December 6, 2021

Re: Rickenbacker Causeway RFP and Recent Memoranda

Dear Mayor Cava, Chairman Diaz and Members of the Board of County Commissioners:

On behalf of the Plan Z Consortium, we wish to respond to the recently released "Value for Money" (VfM) analysis of the Rickenbacker Causeway project, the Mayor's November 19, 2021 "Option Memo", as well as Commissioner Regalado's Memo of November 23, 2021. It is apparent that rumor and speculation, in the absence of facts, have driven skepticism regarding the RFP process. Now that the VfM analysis has confirmed that the public-private partnership (P3) approach included in the RFP is the best option for the public for this project, we wish to separate myth from fact and encourage you to stay this course with this RFP, which is the only way to deliver this critical project within a reasonable timeframe.

Background

As a reminder, the Board of County Commissioners adopted a P3 ordinance in 2017 to encourage the private sector to invest in County infrastructure. The County's P3 ordinance establishes a process for the confidential submission of unsolicited proposals, and a clear and transparent process for this Board to approve the issuance of a competitive RFP for projects initiated by unsolicited proposals. The ordinance also ensures that unsolicited proposals will be kept confidential until after the procurement process is complete. The County's process was modeled after best practices used around the world to procure P3 projects and has already been successfully leveraged to procure significant privately-financed infrastructure projects, including the new courthouse.

The Plan Z Consortium invested heavily in preparing an unsolicited proposal in conformance with the County's P3 process to address a very clear infrastructure need in Miami-Dade County, including the replacement of the Bear Cut Bridge. The Bear Cut Bridge is long past its useful life and is more vulnerable than ever to severe storm events and climate change. The failure of this bridge would also cut off the only means of vehicular access to Key Biscayne. The Plan Z proposal also includes the raising and hardening of the Causeway to create critical resiliency against sea level rise, including critical safety improvements to address vehicular, bicycle and pedestrian safety, and creating new and improved parks and recreational facilities. Portions of the Plan Z proposal are the product of several years of public engagement, including meetings with numerous stakeholders, public exhibitions, and a website. The Plan Z Consortium remains motivated by our shared belief that upgrading the Rickenbacker Causeway is one of the County's most pressing challenges from an infrastructure and resiliency standpoint.

The Reality of the Project

Unfortunately, several residents in the community have expressed skepticism of the project, and the RFP's restrictions on communications with "key stakeholders" that are unaffiliated with Miami-Dade County (even though such a restriction is not part of the County's P3 ordinance and is not required by the Cone of Silence or any other provision of the County Code) has prevented us from engaging in any meaningful community outreach, as should be

the norm for any project of this importance. As a result, there has been an abundance of rumor and misinformation spreading throughout the community, ranging from the notion that the proposal would allow the Causeway to be commercialized with banquet halls and digital signage, to the idea that the proposal would not address traffic congestion for Key Biscayne, to the notion that tolls would be increased to $15 for non-Key Biscayne residents, or that resident passes would be discontinued. These assertions are all incorrect.

Although we cannot release our detailed unsolicited proposal, as that would obviously place us at a competitive disadvantage in the current or any future RFP process for this project, we can share the following details about the proposal that we intend to submit in response to the current RFP, if it is allowed to continue:

- The proposal preserves the resident and commuter passes.
- The proposal increases the toll for ordinary SunPass users by no more than two dollars (charged only on the incoming route, as is the case today), and the increase will be even less if federal funding becomes available.
- The proposal does not include any commercialization of the Causeway such as banquet halls or digital signage.
- The proposal addresses “free flow” of traffic between the mainland and Key Biscayne during special events and times of predicted congestion with dedicated travel lanes.
- The proposal includes safe overhead access for MAST Academy students and faculty to cross the roadway safely and unifies safe bicycle and pedestrian access to both sides of the causeway.
- The proposal addresses ALL MODES of travel without bias towards any and achieves Vision Zero objectives.
- The proposal delivers a **fully completed project** during a single accelerated phase.
- The proposal delivers a resilient and future proofed solution to the predicted sea level rise that will threaten the causeway
- The maintenance and operations of the facility will be the singular purpose of the consortium after completion and will be performed with vigilance for the duration of the term.
- The proposal creates additional equitably accessible park space that relieves the overcrowding along causeway road shoulders and in no way suggests use for special events
- And finally, aside from all the other benefits, safety and desirable access to this precious ring of parks and open spaces will be beautiful and worthy of critical acclaim because it pro-actively illustrates how issues can be resolved comprehensively.

Value for Money Analysis

Although the VfM analysis unambiguously confirms that a P3 solution for the Rickenbacker Causeway is the most effective way to deliver a viable project with the least amount of risk for Miami-Dade taxpayers, we are troubled by the courses of action recommended by the Mayor and Commissioner Regalado. As explained below, scrapping or further delaying the RFP process would needlessly prolong a critical infrastructure project and discourage future P3 proposals in Miami-Dade County.

It is abundantly clear that the Bear Cut Bridge is in dire straits and that the Rickenbacker needs drastic improvements to strengthen its resiliency in the face of sea level rise and flooding. Further, traffic concerns will only get worse if we – as a County – do not get serious about finding solutions to these problems.

Much of the opposition has been fueled by doubts as to whether a design-build-finance-operate-maintain (DBFOM) P3, as contemplated by the RFP, is the best method of funding and delivering this needed infrastructure project. The VfM study, however, independently confirmed that the DBFOM P3 model used by this RFP is the best possible approach for this project. The study summarized, on page 35:

> ***"The DBFOM model is the only model that minimizes the County's financial risks and financial obligations."***
>
> ***"Alternative financing and delivery options—DBB + M, DB + M, and DBFM—would create significant fiscal liabilities for the County and exposure to life cycle cost and toll revenue risks."***

Considering these conclusions, the logical response to the VfM is to continue the current procurement process. The RFP, which already requires a DBFOM solution, should be permitted to run its course so that proposals can be submitted and evaluated in accordance with the County's established competitive process. It should not be controversial for the County to follow its own process, especially now that an independent analysis has confirmed that the County's process is actually the best approach for this particular project.

