



LEE COUNTY

SOUTHWEST FLORIDA

REQUEST FOR PROPOSALS

FOR

**\$3,700,000 TERM LOAN
SPECIAL ASSESSMENTS PROGRAM**

PROJECT #: TLP-1502

Distributed: December 4, 2015
Responses Due: January 6, 2016

Distributed on behalf of Lee County, Florida by

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**LEE COUNTY, FLORIDA
REQUEST FOR PROPOSALS
TERM LOAN – SPECIAL ASSESSMENTS PROGRAM**

I. Introduction

A. Objectives

The objective of this request for proposals (the “RFP”) is to identify the institution that can best provide Lee County, Florida (the “County”) with a fixed rate, term loan program (the “Term Loan Program”) at the lowest overall borrowing cost, pursuant to certain conditions. This Term Loan Program will be used to fund the acquisition and construction of various improvements within the boundaries of specified Municipal Services Benefit Units (the "MSBUs") within the County over the next two (2) years. Timing of specific loans have not been determined at this time but a list of proposed project are detailed in this RFP for an estimated borrowing amount of \$3,700,000.

Each loan (a “Term Loan”) under the Term Loan Program, will be secured by non-ad valorem special assessments (the "Assessments") levied against property owners within the particular MSBUs and collected by the County Tax Collector on the ad valorem tax bills pursuant to the Uniform Assessment Collection Act. The Term Loan may, at the option of the County, be additionally secured by the County's covenant to budget and appropriate other legally available non-ad valorem revenues to make up deficiencies in the event that Assessment revenues are insufficient to repay amounts due under the terms of the Term Loan.

The County is anticipating proposals will not request capital adequacy, cross default, acceleration or other interest rate adjustment language with respect to changes to tax law. The only interest rate adjustment provision the County will consider is an adjustment to an agreed upon fixed taxable rate in the event the applicable financing or inactions is determined to be taxable or non-bank qualified solely as a result of actions or inactions of the County.

The County is requesting a Term Loan Program that will be in effect for a two (2) year period. During the Term Loan Program, the County anticipates closing various loans for MSBU projects such as road improvements, water and sewer collection systems, lighting, dredging, etc. This RFP is structured to allow for a comprehensive program that will cover the variety of the possible amounts and maturities for the several projects. The County has a working list of proposed projects that it currently anticipates will be financed during the next two years (costs are estimates only and do not assume prepayments) but has not been confirmed at this time. The list is as follows:

Proposed Projects	Cost Estimated
Marina Cir/Coral Cir- Channel Dredge-	\$ 262,000
Green Meadow Road- Road Paving	980,000
Heritage Farms- Drainage improvement/ Water & Sewer	1,800,000
Welborn Road- Paving & Drainage	100,000
Pine Glen- Drainage	<u>522,000</u>
Total	\$ 3,664,000.00

B. Proposal Instructions

1. Sealed Proposal

Four (4) copies of the response to this RFP should be submitted on or before **2:00 P.M. on Wednesday, January 6, 2016** per the following instructions:

Lori Borman
Principal Management Analyst
Lee County
2115 Second Street, 4th Floor
Fort Myers, FL 33901

The County reserves the right to reject any and all proposals, to waive any informalities or irregularities in any proposals received, to re-advertise for proposals, or take any other such actions that may be deemed to be in the best interest of the County.

2. Proposal Response

Each proposal should address all pertinent areas and be specific. Any conditions should be clearly stated.

The failure to disclose substantive terms, conditions and covenants may be considered cause for the Proposer's proposal to be rejected by the County.

3. Questions, Additional Information

Proposers, their agents and/or associates shall refrain from contacting or soliciting any member of the Board of County Commissioners, County staff or the County's Financing Team regarding this RFP during the selection process. Failure to comply with this provision may result in the disqualification of the Proposer. All requests relating to clarifications or additional information are to be directed to Dunlap & Associates, Inc., the County's Financial Advisor, at the above mentioned address.

The Financial Advisor may choose, at its sole discretion, to redirect such requests to other members of the County's Financing Team. However, all initial requests should be directed to the Financial Advisor.

