MEMORANDUM

Substitute
Agenda Item No. 11(A)(7)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: July 16, 2013

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution approving terms of and authorizing execution by County Mayor of Agreement between Miami-Dade County and the Florida International University Board of Trustees for development of District 11 strategic plan

The substitute differs from the original in that the resolution, the Agreement, and Appendix A to the Agreement have been revised to clarify that the strategic plan shall solely encompass the geographic area of Commission District 11.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Juan C. Zapata.

R. A. Cuevas, Jr.
County Attorney

RAC/lmp

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: July 16, 2013

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Substitute Agenda Item No. 11(A)(7)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

✓ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No. 11(A)(7)
7-16-13

RESOLUTION NO. _____

RESOLUTION APPROVING TERMS OF AND AUTHORIZING EXECUTION BY COUNTY MAYOR OR MAYOR'S DESIGNEE OF AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES FOR DEVELOPMENT OF A DISTRICT 11 STRATEGIC PLAN; DELEGATING TO COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE AUTHORITY TO EXERCISE CERTAIN CANCELLATION AND TERMINATION PROVISIONS; AND WAIVING APPLICATION OF USER ACCESS PROGRAM TO THE AGREEMENT IN ACCORDANCE WITH SECTION 2-8.10 OF THE CODE OF MIAMI-DADE COUNTY

WHEREAS, a strategic plan that includes, at a minimum, economic analysis, development recommendations, a general assessment of physical conditions, and development guidelines would assist the County in determining how best to spur economic development and maximize public resources and private investment in Commission District 11; and

WHEREAS, this Board finds that a strategic plan that evaluates and analyzes relevant data pertaining to Commission District 11 so as to use that information as a planning tool to, at a minimum, promote economic development, improve transportation and infrastructure, and provide needed housing serves a public purpose and is in the best interest of the County; and

>>**WHEREAS,** the Board wishes to authorize Florida International University to prepare a strategic plan solely for the geographic area encompassing Commission District 11; and<< [1]

WHEREAS, this Board wishes to approve the Agreement by and between the County and the Florida International University Board of Trustees (the "Contractor"), in substantially the form attached to this resolution and incorporated herein by this reference (the "Agreement"), for

[1] The differences between the substitute and the original item are indicated as follows: Words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< are added.

the development of a strategic plan >>solely<< for >>the geographic area encompassing<< Commission District 11 as detailed in the Agreement; and

WHEREAS, the services provided by the Florida International University Board of Trustees pursuant to the Agreement will be funded by Commission District 11 office funds in an amount not to exceed the lesser of: (a) $89,800; or (b) the difference between $89,800 and the aggregate amount of donations, grants, gifts or other amounts received by the Contractor or any of its affiliated entities, including non-profit corporations, which are directly attributable or properly allocable to fund the Services; and

WHEREAS, this Board finds that a waiver of the application of the County's User Access Program to this contract is in the best interest of the County,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The foregoing recitals are incorporated in this resolution and are approved.

Section 2. This Board hereby approves the terms of and authorizes the County Mayor or the County Mayor's designee to execute the Agreement, in substantially the form attached to this resolution and incorporated herein by this reference.

Section 3. The County Mayor or the County Mayor's designee shall have the authority to exercise such delegated authority as is specifically identified in the Agreement.

Section 4. This Board, finding that the waiver of the application of the User Access Program is in the best interest of the County, hereby waives the application of the requirements of Section 2-8.10 of the County Code to the Agreement.

