retention of a Consultant (as hereinafter defined) to perform needs assessment and design criteria package services for County and City in connection with the Project (as hereinafter defined). After the Parties achieve consensus on the needs of County and City for the Government Center Campus, the Parties will enter into an amendment to this agreement or a separate agreement to address the next phase(s) of procurement for the development of the Government Center Campus. This Agreement delineates the respective responsibilities of County and City as they pertain to the needs assessment and design criteria package services by the Consultant for the Project.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1 DEFINITIONS

- 1.1 **Board** means the Board of County Commissioners of Broward County, Florida.
- 1.2 **City Manager** means the administrative head of City answerable to the City Commission.

1.3 **City Project Representative** means the individual chosen by the City Manager to serve as the client representative for the City Commission and to consult with and conduct joint meetings with the County Project Representative and Contract Administrator to review Project management and contract administration services ancillary to the Consultant's contract for Project Services.

1.4 **City Commission** means the City Commission of the City of Fort Lauderdale.

1.5 **Consultant** means the entity or individual selected by the Unified Direct Procurement Authority to provide needs assessment and design criteria package services to County and City in connection with the Project.

1.6 **Contract Administrator** means the individual chosen by the County Administrator, and consented to by the City Manager, to perform Project management and contract administration ancillary to the Consultant's contract for Project Services. The Contract Administrator shall serve as the Parties' primary representative for the Project. In the administration of this Agreement, as contrasted with matters of policy, the Parties may rely upon instructions or determinations made by the Contract Administrator in the interpretation of the contract with the Consultant, but the Contract Administrator may not vary the terms or conditions of the contract with the Consultant.

1.7 **County Administrator** means the administrative head of County appointed by the Board.

1.8 **County Business Enterprise or CBE** means a small business certified as meeting the requirements of the Broward County Business Opportunity Act of 2012, Section 1-81, Broward County Code of Ordinances, as amended.

1.9 **County Project Representative** means the individual chosen by the County Administrator to serve as the client representative for the Board and to consult with and conduct joint meetings with the City Project Representative and Contract Administrator to review Project management and contract administration services ancillary to the Consultant's contract for Project Services.

1.10 **Government Center Campus or Campus** means the buildings, ancillary and accessory facilities, improvements, and common elements that will be shared or occupied by County and City on a site to be jointly selected by County and City.

1.11 **Notice to Proceed** means a written authorization to proceed with the Project, phase, or task issued to the Consultant by the Contract Administrator.

1.12 **Project** means the development of a joint Government Center Campus by the Parties on a portion of the property currently occupied by Broward County Transit at 101 NW 1st Avenue, Fort Lauderdale, Florida 33311.

1.13 **Project Services** means all work required by the Consultant for the Project, as more particularly identified in the solicitation(s) for the Consultant and which shall be specified in a separate contract between County and the Consultant.

1.14 **Unified Direct Procurement Authority** means the joint procurement agency for the Project, constituted by the full membership of the Board and City Commission.

ARTICLE 2 **OBLIGATIONS OF PARTIES**

2.1 It is the intent of the Parties to jointly develop a Government Center Campus that will be occupied by both County and City. The Campus will consist of common elements and a single building containing dedicated space for each Party. The purpose of this Agreement is to establish both the intent of the Parties to collaboratively pursue the Project, and the initial terms of engagement between the Parties, including the procurement authority and processes for the solicitation of Project Services.

2.2 In order to allow for the creation of the Unified Direct Procurement Authority ("UDPA") and the cooperation contemplated by this Agreement, each Party shall take such action as is necessary for that Party to waive its procurement requirements as they pertain to the Project. Within thirty (30) days after the Effective Date (as defined below) of this Agreement, County will appoint the Board as the direct purchasing authority for County, and City will appoint the City Commission as the direct purchasing authority for City. The Board and the City Commission will jointly serve as the UDPA for the procurement of Project Services by a Consultant. In addition, the UDPA shall be empowered to procure such additional Project Services subsequent to the needs assessment and design criteria package phase.