4. Tentative Schedule

The County will attempt to adhere to the following schedule:

December 4, 2015	RFP Issued
January 6, 2016	Written responses due prior to 2:00 P.M.
January 14, 2016	Evaluation Committee Review – The County anticipates BOCC selection to occur within 60 days of the due date. Therefore, proposals shall be valid for at least 60 days from the due date.
February 18, 2016	Closing on Term Loan

The County reserves the right to alter scheduled dates if necessary.

C. Security for Term Loan

Amounts due under a Term Loan will be payable from and secured, by the proceeds of the assessments levied against property owners within the MSBU in which the financed improvements are to be made. The Assessments will be included as a line item on each property owner's property tax bill and will be collected by the County Tax Collector pursuant to the Uniform Assessment Collection Act. The Assessments will be set at levels sufficient to pay the debt service requirements of the applicable Term Loan as well as all costs associated with the collection of the Assessments. Under the terms of the initial Special Assessment Resolutions, the Assessments will also be set at levels which assume debt service at an interest rate one full percentage point (100 basis points) in excess of the actual interest rate on the Term Loan. Finally, the Assessments will be set at levels which will account for the maximum four percent (4%) discount allowable for early payment of property taxes.

Taxes on real and personal property become delinquent on April 1 of each year. The County Tax Collector is obligated to advertise and sell tax certificates for any and all real property tax delinquencies, including the Assessments, within 45 days of the delinquency, and after May 1 the property is subject to warrant, levy, seizure and sale after 2 years of unpaid taxes. Such tax certificates must be in amounts not less than the amount of the delinquency plus interest at the annual rate of 18% through the date of the sale. Tax certificates not sold at auction revert to County ownership.

Florida State law provides that tax liens are superior to all other liens, except prior in time U.S. Internal Revenue Service liens. The Uniform Assessment Collection Act is set forth in Sections 197.636 and 197.3635, Florida Statutes

The Term Loan may also be additionally secured by a County covenant to appropriate in its annual budget (by amendment, if necessary) legally available non-ad valorem revenues in amounts sufficient to make up any deficiencies in the event that Assessment revenues are insufficient to repay amounts due under the terms of the Term Loan. The decision of whether to include such covenant to budget and appropriate legally available non-ad valorem revenues will be made by the County based upon each Term Loan.

D. Structure of the Financing

The following describes the County's requirements in establishing the Term Loan Program:

1. Amount: \$5 million (Each individual draw/loan will be determined at later date as projects are being proposed and developed over the next two (2) years.)
2. Rate: Fixed, tax-exempt rate on a bank qualified or non-bank qualified basis. The rate quoted may not exceed the maximum rate permitted under Florida Statute 215.84 applicable at the time of sale.
3. Repayment Provisions: Interest payments on the outstanding principal balance of each Term Loan will be calculated on a 30/360-day basis and will be paid semiannually on May 1 and November 1 of each year. In most instances, the first interest payment will be capitalized and payable from proceeds of the Term Loan. The principal amount of each Term Loan will be payable annually on May 1 of each year through the final maturity of the Term Loan. The principal amortization schedule of the Term Loan will be structured to achieve approximately equal annual principal payments (net of any capitalized interest) in each of the years ended May 1 at an assumed rate of interest which is 100 basis point higher than the actual interest rate on the Term Loan.
4. Prepayment: The County is requesting that the interest rates be proposed on the basis of either of the following two options of prepayment provisions:
 - (a) Each Term Loan is subject to prepayment (without penalty) in whole or in part at any time following five (5) business days notice by the County.
 - (b) Each Term Loan is subject to prepayment with prepayment language.

E. Qualified Tax-Exempt Obligation

The County will take such actions as may be required by Treasury regulations in order to maintain the status of a Term Loan as a "qualified" tax-exempt obligation pursuant to the Internal Revenue Code, if such Term Loan is issued as such.

The County shall furnish, without charge to the successful Proposer, the opinion of Nabors, Giblin & Nickerson., Lee County's Bond Counsel, approving the legality of a Term Loan and tax-exempt status of such Term Loan together with the closing certificates and documents related to the transaction.