The Prime Sponsor of the foregoing resolution is Commissioner Juan C. Zapata. It was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro	Esteban L. Bovo, Jr.
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of July, 2013. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. GBK

Geri Bonzon-Keenan

Date

Florida International University
11200 SW 8TH St., MARC 430
Miami, FL 33199-0001

Re: Contract No.
Title "District 11 Strategic Development Plan"

Dear Mr. Roberto Gutierrez:

This letter sets forth the terms of the agreement (the "Agreement") between Miami-Dade County (the "County") and The Florida International University Board of Trustees (the "Contractor") for the performance of services and delivery of deliverables in accordance with the terms and conditions as stated herein. This Agreement contains the entire agreement between the parties as to all matters contained herein. The Contractor shall provide services to the County >>solely for the geographic area encompassing Commission District 11<< in accordance with Appendix A, Scope of Services at the direction of and to the satisfaction of the County's Contract Manager (the "Services"). The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. Notwithstanding and prevailing over anything in this Agreement and its Appendices to the contrary, the Scope of Services does not include professional architectural, engineering, landscape architecture, or surveying and mapping services as defined in Section 287.055, Florida Statutes. The Contractor shall be paid as set forth in this Agreement.

1) DEFINITIONS

a. The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), and all other attachments hereto and all amendments issued hereto.
b. The word "Days" to mean Calendar Days.

2) CONTRACT TERM

The Contract shall become effective on the date of execution by all of the parties and shall be for the duration of seven (7) months. The County reserves the right to exercise its option to extend this Contract for up to one hundred eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

3) NOTICE REQUIREMENTS

All notices required or permitted under this Contract shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(i) to the County

Contract Manager:

Miami-Dade County
Internal Services Department
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Attention: Assistant Director, Procurement Management Services
Phone: (305) 375-5548
Fax: (305) 375-2316

(ii) To the Contractor

Florida International University
11200 SW 8th St., MARC 430
Miami, FL 33199-0001

Attention: Robert Gutierrez
Phone: 305-348-2494
Fax: 305-348-4117
E-mail: gutierrr@fiu.edu

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

4) ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

This Contract incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Contract, and that this Contract contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment approved by the County and Consultant. If there is a conflict between or among the provisions of this Contract, the order of precedence is as follows: 1) these terms and conditions and 2) the Scope of Services (Appendix A).

5) PRICING

Prices shall remain firm and fixed for the term of the Contract, including any option or extension periods; however, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any renewal or extension thereof.

6) PAYMENT

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor not funded by other sources of funds received by the Contractor or any of its affiliated entities, including non-profit corporations, which are directly attributable or properly allocable to the Services, the Contractor may bill the County periodically commencing November 1, 2013, but not more than once per month upon invoices certified by the Contractor. Notwithstanding and

prevailing over anything herein to the contrary, the amount due by the County under the terms of this Agreement shall be the lesser of: (a) $89,800; or (b) the difference between $89,800 and the aggregate amount of donations, grants, gifts or other amounts received by the Contractor or any of its affiliated entities, including non-profit corporations, which are directly attributable or properly allocable to fund the Services. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County and maintained by Contractor in its usual course of business, shall show the County's contract number, and shall have a unique invoice number assigned by the Contractor. It is the policy of Miami-Dade County that payment for all purchases by County agencies shall be made in a timely manner and that interest payments be made on late payments. In accordance with Florida Statutes, Section 218.74 and Section 2-8.1.4 of the Miami-Dade County Code, the time at which payment shall be due from the County shall be forty-five days from receipt of a proper invoice. The time at which payment shall be due to small businesses shall be thirty (30) days from receipt of a proper invoice. All payments due from the County, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by written decision of the County Mayor, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County.

Invoices and associated back-up documentation shall be submitted in duplicate by the Contractor to the County as follows:

Miami-Dade County
Internal Services Department
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Attention: Assistant Director, Procurement Management Services
Phone: (305) 375-5548
Fax: (305) 375-2316

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

7) TERMINATION FOR CONVENIENCE

The County or Contractor, at its sole discretion, reserves the right to terminate this contract without cause upon thirty (30) days written notice to the other party. Upon receipt of such notice, the Contractor shall not incur any additional costs under this contract. The County shall be liable only for reasonable costs incurred by the Contractor prior to notice of termination and, if terminated by the County, for non-cancelable commitments entered into by Contractor in furtherance of this contract prior to termination by the County.