2.3 The competitive solicitation of a Consultant to perform the Project Services shall be issued and administered by County using such procurement rules and processes as determined by the Parties to be in their mutual best interests, in accordance with the requirements of Florida law, and consistent with this Agreement. County staff and City staff will jointly recommend to the UDPA the method and process for the competitive solicitation of proposals, letters of interest, or other appropriate procurement methods for the Project Services ("Solicitation") prior to issuance of any Solicitation. In the event County staff and City staff are unable to agree upon a recommended method for the Solicitation, the determination will be made by the UDPA. In the event the UDPA is unable to agree upon the method of the Solicitation, either party may terminate this Agreement for convenience in accordance with the requirements of Article 6. Upon an approval of the Solicitation by the UDPA, County will issue the approved Solicitation and administer the approved procurement process.

2.4 Upon opening of the vendor responses to the Solicitation, County will promptly provide copies to City. County Project Representative and City Project Representative will jointly coordinate review of the Solicitation responses with County staff and City staff, recommendations of responsiveness and responsibility to the UDPA, and preparation of

an evaluation matrix for the UDPA. County's Purchasing Division will provide administrative support to the County and City Project Representatives. County's Purchasing Division will provide the vendor responses, any joint recommendations of responsiveness and responsibility, and the evaluation matrix to the UDPA. The UDPA will select the Consultant in accordance with the requirements of Section 2.7.

2.5 Within ten (10) days after selection of the Consultant by the UDPA, the County Administrator and the City Manager will each appoint representatives to a negotiation committee that will, with the assistance of the County Attorney and the City Attorney, negotiate the terms and conditions of the contract to be entered into between County and the Consultant. The composition of the negotiation committee and the number of representatives of each party will be determined by the County Administrator and City Manager. The contract with the Consultant will be on a form prepared by and approved by the County Attorney with input from the City Attorney, and the proposed final form of the negotiated contract must be approved by the UDPA prior to award of the contract. The contract with the Consultant must comply with all applicable requirements of the Broward County Code of Ordinances, including applicable CBE requirements.

The contract with the Consultant shall name City as a third-party beneficiary. The contract will provide that either Party will have the right, at its own expense, to have the Consultant provide optional services to supplement the needs assessment and design criteria package services. Any such work authorization for optional services shall be reviewed and issued by County pursuant to the contract with the Consultant.

2.6 The County Administrator shall appoint the Contract Administrator with the written consent of the City Manager, which consent shall not be unreasonably withheld or delayed. The County Administrator shall appoint the County Project Representative. The City Manager shall appoint the City Project Representative. County will perform the Project management and contract administration services for the Project through its Contract Administrator. Both the City Project Representative and County Project Representative shall meet with the Contract Administrator no less frequently than every two (2) weeks to review Project management and contract administration services. In the event there is disagreement among the Contract Administrator, the County Project Representative, and the City's Project Representative with respect to material issues relating to Project management and contract administration services, such material issues shall be submitted to the UDPA in a timely manner for appropriate resolution. County will set up a SharePoint site to post all Project documentation and will provide City with access to the site.

2.7 The selection of the Consultant, and all other approvals, consents, and actions of the UDPA required under this Agreement, require the affirmative majority vote of the Board and the affirmative majority vote of the City Commission, sitting as the UDPA. All decisions of the UDPA will be valid only if the decision is made by majority vote described herein at a joint meeting of the Board and City Commission sitting as the UDPA.

ARTICLE 3
TERM AND TIME OF PERFORMANCE

3.1 The term of this Agreement shall commence upon the date this Agreement is executed by the last of the Parties to execute (the "Effective Date") and shall terminate five (5) years after the Effective Date, unless sooner terminated. Any financial obligations of any Party accruing prior to the date of termination of this Agreement shall survive the termination of this Agreement.

3.2 Time shall be deemed to be of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

ARTICLE 4
COSTS AND FEE SHARING

4.1 Except as to work authorizations addressed in Section 2.5 (second paragraph), County and City shall equally share and each contribute fifty percent (50%) to the Consultant's compensation for its performance of the Project Services. The Parties agree and state their intent to discuss, negotiate, and agree upon an appropriate apportionment of the Consultant's compensation for Project Services subsequent to the needs assessment and design criteria package phase, if any, and that apportionment shall be evidenced by an amendment to this Agreement or a separate interlocal agreement, as elected by the Parties.

4.2 The Consultant's invoices will be submitted to County. County may submit invoices to City for City's share of the Consultant's compensation on a monthly basis. City shall pay County within fifteen (15) calendar days after receipt of County's invoice for City's share of the Consultant's compensation.

ARTICLE 5
LIABILITY

5.1 County and City are public entities subject to Section 768.28, Florida Statutes. Each party shall be individually and separately liable and responsible for the actions of its officers, agents, and employees in the performance of their respective obligations under this Agreement.

5.2 County and City shall each individually defend any action or proceeding brought against their respective agency pursuant to this Agreement, and shall be individually responsible for all of their respective costs, attorneys' fees, expenses, and liabilities incurred as a result of any such claims, demands, suits, actions, damages, and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments; or decrees that may be entered as a result thereof, including appellate proceedings.

5.3 County and City agree that, solely as between the Parties, no indemnification or hold harmless agreement shall apply or otherwise be in effect concerning any claims,

demands, damages, and causes of action that may be brought against either Party relating to this Agreement.

5.4 Upon request, each Party shall furnish the other with written verification of liability protection in accordance with Florida law. In the event a party elects to purchase excess liability coverage, the other Party shall be named as an additional insured and certificate holder under such policy, and the other Party shall be notified and provided evidence of the insurance coverage.

5.5 Notwithstanding the provisions contained herein, and except to the extent sovereign immunity may be waived by entering into this Agreement, neither Party waives its sovereign immunity or any aspect thereof, nor any other rights and privileges as provided in Section 768.28, Florida Statutes. Except as otherwise set forth in this Agreement, each Party's liability to the other shall be limited to direct damages and shall exclude liability for special, indirect, punitive, or consequential damages.

ARTICLE 6 **TERMINATION**

6.1 In the event either Party defaults on any of the terms, obligations, restrictions, or conditions in this Agreement, the aggrieved Party shall give the defaulting Party written notice of the default and opportunity to correct a monetary default within ten (10) business days, or nonmonetary default within thirty (30) days, after written notice of default (or, if corrective action of a nonmonetary default is not reasonably capable of completion within thirty (30) business days, actions taken to correct such default shall be commenced within thirty (30) business days after written notice), and the defaulting Party shall diligently and promptly prosecute such corrective measures to completion. In the event the defaulting Party has failed to correct the condition(s) of the default or the default is not remedied within the applicable cure period after notice of default, the Party having given notice of default shall have all legal remedies available to it, including, but not limited to, termination of the Agreement upon thirty (30) days' written notice of termination to the other Party, in which case the defaulting Party shall be liable for any and all damages permitted by law arising from the default and breach of the Agreement. The Parties agree that if this Agreement is erroneously, improperly, or unjustifiably terminated for cause, such termination shall be deemed a termination for convenience, which shall be effective sixty (60) days after such notice of termination for cause is provided.

6.2 Subject to the limitation set forth below in this section, either Party may terminate this Agreement for convenience by providing written notice to the other Party. Notice of termination for convenience must state that the Agreement is being terminated for the convenience of the terminating Party and the effective date of termination, which shall not be less than sixty (60) days after the date of notice of termination. Each Party acknowledges and agrees that it has received good, valuable, and sufficient consideration from the other, the receipt and adequacy of which are hereby acknowledged, for the right to terminate this Agreement for convenience.

6.3 This Agreement may be terminated at any time by mutual written agreement of the Parties.

6.4 In the event this Agreement is terminated for any reason or for convenience, City shall pay County the amount of City's financial responsibility for any Project Services performed by the Consultant through the effective date of termination.

ARTICLE 7 **EEO COMPLIANCE**

No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Failure to comply with the foregoing requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the compliant party deems appropriate.

ARTICLE 8 **MISCELLANEOUS**

8.1 Rights in Documents and Work. Any and all reports, photographs, surveys, and other data and documents provided or created in connection with the Project are and shall remain the property of the Parties.

8.2 Public Records. The Parties are public agencies subject to Chapter 119, Florida Statutes, and, to the extent applicable, the provisions of Section 119.0701, Florida Statutes, are deemed incorporated as if fully set forth herein.

8.3 Independent Contractor. The Parties are independent contractors under this Agreement. Neither County nor City, nor the agents of either, shall act as officers, servants, employees, or agents of the other Party relating to the Project, the Consultant, or this Agreement, unless expressly authorized herein. Neither of the Parties shall have the right to bind the other Party to any obligation not expressly authorized by or undertaken under this Agreement.

8.4 Third-Party Beneficiaries. Neither County nor City intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement. Nothing in this Agreement, express or implied, is intended to (i) confer upon any entity or person other than the Parties and their successors or assigns any rights or remedies under or by reason of this Agreement as a third-party beneficiary or otherwise, except as specifically provided in this Agreement; or (ii) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement.

8.5 Notices. Whenever either party desires to give notice to the other, such notice must be in writing, sent by United States Mail, postage prepaid, commercial

express carrier, or by hand delivery, with a simultaneous copy sent via electronic mail, and addressed to the party for whom it is intended at the place last specified. Notice shall be effective when sent or hand delivered, provided that a simultaneous electronic mail copy is also sent. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following:

For County: Broward County Administrator
Board of County Commissioners
Governmental Center, Suite 409
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7000
Telecopier: (954) 357-7360

With copy to: Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

For City: City of Fort Lauderdale
Attention: City Manager
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

With copy to: City of Fort Lauderdale
Attention: City Attorney
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

8.6 Assignment and Performance. Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party. Either Party may terminate this Agreement, effective immediately, if there is any assignment, or attempted assignment, transfer, or encumbrance of this Agreement or any right or interest herein without the other Party's written consent.

8.7 Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important

to the formation of this Agreement, and each is, therefore, a material term of this Agreement. A Party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. Any waiver must be in writing signed by an authorized signatory of the waiving Party.

8.8 Compliance with Laws. Each Party shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

8.9 Severance. In the event any part of this Agreement is found to be invalid or unenforceable by any court of competent jurisdiction, through any filed appeal, that part shall be deemed severed from this Agreement, and the remaining provisions shall continue to be in full force and effect.

8.10 Joint Preparation. Each Party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any Party.

8.11 Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either Party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, CITY AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

8.12 Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by County and City or others authorized to execute same on their behalf.

8.13 Prior Agreements. This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The Parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the Parties agree that no deviation from the terms

hereof shall be predicated upon any prior representation or agreement, whether oral or written.

8.14 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference.

8.15 Representation of Authority. County and City each represent and warrant to the other Party that this Agreement constitutes a legal, valid, binding, and enforceable agreement, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that the Party has with any third party or violates any law, rule, regulation, or duty arising in law or equity applicable to the party. County and City each further represent and warrant that execution of this Agreement is within their legal powers, and each individual executing this Agreement on behalf of the Party is duly authorized by all necessary and appropriate action to do so and does so with full legal authority.

8.16 Multiple Originals and Counterparts. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

8.17 Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. All references to "days" shall constitute calendar days, unless otherwise expressly stated. Any approvals required under this Agreement must be in writing signed by an authorized signatory of the party giving the approval.

Remainder of this page is intentionally blank.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Interlocal Agreement: 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 [redacted] day of [redacted], 20[redacted], and CITY OF FORT LAUDERDALE, signing by and through its [redacted], duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

By: _____
Mayor

[redacted] day of [redacted], 20[redacted]

Insurance requirements approved by
Broward County Risk Management
Division:

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: _____

By: _____
[Name] (Date)
Senior Assistant County Attorney

Name: _____

Title: _____

By: _____
[Name] (Date)
Deputy County Attorney

MJK/tb
Joint Government Center Campus
04/05/19
File

INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF FORT LAUDERDALE FOR A JOINT GOVERNMENT CITY CAMPUS

CITY

CITY OF FORT LAUDERDALE

WITNESS:

Print or type name

By _____
City Manager

ATTEST:

APPROVED AS TO FORM:
Alain E. Boileau, City Attorney

Jeffery A. Modarelli, City Clerk
Attorney

By _____
Robert B. Dunckel, Assistant City