F. Conditions

The County does not expect that proposals will require reserve requirements, minimum coverage requirements or other restrictions with respect to the assessments or requirements to maintain minimum balances in any bank account as a condition for any Term Loan. If there are such conditions, they must be detailed in the response.

The County does not anticipate that any proposal will include capital adequacy, cross default, acceleration or other interest rate adjustment language with respect to changes to tax law. The only interest rate adjustment provision the County will consider is an adjustment to an agreed upon fixed taxable rate in the event the applicable financing or inactions is determined to be taxable or non-bank qualified solely as a result of actions of the County.

II. EVALUATION OF PROPOSALS - CRITERIA

Proposals will be evaluated on the basis of cost and compliance with the proposed structure and terms of the Term Loan as outlined in this RFP.

A. Proposal Format

In order to assist the County in reviewing proposals, each proposal shall be prepared utilizing the following format and headings:

1. Contact Information - State the legal name of the financial institution or firm, current principal business address, contact person, telephone and facsimile numbers.
2. Interest Rate - State the fixed rates being proposed as follows:
 - a. Non-Bank Qualified - Secured by Assessments Only
 - b. Non-Bank Qualified - Secured by Assessments and Covenant to Budget and Appropriate Legally Available Non-Ad Valorem Revenues

- a. Bank Qualified - Secured by Assessments Only
- b. Bank Qualified - Secured by Assessments and Covenant to Budget and Appropriate Legally Available Non-Ad Valorem Revenues

Please state the above rates for the following loan amounts and maturities:

Loan Amounts*

- \$0 - \$500,000
- \$500,001 - \$1,000,000
- \$1,000,001 - \$1,500,000
- \$1,500,001 - up

Maturities

- 5 year
- 10 year
- 15 year
- 20 year
- Terms less than the request maturities such as 8 year term (Discuss how that rate will be determined.)

The County is requesting a rate indicator (index) that may be tracked on a daily basis, with the actual interest rate for each loan being set three (3) business days prior to the closing date for that specific loan. Interest will be payable as discussed under Section D., "Structure of the Financing" above.

Provide the basis for the interest rate calculations and provide a detailed example of such calculations. Include a separate calculation for each of the interest rate scenarios outlined above.

- 3. Fees and Expenses - Describe in detail all fees and expenses which the County will be responsible to pay to the Proposer, if selected. The amounts stated in the proposal shall represent the maximum amounts payable to the Proposer by the County. All fees and expenses in excess of those stated in the proposal shall be the sole responsibility of the Proposer and will not be paid or reimbursed by the County.
- 4. Provide a listing of all conditions, terms or restrictions, other than those specified in this RFP, which would be included in your commitment to provide the Term Loan, such as any changes to interest rates or "breakage fees" for the failure to close. No acceleration requirements upon event of default will be permitted.
- 5. References - Three most recent similar Florida financing agreements. Describe in detail with contact name and telephone number.

6. Provide the firm's long-term senior debt ratings from Moody's, Standard & Poor's and/or Fitch. Has your firm received any rating actions within the last 12 months?
7. Provide a brief firm history and overview including ownership, size, capital position and location of the office responsible for providing the required debt services.
8. Interested Proposers may submit additional options.
9. The County will shortlist the bidders and the selection of the bank will take into account their willingness to amend any exiting loans with the County that have acceleration provisions or any potential for cross-default due to breached covenants favoring the lender over existing bondholders, including most favored nations clauses. Please state any County loans that are outstanding with your firm that includes the aforementioned conditions and if your firm is willing to amend those conditions.
10. Please confirm that the Proposer will not request capital adequacy, cross default, acceleration or other interest rate adjustment language with respect to changes to tax law. The only interest rate adjustment provision would be an adjustment to an agreed upon fixed taxable rate in the event the applicable financing or inactions is determined to be taxable or non-bank qualified solely as a result of actions of the County. If the Proposer has such requirements, please detail in response.