8) TERMINATION FOR DEFAULT

The County reserves the right to terminate this contract, in part or in whole, or place the Contractor on probation in the event the Contractor fails to perform in accordance with the terms and conditions stated herein. The County further reserves the right to suspend or debar the Contractor in accordance with the appropriate County ordinances, resolutions and/or administrative orders. The Contractor will be notified by letter of the County's intent to terminate. In the event of termination for default, the County may procure the required goods and/or services from any source and use any method deemed in its best interest.

9) INSPECTOR GENERAL REVIEWS

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of

an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services. The terms of this provision apply to the Contractor, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor and their respective officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of this Agreement, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements from and successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

10) INDEMNIFICATION AND INSURANCE

To the extent permitted by and within the limitations of Fla Stat. Section 768.28, the Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, or principals . .

Upon County's notification, the Contractor shall furnish to the Internal Services Department, Procurement Management Division, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.

2. Pursuant to Fla. Stat. Section 1001.72, Contractor, a public instrumentality of the State of Florida, maintains insurance coverage under the State of Florida Risk Management Trust Fund, established pursuant to Chapter 284, Florida Statutes, and administered by the State of Florida, Department of Insurance.

11) VENDOR REGISTRATION AND CONFLICT OF INTEREST

The Contractor shall be a registered vendor with the County – Internal Services Department, Procurement Management Division, for the duration of this Agreement.

Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethics Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

12) LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement.

13) GOVERNING LAW

This Agreement, including appendices, and all matters relating to this Agreement (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be Miami-Dade County.

14) CONTINUATION OF WORK

Any work that commences prior to and will extend beyond the expiration date of the current contract period shall, unless terminated by mutual written agreement between the County and the Contractor, continue until completion at the same prices, terms and conditions.

15) ASSIGNMENTS

The Contractor shall not assign, transfer, hypothecate, or otherwise dispose of this contract, including any rights, title or interest therein or its power to execute such contract to any person, company or corporation without the prior written consent of the County.

16) ACCESS TO RECORDS

The County reserves the right to require the Contractor to submit to an audit by Audit and Management Services, the Commission Auditor or other auditor of the County's choosing at the County's expense. The Contractor shall provide access to all its records, which relate directly or indirectly to its Agreement at its place of business during regular business hours. The Contractor shall retain all records pertaining to this Agreement and upon request make them available to the County for three years following expiration of the Agreement. The Contractor agrees to provide such assistance as may be necessary to facilitate the review or audit by the County to ensure compliance with applicable accounting and financial standards.

The Florida International University
Board of Trustees

By: _____

Name: Robert Gutierrez

Title: Director, Pre-Award

Date: _____

Attest: _____
Corporate Secretary/Notary Public

Corporate Seal/Notary Seal

Miami-Dade County

By: _____

Name: _____

Title: _____

Date: _____

Attest: _____
Clerk of the Board

Approved as to form
and legal sufficiency

_____
Assistant County Attorney

Attachments: Appendix A
Appendix B

APPENDIX A
Scope of Services

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Mr. Bernardo Escobar
Chief of Staff, County Commissioner's Office
District 11, Miami-Dade County
Downtown Office
111 N.W. 1st Street, Suite 320
Miami, Florida 33128

Date 2013-04-02
Re: Strategic Development Plan DRAFT Proposal for District 11 Miami-Dade, Florida

Dear Mr. Escobar,

FIU by Design respectfully present our DRAFT proposal for planning and design services the District 11 Strategic Plan.

As per our last discussion of the potential scope of work for the proposed *District 11 Strategic Development Plan*, FIU by Design has restructured the project to deliver a more compact, tightly focused Strategic Development Plan. The District 11 Strategic Development Plan will fit within, and respond to the County's Comprehensive Plan for the District. The population of District 11 (213,839) is comparable to San Bernardino, CA; Scottsdale, AZ; and Orlando, FL. District 11 is larger than Tallahassee, FL and in close proximity to resources in the Miami metropolitan area. We look forward to working with the Commissioner's office to develop a strategic plan to foster success for an area with the potential to be a significant economic force and highly desirable place to live and work.

Proposed Scope of Services:

The sections outlined below constitute in sum the scope of the Strategic Development Plan proposed as the outcome of this study. This proposal includes the following work to be completed according to the schedule outlined:

1. Economic Analysis and Development Recommendations to be based on current available data. The analysis will include industry profiles, inventory and classification of local firms, market base study, public infrastructure and site planning needs, private capital needs, production technologies, supporting and complementary industries, workforce development needs, institutional support and demographics. We will focus on leveraging economic opportunity for the District that utilizes the strengths of the major stakeholders.

- Demographic Profile: Including population, household structure, race, income, and educational attainment.
- Housing: Current housing inventory, units, condition, value, and sales and foreclosure patterns.

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- Economy & Industry Profile: including, but not limited to gross employment, labor force composition, industry structure, classification of local firms, retail sales, and purchasing power.

After completing the base profile analysis, the Project Team will use the data to complete a benchmark analysis of the District against a set of comparable communities. Benchmarking is an efficient means of comparing key issues and establishing performance for community development.

2. General Assessment of Physical Conditions: The Project Team, using its own analysis as outlined in 1 will develop a detailed analysis of how those economic assets can be leveraged with the physical conditions to create economic and community development within the District. The part of the study will focus on:

- *Land Use*: including major neighborhoods and housing, commercial areas and significant institutions. This will focus on housing stabilization and market development.
- *Environment*: Streetscape, Parks, and important Greenways including physical design, landscape, and urban design issues aimed at improving livability, sustainable development, and physical and landscape design at key nodes designed to improve the identity and distinctiveness of the District's Neighborhoods.
- *Traffic and Circulation*: Roadway system, conditions, and volume; public transit routes and capacity; and sewer, water and power capacity.
- *Urban Conditions*: Density, design, circulation, connectivity and architectural image survey for the District's neighborhoods and composite communities.

3. Development Guidelines: using the collective data from the Economic Analysis and Development Recommendations and the General Assessment of Physical Conditions, the Guidelines will be phased as 5- and 10-year increments to allow strategic planning options. This part of the study focuses on Urban Design, Landscape and "Place-Making" that uses that data collected in study 1 and 2. The goals are to: 1) improve livability, generate sustainable development, improve the physical and landscape design, develop a distinctive identity for the District within the greater Miami area.

The Project Team will complete an interim report identifying a prioritized action agenda of key redevelopment projects, policies, design guidelines, and related strategies most critical and achievable from the results of tasks 1 and 2. The Strategic Action Agenda will include a discussion of each strategic action item's importance, potential impact, benefits, and cost. In addition, the Team will identify a prospective list of potential funding sources for each project suggested in the Strategic Action Agenda.

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- The Draft Strategic Development Plan will be submitted and working with the District Commissioner's Office, presented in a series of community open houses for review and comment.
- The Project Team will complete and submit the final Strategic Plan Document and associated presentation products to the County and District Commissioner's Office, reflecting the comments and review from the final community review process.

Schedule:

The FIU team will complete the work in six (6) months including one half-day meeting to begin the project and three interim meetings with the Commissioner's Office to review draft findings prior to submitting final documents.

Fee Basis:

The fee for the three-part Strategic Development Document will be a lump sum amount as follows:

Economic Analysis	$26,600	[28.3%]
Assessment of Physical Conditions	$25,600	[28.3%]
Place-Making Guidelines	$37,600	[43.3%]
Total Fee NTE $89,800		

The proposed study necessitates that all three components of the Strategic Development Document be completed. We are prepared to execute a standard contract prepared by Florida International University based on Terms and Conditions of work done within the Florida State system.

We would expect to be able to begin the study with an inaugural meeting of the FIU by Design team and the County within four weeks after we get your authorization to proceed.

Please feel free to contact Brian Schriner if you need clarification or further detail. If this DRAFT proposal meets with your approval, please sign and return one copy of this Letter of Authorization to acknowledge the County's review of the terms of the agreement.

We look forward to working with the County on this very exciting project to enhance and develop a thriving community through strategic planning.

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Sincerely

Winifred E Newman

cc: Brian Schriner FIU
Amir Mirman FIU
Javier Marques FIU