The Mayor's and Commissioner Regalado's Memoranda

We have concerns about the Mayor's November 19th memorandum to the Board that accompanied the VfM analysis, as well as Commissioner Regalado's memorandum in response. The Mayor's memorandum to the BCC rightfully acknowledges that the DBFOM P3 delivery model outlined in the VfM delivers the best Value for Money for the County and is the only model that minimizes the County's financial risks and financial obligations. However, the specific recommendations in the memoranda from the Mayor and Commissioner Regalado are inconsistent with the VfM study itself, and are also inconsistent with the County's P3 ordinance and process. The recommendations in the two memoranda would needlessly delay or completely kill this critical infrastructure project.

The first option in the Mayor's memorandum, and supported in Commissioner Regalado's Memorandum, suggests that the RFP should be terminated and restarted at a later date. This option would damage the fairness of the current RFP process, or any future RFP process, and would substantially discourage anyone from using the P3 process to propose a project in the future, if for no other reason than the County would have terminated this RFP

without ever considering responses to the RFP. Moreover, terminating the process would result in the public disclosure of our unsolicited proposal before the commencement of a new process—therefore allowing the whole world to "cheat off our test." This would have a demonstrable chilling effect to future proposers and undermine Miami-Dade's P3 ordinance and process.

The second option in the Mayor's memorandum suggests that the RFP could be delayed and restructured to add another step to the process, and to add time to confirm federal funding availability, engage stakeholders, and conduct the required environmental permitting process. These recommendations are redundant given that the current RFP already contemplates and requires these elements. The RFP includes an Interim Agreement, for the stated purpose of further developing the design of the project with the benefit of stakeholder and community engagement, as well as to address any permitting requirements, which would be paid for by the winning bidder, not the County. Moreover, although the federal infrastructure bill became law only earlier this month, it has been anticipated for several months, and the RFP made very clear that the County intended to apply for federal funding to reduce the cost of the project. Each of the issues identified in the Mayor's memo—federal funding, stakeholder input, and the NEPA permitting process—is expressly addressed and contemplated in the current RFP.

Additionally, the federal infrastructure bill which the President signed into law, aims to directly increase P3 spending by tens of billions of dollars. The bill is also likely to dramatically increase the number of P3 projects by making hundreds of billions of dollars available for infrastructure improvements across the United States. The RFP smartly includes the intention to integrate potential federal infrastructure funding as matching funds that can help keep toll costs lower and achieve causeway design objectives. As a toll road, the Rickenbacker is the perfect site for a P3 project untethered to property tax dependency, and the added federal funds will liberate toll revenues to achieve all of the causeway's design objectives, while not impacting county debt service or property taxes.

That being said, since the Venetian Causeway has been removed from the RFP, opposition from the community has been fueled by concerns as to whether the project will address the need to mitigate traffic congestion getting to and from Key Biscayne and mainland Miami. While we don't believe this should be the singular focus of any Rickenbacker project, we completely agree these concerns are legitimate and can and should be addressed in the eventual project. We can assure you that the Plan Z Consortium is fully prepared to address those concerns in its response to the RFP, and we assume the same is true for any other responsible proposer. We would welcome the County amending the RFP to broaden its scope and criteria to specifically allow for proposers to include alternative concepts and financial proposals to address the stated Key Biscayne concerns, including, for example, the design of an overhead highway from the Powell Bridge all the way to Key Biscayne. Most importantly, we don't believe such an amendment would require any delay in the RFP process or delivery of this project.

In addition to broadening the scope, the following RFP modifications would clear up any misunderstandings:

- Lift the Key Stakeholder restrictions included in the RFP (and not required by the cone of silence) to allow a dialogue regarding the design program for the causeway

- Remove the digital signage and banquet hall language from the RFP Scope

- Clarify that this is “not a Privatization of Rickenbacker” but rather a public-private partnership designed to maximize public safety improvements to the causeway.

In fact, the Board already extended the deadline for submissions to a total of 198 days to allow proposers to adjust to the removal of the Venetian Causeway, and to await the delivery of the VfM study. But now that the VfM study is complete, and it has reaffirmed the wisdom of the approach in the RFP, there is simply no reason to delay the process any further. The RFP can even be amended to include the suggestions above related to a scope and criteria change that contemplates solutions specific to addressing the stated Key Biscayne concerns, and to remove the communications restriction for key stakeholders, without any further delay. Proposals are not due until March 1, and there is plenty of time for interested participants to prepare and submit a compliant proposal that addresses any amendments to the RFP.

The need for this project is greater than ever. The Bear Cut Bridge gets older by the day, and it is not going to replace itself. Hurricane season has just ended, but it will certainly be back next year, and the flooding and other climate-related impacts on the Causeway will only continue to get worse. And bicyclists continue to be forced to share the roadway with cars, and the results are too often tragic. It is incumbent on the County to treat this project with the importance it deserves. The County should move forward and pursue a solution to these long-overdue problems on the Rickenbacker Causeway – and we firmly believe that the current RFP process is the County’s best opportunity to bring solutions to the table.

Thank you for your continued consideration of this critically important project, and we hope to be able to soon submit a proposal for the County’s evaluation.

Sincerely,



Bernard Zyscovich
Plan Z Consortium



Jack Kardys
Plan Z Consortium

Cc: Hon. Daniella Levine Cava, Mayor
Clerk of the Board of County Commissioners