III. INSTRUCTIONS TO PROPOSERS

- A. Proposers shall thoroughly examine and be familiar with the proposal specifications. Failure of any Proposer to receive or examine this document shall in no way relieve any Proposer of obligations pertaining to this proposal or the subsequent contract.
- B. Any changes or modifications to the proposal specifications may result in the rejection of the proposal as not being responsive to this RFP. Additional terms and conditions included with the RFP response may be evaluated or considered. If submitted either purposely through intent or design or inadvertently appearing separately in transmittal letters, specifications, literature, price lists or warranties, it is understood and agreed that the general and special conditions in this proposal solicitation are the primary conditions applicable to this RFP. Any and all such additional terms and conditions will have secondary force and effect and are as they meet the County's needs applicable.
- C. The responsibility for delivering the proposal to the County on or before the specified date and time will be solely and strictly the responsibility of the

Proposer. The County will in no way be responsible for delays caused by the United States Post Office or a delay caused by any other occurrence. Offers by telephone or fax will not be accepted.

- D. The response deadline will be strictly observed. Under no circumstances will a proposal delivered after the time specified be considered. Such proposals will be returned to the Proposer unopened.
- E. Proposers will not be allowed to withdraw or modify their proposals for a period of **sixty (60)** days after the opening time and date.
- F. The County reserves the right to reject the proposal of any Proposer who has previously failed in the proper performance of a contract or to deliver on time other contracts similar in nature, or who is not in a position to perform properly under this contract.
- G. Federal, state, county and local laws, ordinances, rules and regulations that in any manner affect the items covered herein will apply. Lack of knowledge by the Proposer will in no way be a cause for relief from responsibility under the laws or Rules in effect.
- H. No successful Proposer may assign any portion of the contractual agreement between the parties without prior written authorization from the County. If approved, the Proposer may transfer the Note or enter into participation agreements or securitization transactions with respect to the Note; provided, however, the Note must be in minimum denominations of \$100,000 upon any such transaction.
- I. Changes to the RFP may be made by and only at the sole discretion of the County.
- J. Public Entity Crimes Form - Each Proposer shall complete the Public Entity Crimes Form (Exhibit A) and shall submit the same with the proposal. The County considers the failure of the Proposer to submit this document to be a major irregularity and may be cause for rejection of the proposal.
- K. Warranties - The Proposer, in submission of its proposal, warrants to the County that it will comply with all applicable federal, state and local laws, regulations and orders in providing the services under the proposed documents.
- L. Negotiation - After a finalist is selected, the County will negotiate an agreement that will be in the County's best interest. The Agreement will cover all aspects of the proposal described herein.

IV. OTHER INFORMATION

- A. The County reserves the right to accept or reject any and all proposals, to waive any irregularities or informalities in any proposal or in the proposing and to accept or reject any items or combination of items in any proposal. The award will be made to the institution whose response complies with all of the requirements set forth in this RFP and whose proposal, in the sole opinion of the County, is in the best interest of the County taking into consideration all aspects of the Proposer's response.

- B. In the event that the successful Proposer does not execute a contract within a timeframe acceptable to the County, the County may give notice of its intent to award the proposal to the next most qualified Proposer or to call for new proposals and proceed accordingly.

**SWORN STATEMENT UNDER SECTION 287.133 (3) (A)
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

This form must be signed in the presence of a Notary Public or other Officer authorized to administer oaths.

1. This sworn statement is submitted to:

(Print name of the Public Entity.)

by:

(Print individual's name and title.)

for:

(Print name of Entity submitting sworn statement.)

whose business address is:

and, if applicable, its Federal Employer Identification Number (FEIN) is

(If the Entity has no FEIN, please include the Social Security Number of the individual signing this sworn statement):

2. I understand that a "public entity crime" as defined in Paragraph 287.133 (1) (g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133 (1) (b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133 (1) (a), Florida Statutes, means:
- a) A predecessor or successor of a person convicted of a public entity crime; or,
 - b) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133 (1) (e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. *(Please indicate which statement applies.)*

_____ Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings, and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. *(Please attach a copy of the final order.)*

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH ONE (1) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

Signature

Date

STATE OF _____

COUNTY OF _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority, _____ who, after first being sworn by me, affixed his/her signature in *(Name of individual signing.)*

the space provided above on this _____ day of _____, 2016

NOTARY PUBLIC

My commission expires:

