



DRAFT AGENDA

EXECUTIVE COMMITTEE MEETING SFRPC GENERAL COUNSEL AND EXECUTIVE DIRECTOR ANNUAL REVIEW

Monday, September 18, 2023 – 9:45 a.m. -10:30 a.m.

Join Zoom Meeting

<https://us06web.zoom.us/j/81768005536?pwd=ZzZTQnlzS29DVEY5QmViNjFYIUViUT09>

Meeting ID: 817 6800 5536

Passcode: 023080

Find your local number: <https://us06web.zoom.us/j/kclHeXNOYP>

- I. Pledge of Allegiance and Roll Call
- II. Approval Council Agenda
- III. General Counsel Annual Review
- IV. Executive Director Annual Review
- V. Executive Director Compensation for Unused Annual Leave (Addition)
- VI. Public Comment
- VII. Adjournment

Pursuant to Chapter 286.0105, Florida Statutes, if a person decides to appeal any decision made by the Council with respect to any matter considered at such meeting or hearing, he may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is based. Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the Agency at least 5 days before the hearing by contacting the South Florida Regional

Planning Council at one of the following: (1) One Oakwood Boulevard, Suite 250, Hollywood, Florida 33020; (2) Phone 954-924-3653; (3) Fax 954-924-3654; or (4) sfadmin@sfrpc.com. If you are hearing or speech impaired, please contact the Agency using the Florida Relay Service, 1 (800) 955-8771 (TTY/VCO), 1 (800) 955-8770 (Voice), 1 (800) 955-8773 (Spanish).

Agenda packets for upcoming Council meetings will be available at the Council's website, <https://sfregionalcouncil.org/meeting-materials/> ten days prior to the meeting.

If you would like to be added to the e-mail list to receive the link to the agenda, please e-mail the Council at sfadmin@sfrpc.com.



MEMORANDUM

AGENDA ITEM #III

DATE: SEPTEMBER 18, 2023

TO: EXECUTIVE COMMITTEE

FROM: STAFF

SUBJECT: LEGAL COUNSEL ANNUAL REVIEW / CONTRACT

Legal Counsel is customarily reviewed by the Executive Committee prior to the September Council Meeting where his contract renewal is considered. This year the Annual Review will be held at an Executive Committee meeting at 9:45 a.m. held immediately prior to the regular Council meeting. The review form is provided herewith for your information. All Council Members are welcome to attend.

Attached for your information is the Independent Contractor Professional Services Employment Contract between Legal Counsel and the South Florida Regional Planning Council. Paragraph 2.0 on page 1 stipulates that this contract shall commence on October 1, 2023, and terminate on September 30, 2024.

As full payment and compensation for Attorneys and for legal services, the Council shall pay the following rates: Partners - \$275.00 per hour; Associates - \$250.00 per hour; and Paralegals - \$ 150.00 per hour. This represents a slight increase from last year.

Recommendations

- Assess Legal Counsel's Performance.
- Renew Legal Counsel's Contract for 2023-2024.



South Florida Regional Planning Council
1 Oakwood Boulevard, Suite 250, Hollywood Florida 33020
954-924-3653 Phone, 954-924-3654 FAX
www.sfregionalcouncil.org

SOUTH FLORIDA REGIONAL PLANNING COUNCIL

MEMORANDUM

TO: Senator – Chair Steve Geller
Isabel Cosio Carballo, Executive Director

CC: Kathe Ann Lerch, Director of Administration

FROM: Samuel S. Goren, General Counsel *SSG*

DATE: August 11, 2023

RE: South Florida Regional Planning Council (“Council”) / Independent Contractor
Professional Services Employment Contract FY 2023/24

Attached for placement on the September agenda, please find the proposed 2023-2024 Independent Contractor Professional Services Employment Contract as General Counsel for FY 2023/24.

Please note I have included an increase in the hourly rate adjustment for authorized hourly billed legal work and which is subject to the Council Members approval at the September meeting.

Please contact our office if there is any additional information that we can provide.

SSG:kml
Enclosure

**INDEPENDENT CONTRACTOR PROFESSIONAL
SERVICES EMPLOYMENT CONTRACT**

THIS INDEPENDENT CONTRACTOR PROFESSIONAL SERVICES EMPLOYMENT CONTRACT is made and entered into in duplicate in Broward County, Florida, this ___ day of September, 2023 by and between the SOUTH FLORIDA REGIONAL PLANNING COUNCIL, a body corporate and politic and an agency of the State of Florida, hereinafter referred to as "SFRPC", being party of the first part, and SAMUEL S. GOREN, as a member of the law firm of Goren, Cherof, Doody & Ezrol, P.A., hereinafter referred to as "ATTORNEY", party of the second part.

IN CONSIDERATION of the mutual covenants and promises herein contained and the mutual exchange of other good and valuable consideration, the receipt of which is hereby acknowledged, it is mutually agreed, promises and covenanted as follows:

1.0 SFRPC does hereby agree to employ and accordingly does employ ATTORNEY, and ATTORNEY does hereby agree to accept and does accordingly accept employment by the SFRPC in the capacity of "General Counsel" of the SOUTH FLORIDA REGIONAL PLANNING COUNCIL, all in accordance with the terms and conditions and provisions of said employment as set forth hereinbelow.

2.0 The term of employment of ATTORNEY under this Contract, hence the term of this Independent Contractor Professional Services Employment Contract, shall commence on October 1, 2023 and terminate on September 30, 2024 the term of employment of ATTORNEY hereunder shall be for a period of twelve (12) months, unless the term of employment of ATTORNEY is earlier reduced or terminated pursuant to the early termination provision as set forth herein in numbered Paragraph 3 hereof.

3.0 This Independent Contractor Professional Services Employment Contract is terminable by either SFRPC or ATTORNEY at any time on thirty (30) days written notice to the other party. However, at ATTORNEY'S option, and if so requested by SFRPC, ATTORNEY may continue to provide the professional services contemplated herein pending the appointment/employment of his successor if such appointment/employment requires more than thirty (30) days, and provided that SFRPC exerts reasonable efforts during said thirty (30) days to seek and select his said successor.

In addition, the parties may terminate this Employment Contract at any time and on any agreed basis by mutual consent of all parties, the same reduced to writing and properly executed by all parties hereto. Likewise, the term of this Agreement may be extended at any time by mutual consent of all parties hereto, the terms of such extension being reduced to writing and executed by all parties hereto.

4.0 ATTORNEY, or a member of the law firm, agrees to personally attend all regular and special meetings of the SFRPC Council and to attend any meeting of any official SFRPC board,

committee or commission when specifically requested to attend and to perform any and all legal services, of whatever kind or nature, including office practice and litigation, required, in the opinion of the Attorney or requested of ATTORNEY by SFRPC for the SOUTH FLORIDA REGIONAL PLANNING COUNCIL and the agents, servants and/or employees thereof (when same are acting in their official capacity(s) on behalf of the SOUTH FLORIDA REGIONAL PLANNING COUNCIL) during the term of this Employment Contract, subject only to the following. All legal services to be performed by ATTORNEY hereunder shall be rendered at the request or direction of the majority of the SFRPC (meaning majority of Council sitting at the time that any vote is taken on a direction to request service from ATTORNEY) and/or the Executive Director; otherwise, ATTORNEY shall not be required to perform legal services for SFRPC except on his own initiative and at his own expense. Other legal fees and expenses that may be incurred are as follows:

4.1 Any litigation in which the SFRPC is a party plaintiff or a party defendant in either the Broward County Court, the Broward Circuit Court, or the United States District Court for the Southern District of Florida or any other administrative matter, or trial or appellate Court into which the SFRPC is summoned or petitions;

4.2 Any administrative hearings before any governmental/administrative bodies;

4.3 Co-Counsel activities with insurance counsel assigned by the SFRPC's insurance carrier when necessary and appropriate.

4.4 Real estate and related loan transactions.

For purposes of clarification and emphasis: This Independent Contractor Professional Services Employment Contract is, and is intended to be, a party specific agreement and shall be construed accordingly. The individual attorney with whom SFRPC contracts hereby shall be the sole and exclusive party to render services for, to and on behalf of the SFRPC pursuant to the terms hereof. Except with the specific concurrence and approval of the SFRPC Council, no substitution of counsel for ATTORNEY shall be permitted, except as expressly provided for herein.

The parties specifically recognize and understand that the ATTORNEY is a member of the law firm of Goren, Cherof, Doody & Ezrol, P.A., Fort Lauderdale, Broward County, Florida (the "Firm") and that several members of the Firm possess the requisite skill, competence and exposure in administrative/governmental practice. Specifically, therefore, and notwithstanding any of the foregoing, the rendition of services hereunder by an attorney from the Firm other than the specific attorney contracted with hereunder shall not be prohibited and shall be deemed to be in accordance with the provisions of Section 112.313, Florida Statutes, as amended from time to time, including, litigation and support services otherwise described and permitted by the aforesaid Statute.

5.0 As full payment and compensation for ATTORNEYS and for all legal services hereunder, SFRPC shall pay to ATTORNEY and ATTORNEY agrees to accept from SFRPC rates as follows:

Partners	\$275.00/hour
Associates	\$250.00/hour
Paralegals	\$150.00/hour

In the event of early termination pursuant to the terms hereof, ATTORNEY shall be entitled to accrued and unbilled/billed and unpaid compensation as shall have accrued to the date of said early termination.

6.0 In addition to the compensation for professional services as last set forth, ATTORNEY shall be permitted to submit to the SFRPC on a monthly basis for payment by SFRPC to ATTORNEY an invoice for all reasonable and necessary legal expenses incurred on behalf of the SFRPC, such as court costs and filing fees, in addition to long distance toll charges, messenger service, computerized legal research, photo-copying and facsimile costs not performed by the SFRPC. The foregoing constitutes reimbursement of legal expenses to ATTORNEY and not legal fees for services as contemplated hereunder. ATTORNEY may also request these costs be paid directly by SFRPC to the billing party, agency or vendor upon their original invoice or billing statement rather than on a reimbursement basis including reimbursement for library books and supplements owned by the SFRPC and in possession of the Attorney, if any.

7.0 This Independent Contractor Professional Services Employment Contract sets forth the entire agreement between the parties hereto. Any prior conversations or writing are merged herein and extinguished. No subsequent amendment to this Contract shall be binding upon any of the parties hereto unless reduced to writing and properly signed and executed.

[INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Independent Contractor Professional Services Employment Contract to be executed this ____ day of _____, 2023.

WITNESSES AS TO ALL PARTIES:

SOUTH FLORIDA REGIONAL PLANNING COUNCIL

BY: _____
STEVE GELLER, CHAIR

BY: _____
MICHELLE LINCOLN, SECRETARY

ATTORNEY

SAMUEL S. GOREN, as a
Member of the law firm of
Goren, Cherof, Doody & Ezrol, P.A.

ATTACHMENT "A"
FOR PRIVATE ATTORNEY SERVICES

A. SCOPE OF SERVICE:

The ATTORNEY, or a member of his law firm, shall attend all regular and special meetings of the SFRPC Council and to attend any meeting of any official SFRPC board, committee or commission when specifically requested to attend and to **perform any and all legal services, of whatever kind or nature, including office practice and litigation**, required or requested of ATTORNEY by SFRPC for the SOUTH FLORIDA REGIONAL PLANNING COUNCIL and the agents, servants and/or employees thereof (when same are acting in their official capacity(s) on behalf of the SOUTH FLORIDA REGIONAL PLANNING COUNCIL) during the term of this Employment Contract, subject only to the following. All legal services to be performed by ATTORNEY hereunder shall be rendered at the request or direction of the majority of the SFRPC (meaning majority of Council sitting at the time that any vote is taken on a direction to request service from ATTORNEY) and/or the Executive Director; otherwise, ATTORNEY shall not be required to perform legal services for SFRPC except on his own initiative and at his own expense.

For purposes of clarification and emphasis: This Independent Contractor Professional Services Employment Contract is, and is intended to be, a party specific agreement and shall be construed accordingly. The individual attorney with whom SFRPC contracts hereby shall be the sole and exclusive party to render services for, to and on behalf of the SFRPC pursuant to the terms hereof. Except with the specific concurrence and approval of the SFRPC Council, no substitution of counsel for ATTORNEY shall be permitted, except as expressly provided for herein.

The parties specifically recognize and understand that the ATTORNEY is a member of the law firm of, Goren, Cherof, Doody & Ezrol, P.A., Fort Lauderdale, Broward County, Florida (the "Firm") and that several members of the Firm possess the requisite skill, competence and exposure in administrative/governmental practice. Specifically, therefore, and notwithstanding any of the foregoing, the rendition of services hereunder by an attorney from the Firm other than the specific attorney contracted with hereunder shall not be prohibited and shall be deemed to be in accordance with the provisions of Section 112.313, Florida Statutes, as amended including, litigation and support services otherwise described and permitted by the aforesaid Statute.

2. ATTORNEY shall review and analyze SFRPC files, data, documents and other materials and advise on a recommended legal course. Further, ATTORNEY shall attend and participate in meetings, conference calls, inspections or the like and report on the status of the legal matters.

3. ATTORNEY shall prepare and file pleadings, motions, or briefs, initiate and conduct discovery, as required and represent SFRPC in any related litigation and otherwise represent SFRPC at trial or on appeal.

B. COMPENSATION/FEES:

- 1. SFRPC shall be billed in accordance with Exhibit "1".*
- 2. Billable hours for hourly billed activities shall be measured in six (6) minute increments. Compensation of attorney hours will be for actual time spent providing attorney services to the SFRPC.*
- 3. Premium rates will not be paid for overtime work.*
- 4. Attorney time while traveling is neither billed nor compensable.*

C. COMPENSATION/COSTS:

- 1. Reimbursement of costs for third-party vendor bills, including but not limited to, exhibits, transcripts, and witness fees, filing fees and court costs require prior written authorization by SFRPC and shall be reimbursed based upon presentation by ATTORNEY of an appropriate Statement for Costs. The SFRPC shall not pay for firm surcharges added to Third Party Vendor bills.*
- 2. Routine expenses such as long distance toll charges, messenger service, photocopying, postage, printed library materials and facsimile costs are compensable by the SFRPC upon presentation by ATTORNEY on its monthly Statements.*
- 3. Non-routine office overhead expenses such as long distance phone calls, long distance facsimile transmissions, long distance courier services, bulk mailings, bulk third party copying, blueprints, x-rays, photographs and computer-assisted legal research services must be justified to the AGENCY and shall be reimbursed based on documented third party vendor charges. If these charges exceed subject to annual budget, as amended from time to time, prior written approval from the AGENCY must be obtained. In-house bulk mailings and bulk copying expenses must be supported by usage logs or similar documentation. Firm surcharges are not reimbursable.*
- 4. ATTORNEY shall, if applicable, only bill SFRPC for its proportionate share of the cost of legal research, attending hearings or engaging in client representation of any type, which is applicable to other clients.*
- 5. Incurred reimbursable costs described herein shall not exceed ONE THOUSAND AND NO/100 (\$1,000.00) DOLLARS per fiscal year. ATTORNEY shall notify SFRPC in writing when costs reach \$1,000.00. Said notification shall be made as soon as it is practicable and prior to the next monthly invoice.*

D. FORMATION FOR INVOICES:

1. Within thirty (30) days of service provision, each statement for fees and costs shall be submitted in original (white) and one (gold) copy, in a format that includes the following information:

- A. Case name and number, if applicable, or other legal matter reference;
- B. Invoice Number for the particular bill;
- C. **DELETED**
- D. ATTORNEY and SFRPC contract administrators' names;
- E. Inclusive dates of the month covered by the Invoice;
- F. **DELETED**
- G. **DELETED;**
- H. **DELETED;**
- I. **DELETED ;**
- J. Any other information as may be requested by SFRPC'S contract administrator.

E. ADMINISTRATION OF AGREEMENT:

- 1. The SFRPC contract administrator is ISABEL COSIO CARBALLO.
- 2. The ATTORNEY contract administrator is SAMUEL S. GOREN.
- 3. All written approvals must be obtained from the parties' contract administrators or their designees. All notices must be given to the parties' contract administrators.
- 4. This contract shall be governed by and construed under the laws of Florida.

F. OTHER AVAILABLE SERVICES:

Upon receipting approval from SFRPC, the ATTORNEY shall use existing SFRPC agreements, when available and cost effective, to acquire services (e.g, computer-assisted legal research) and the assistance of professionals (e.g., court reporters, expert witnesses) at reduced rates.

G. PUBLIC RECORDS:

All documents prepared pursuant to the Agreement are subject to Florida's Public Records Law, unless specifically so stated. Refusal of the ATTORNEY to allow public access to such records, as required by such law, shall constitute grounds for unilateral cancellation of this AGREEMENT.

H. PUBLIC CONDITIONS:

1. The ATTORNEY will make affirmative efforts to achieve cost effectiveness by consolidating court hearings, limiting travel, streamlining case processing, using printed forms, using the appropriate level of attorney or staff experience required by task, and taking other actions to improve efficiency.

2. *Multiple staffing at meetings, hearings, depositions, trials, etc., by the ATTORNEY will not be compensated without prior written approval from SFRPC.*

3. *ATTORNEY agrees that all documents shall be promptly returned at the termination of the ATTORNEY'S involvement in the case or matter at hand.*

4. *SFRPC in-house staff shall be used in the legal matter to the maximum extent possible.*

5. *The ATTORNEY will provide immediate notice by facsimile transmission or telephone regarding significant case developments, which will likely result in media inquiries.*

6. *The ATTORNEY shall provide SFRPC immediate notice of any representation undertaken by ATTORNEY in matters where the client is suing or being sued by the State or State entities in any civil or adversarial administrative action.*

7. *A contingency fee contract must be commercially reasonable. "Commercially reasonable" means the fees shall be no more than the amount permissible pursuant to Rule 4-1.5 of the rules regulating The Florida Bar and case law interpreting that rule. If the amount of the fee is in dispute, the counsel retained by the state shall participate in mandatory binding arbitration. Payment of all attorney's fees is subject to appropriation. Attorney's fees shall be forfeited if, during the pendency of the case, the counsel retained by the state takes a public position that is adverse to the state's litigation or settlement posture.*

8. *Each private attorney who is under contract to provide attorney services for the state or a state agency shall, from the inception of the contractual relationship until at least 4 years after the contract expires or terminates, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such attorney services. The private attorney shall make all such records available for inspection and copying upon request in accordance with Chapter 119, Florida Statutes.*

9. *The AGENCY's general counsel must approve and sign the contract as to form and legality. The Contract must be signed by the AGENCY head, who shall also maintain custody of the contract.*

EXHIBIT 1 – FEE SCHEDULE

1. HOURLY BILLING SCHEDULE:

ATTORNEYS and its paralegal staff to be used under this contract include the following individuals at the hourly rates indicated:

<i>SAMUEL S. GOREN</i>	<i>\$275.00/HOUR</i>
<i>DONALD J. DOODY</i>	<i>\$275.00/HOUR</i>
<i>KERRY L. EZROL</i>	<i>\$275.00/HOUR</i>
<i>MICHAEL D. CIRULLO</i>	<i>\$275.00/HOUR</i>
<i>JULIE F. KLAHR</i>	<i>\$275.00/HOUR</i>
<i>JACOB G. HOROWITZ</i>	<i>\$275.00/HOUR</i>
<i>SHANA H. BRIDGEMAN</i>	<i>\$275.00/HOUR</i>
<i>BRIAN J. SHERMAN</i>	<i>\$275.00/HOUR</i>
<i>QUENTIN E. MORGAN</i>	<i>\$275.00/HOUR</i>
<i>SEAN M. SWARTZ</i>	<i>\$250.00/HOUR</i>
<i>HEATHER NEEDELMAN</i>	<i>\$250.00/HOUR</i>
<i>PAUL B. HERNANDEZ</i>	<i>\$250.00/HOUR</i>
<i>ADAM G. LEVINE</i>	<i>\$250.00/HOUR</i>
<i>AYLIN M. RUIZ</i>	<i>\$250.00/HOUR</i>
<i>CERTIFIED PARALEGALS</i>	<i>\$150.00/HOUR</i>

The above rates may be adjusted if both parties agree, and shall be documented in writing by amendment to this Agreement.

**SOUTH FLORIDA REGIONAL PLANNING COUNCIL (“Council”)
GENERAL COUNSEL PERFORMANCE REVIEW
RATING SHEET**

Rate each item from 1 (low) to 5 (high) based on your opinion of the Council’s General Counsel’s performance. Mark N/A if you do not have enough information to rate.

I. LEGAL CONSULTATION

- _____ A. Has legal advice provided by the General Counsel proven to be accurate and technically correct?
- _____ B. Does the General Counsel provide his best and honest recommendations given all existing legal issues and ramifications?
- _____ C. Does the General Counsel possess and provide an efficient and effective knowledge of the state law, the rules, policies and procedures of the Council?
- _____ D. Does the General Counsel possess and provide an efficient and effective knowledge of other government regulations and case law regarding the Council and issues facing the Council?
- _____ E. Does advice provided by the General Counsel regularly take into account and balance the overall goals and objectives of the Council?
- _____ F. Does the General Counsel regularly provide the scope of legal expertise necessary to meet the Council’s needs on issues that arise, either from himself, within his firm or other available resources?
- _____ G. Does the General Counsel proactively identify potential issues when he is aware of them to avoid problems from occurring?
- _____ H. Are alternatives and innovative solutions provided rather than just raising problems?
- _____ I. Is the General Counsel able to maintain the Council and staffs confidence while informing them of the different legal risks that proposed actions might generate?

II. LEGAL REPRESENTATION

- _____ A. Does the General Counsel aggressively represent the interests of the Council as directed by the Council Members?

- _____ B. Is the General Counsel's approach effective in achieving the best possible legal outcomes for the Council's interests given the issues that arise?
- _____ C. Does the General Counsel represent the Council in a professional and ethical manner?
- _____ D. Is the General Counsel impartial and objective in his duties and responsibilities?
- _____ E. Are the General Counsel's estimates of legal impacts reasonably accurate on a regular basis?

III. STAFF WORK

- _____ A. Does the General Counsel prepare contracts and other legal work accurately and consistent with the direction and objectives communicated by the Council Members, Executive Director and/or staff?
- _____ B. Does the General Counsel maintain good working relationships and serve as an effective member of the management team?
- _____ C. Does the General Counsel accurately identify and address all legal issues within documents and items that he reviews?
- _____ D. Are staff and the Council Members advised of key changes in governmental and administrative law as it pertains to the Council's activities?
- _____ E. Does the General Counsel display a positive attitude in carrying out his responsibilities and responding to requests?
- _____ F. Has the General Counsel been successful in accomplishing objectives previously established?

IV. COST/FISCAL ACCOUNTABILITY AND CONTROL

- _____ A. Are regular legal activities achieved within budgetary goals and limits?
- _____ B. Has the General Counsel been effective in minimizing legal costs by limiting tasks to those regarding legal issues and utilizing Council's in-house staff when possible to perform administrative and other functions?
- _____ C. Are standard forms developed and used where possible to minimize preparation of legal documentation?
- _____ D. Are legal tasks performed with appropriate authorization according to established procedures and contract requirements?

- _____ E. Do invoices accurately identify tasks and expenses in sufficient detail to provide accountability and cost control?
- _____ F. Does the General Counsel display the ability and knowledge to research issues in a minimum amount of time?
- _____ G. Have legal costs been effectively managed and controlled given the issues, assignments and requests made to the General Counsel?

V. RESPONSIVENESS/TIMELINESS OF ACTIONS

- _____ A. Are requested legal work and assignments completed in a timely manner within established time frames?
- _____ B. Is the General Counsel accessible when needed to respond to requests for legal information and assistance?
- _____ C. Are legal review and requests for information completed in time to avoid delays to Council projects, programs and other tasks?
- _____ D. Does the General Counsel follow-up effectively to requests that are made?
- _____ E. Does the General Counsel accurately interpret and clarify Council Members and Executive Director direction?

VI. COMMUNICATIONS

- _____ A. Does the General Counsel communicate effectively with the Council Members, staff and the community?
- _____ B. Are answers provided in a timely and in an understandable manner?
- _____ C. Are timelines for follow-up to requests clearly communicated?
- _____ D. Does the General Counsel maintain confidentiality with regard to all matters discussed with the Council Members and/or Executive Director and staff?
- _____ E. Does the General Counsel effectively report to the Council Members and/or Executive Director communications by project attorneys of a substantive nature regarding significant or sensitive matters?



MEMORANDUM

AGENDA ITEM #IV

DATE: SEPTEMBER 18, 2023
TO: EXECUTIVE COMMITTEE
FROM: STAFF
SUBJECT: EXECUTIVE DIRECTOR ANNUAL REVIEW / CONTRACT

Section 1.9.3 of the agreement between the Council and the Executive Director states that the Governing Body of the Council, or an Executive Committee with the delegated function, shall perform an annual evaluation and review of the Executive Director. This year the Annual Review will be held at an Executive Committee meeting at 9:45 a.m. prior to the regular Council meeting. The Evaluation Form and Second Amended and Restated Employment Agreement is provided herewith for your review and information.

This Employment Agreement terminates on September 30, 2026, subject to annual review and approval by the Executive Committee and Council. All Council Members are welcome to attend the Executive Committee meeting.

Recommendation

- Assess the Executive Director's Performance
- Renew the Executive Director's Contract for 2023-2024



**SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT BETWEEN THE
SOUTH FLORIDA REGIONAL PLANNING COUNCIL
AND
ISABEL COSIO CARBALLO
PROVIDING FOR EMPLOYMENT
AS EXECUTIVE DIRECTOR**

THIS IS AN AGREEMENT, made and entered into this 18th day of September, 2023 with an effective date of October 1 2023, ("Effective Date") by and between the SOUTH FLORIDA REGIONAL PLANNING COUNCIL, a body corporate and politic and an agency of the State of Florida, hereinafter referred to as "SFRPC" and ISABEL COSIO CARBALLO, hereinafter referred to a "EXECUTIVE DIRECTOR".

W I T N E S S E T H:

WHEREAS, the SFRPC was created by interlocal agreement pursuant to Section 163.01, Florida Statutes, as amended, known as the "Florida Interlocal Cooperation Act of 1969" and supported by all applicable Florida Statutes, including but not limited to Section 186.501, Florida Statutes, as amended, and known as the "Florida Regional Planning Council Act", and

WHEREAS, Section 186.505, Florida Statutes, provides that the SFRPC may employ and compensate such personnel, consultants and technical and professional assistants as it deems necessary to exercise the powers and perform the duties set forth in accordance with Chapter 186, Florida Statutes; and

WHEREAS, the SFRPC has indicated its interest in entering into this Agreement for the purposes of establishing the basis, framework and context for the relationship which shall exist between the SFRPC and ISABEL COSIO CARBALLO as EXECUTIVE DIRECTOR; and

WHEREAS, this Agreement is the culmination of discussions, negotiations and agreements as to the employment by the SFRPC of ISABEL COSIO CARBALLO in conformity with the Florida Regional Planning Council Act; and

WHEREAS, the governing body of the SFRPC has, by majority vote, delegated the power and authority of recommending to the Council the hiring, firing and evaluating the Executive Director to the Executive Committee of the SFRPC, and therefore, the terms "SFRPC" shall be defined and interpreted to mean the Executive Committee in this Agreement unless later modified by form action of the SFRPC subsequent hereto;

WHEREAS, upon the Effective Date, this Agreement shall supersede the prior Agreement between the South Florida Regional Planning Council and Isabel Cosio Carballo dated September 27, 2021 providing for Employment as Executive Director ("Prior Employment Agreement"), and the Prior Employment Agreement shall be of no force and effect.

WHEREAS, in keeping with the Council's traditional practice, unless specifically addressed in this Agreement, the Council's Personnel Policy and Procedures are understood to generally apply to the Executive Director; and

NOW THEREFORE, in consideration of the promises, the mutual covenants, conditions, provisions and undertakings herein contained, and for other good and valuable considerations, the parties do mutually covenant and agree with each other as follows:

ARTICLE I

TERMS AND CONDITIONS - THE SFRPC

1.0 The SFRPC agrees as follows:

1.1 To employ ISABEL COSIO CARBALLO as the EXECUTIVE DIRECTOR of the SFRPC for the term hereinafter referred to, consistent with the terms, conditions and covenants of the Florida Regional Planning Council Act and other applicable, professional and ethical requirements imposed upon the EXECUTIVE DIRECTOR by existing SFRPC Rules or existing agreements as they may be amended from time to time.

1.2 To pay and to compensate the EXECUTIVE DIRECTOR the sum of ONE HUNDRED SIXTY THOUSAND DOLLARS AND 00/100 (\$160,000) per annum as modified in accordance with Section 1.9.1, hereinafter for the remainder of the term of this Employment Agreement, payable in

accordance with the regularly scheduled method of compensation for other SFRPC employees, in addition to such other fringe benefits, including but not limited to, health and medical insurance, retirement payments and other accoutrements of employment as more specifically set forth herein.

1.3 To provide EXECUTIVE DIRECTOR with an automobile allowance in the amount of SEVEN HUNDRED FIFTY DOLLARS AND 00/100 (\$750) per month as and for the reimbursement for the reimbursable mileage and automobile expenses of the EXECUTIVE DIRECTOR for performing services in and on behalf of the SFRPC within the South Florida region. For travel outside the region, the EXECUTIVE DIRECTOR will be compensated at the rate of regular staff.

1.4 To provide the EXECUTIVE DIRECTOR with the equivalent of the full and complete health, medical and related insurance which are otherwise provided to regularly employed SFRPC employees, for her and her dependents. In the event the EXECUTIVE DIRECTOR does not require health insurance coverage because coverage is provided through a plan provided by the EXECUTIVE DIRECTOR'S spouse, the Council agrees to pay as additional compensation the financial equivalent of the cost the Council would have had to pay for full and complete health care coverage for her and her dependents.

1.5 To provide the EXECUTIVE DIRECTOR with sick leave and personal leave accrual as applicable to other SFRPC employees and based upon policies existing from time to time and adopted by the governing body of the SFRPC.

1.6 To provide EXECUTIVE DIRECTOR with an SFRPC-issued cellular telephone, which shall be used solely for SFRPC business.

1.7 Effective October 1, 2023, and each subsequent fiscal year start date thereafter, the Executive Director's annual leave account will be credited with two hundred forty (240) hours, exclusive of paid holidays. No annual leave hours may be carried over from September 30th. However, the SFRPC shall reimburse the EXECUTIVE DIRECTOR up to fifty (50%) percent of the unused portion of the annual leave account per year. No additional payments will be made for any unused vacation, however, in the event of termination, the EXECUTIVE DIRECTOR will be

entitled to the same vacation accrual policy that is in place for all regular employees of the SFRPC at the time of said termination. This provision shall not act to prohibit the EXECUTIVE DIRECTOR from receiving any reimbursement or conversion for sick leave, as may otherwise be authorized under the SFRPC's Personnel Policy and Procedures.

1.8 The SFRPC will contribute an amount comparable to the employee contribution in the State of Florida, Department of Administration, Florida Retirement System ("FRS") for the EXECUTIVE DIRECTOR, subject to FRS guidelines.

1.9 To provide increases in compensation to the EXECUTIVE DIRECTOR on the following basis:

1.9.1 Merit Increases: In addition to the EXECUTIVE DIRECTOR's Base Salary as defined in Section 1.2, it is understood that pursuant to SFRPC action at its September 19, 2022 Council Meeting, the EXECUTIVE DIRECTOR received a four (4%) merit increase. At the option of the Executive Committee of the SFRPC, the Council may provide a merit increase to the EXECUTIVE DIRECTOR on an annual basis coinciding with the annual adoption of the budget from the date of employment hereof, subject to a vote of the Governing Body of the SFRPC of not less than a majority of the members present at a regular meeting or a special meeting called for that purpose.

1.9.2 Cost of Living Increases: In addition to the EXECUTIVE DIRECTOR's Base Salary as defined in Section 1.2, it is understood that pursuant to SFRPC action at its September 27, 2022 Council Meeting, the EXECUTIVE DIRECTOR received a three (3%) cost of living increase. At the option of the Executive Committee of the SFRPC of the SFRPC, the Council may annually adjust the existing salary based upon cost of living increases if otherwise provided to State of Florida employees, subject to a vote of the Governing Body of the SFRPC of not less than a majority of the members present at a regular meeting or a special meeting called for that purpose.

- 1.9.3 To annually review and evaluate the EXECUTIVE DIRECTOR based upon performance standards, attached hereto as Exhibit "A" and incorporated herein, and as may be amended from time to time by the Governing Body of the SFRPC or the Executive Committee of the SFRPC with the delegated function of performing such evaluation and review, subject to a vote of the Governing Body of the SFRPC of not less than a majority of the members present at a regular meeting or a special meeting called for that purpose.
- 1.10 Subject to the approval of the Executive Committee, to pay for and on behalf of the EXECUTIVE DIRECTOR professional dues, seminars, fees and charges incurred by the EXECUTIVE DIRECTOR as a professional and a member of such organizations which have a specific relationship with the SFRPC and the job duties and functions set forth herein.
- 1.11 To honor and to conform in all ways possible with the terms, conditions and provisions of the Florida Regional Planning Council Act, and other applicable rules and regulations affecting State of Florida employees as the same may not apply or as may be applicable in the future, as amended, as well as the ethical considerations imposed upon the EXECUTIVE DIRECTOR.
- 1.12 That in the event the SFRPC chooses to remove ISABEL COSIO CARBALLO as the EXECUTIVE DIRECTOR, it shall follow the provisions set forth hereinafter under the heading "Termination".

ARTICLE II

TERMS AND CONDITIONS - THE EXECUTIVE DIRECTOR

- 2.0 ISABEL COSIO CARBALLO agrees as follows:
- 2.1 To become the EXECUTIVE DIRECTOR of the SFRPC in accordance with the terms, conditions and provisions contained in the Florida Regional Planning Council Act as set forth in Chapter 186, Florida Statutes.
- 2.2 To fulfill the obligations and responsibilities provided for in the Florida Regional Planning Council Act and to perform all functions as the Chief Administrative Official of

the SFRPC in a professional and respectable fashion and with the full decorum required and demanded of such officials generally in the South Florida Region, and elsewhere in the State of Florida as well as those impositions and requirements, both ethical and practical, as may be applicable to professional planners in the State of Florida.

2.3 To hire and to designate such other qualified professional staff, as may be necessary and proper in connection with the discharge of her functions as the EXECUTIVE DIRECTOR of the SFRPC.

2.4 That the position of EXECUTIVE DIRECTOR is not and cannot be an hourly type employment. It is a "Job-Basis" form of employment. Hence, the EXECUTIVE DIRECTOR shall do any and all things necessary and required to be available to the SFRPC, its agents, servants and employees during the course of this Agreement consistent with good and respectable management, requirements and as otherwise dictated and provided by the Florida Regional Planning Council Act and the Code of Professional Responsibility for certified planners, as well as such other rules, regulations and ethical considerations imposed upon State of Florida employees.

2.5 To act as an exempt, non-civil service employee of the SFRPC and to be an employee at will.

2.6 That EXECUTIVE DIRECTOR shall not engage in any other concurrent employment during the term of this Agreement, or use the executive director position to solicit any independent clients for any private entity.

ARTICLE III

TERM

3.0 This Agreement shall commence upon full execution of both parties (the "Commencement Date") and shall terminate on the 30th of September 2026. However, the parties hereto further agree that this Agreement may be renewed upon mutual written consent of

the parties, subject to confirmation by the full SFRPC Board, as Florida Statute may permit at its natural termination.

3.1 In the event the EXECUTIVE DIRECTOR elects to voluntarily terminate this Employment Agreement, she shall provide the SFRPC with not less than thirty (30) days written notice to the Chairman of the Governing Body of the SFRPC indicating her intention to discontinue employment as the EXECUTIVE DIRECTOR, consistent with the Florida Regional Planning Council Act.

3.2 In the event the EXECUTIVE DIRECTOR voluntarily resigns her position with the SFRPC, she shall be compensated for all earnings and compensation to the date of voluntary termination, in addition to any and all other health, medical and related insurance and governmental benefits otherwise provided as stated in the SFRPC personnel policies at the execution hereof or as may, from time to time, be later amended.

3.3 In the event the SFRPC elects to terminate this Employment Agreement prior to the expiration hereof, the SFRPC shall comply with the terms, conditions and provisions contained herein for termination which sets forth the specific procedures and benefits payable to the EXECUTIVE DIRECTOR.

3.4 Notwithstanding the foregoing, in the event the SFRPC terminates the employment of the EXECUTIVE DIRECTOR as provided for hereinafter, the SFRPC shall continue to pay to the EXECUTIVE DIRECTOR all compensation earned to the date of termination as well as all severance payments required under Section 4.4.1, however, any such payments shall be in accordance with Section 215.425, F.S., as may be amended.

ARTICLE IV

TERMINATION

4.0 The parties hereto mutually covenant and agree as follows:

4.1 That the employment of the EXECUTIVE DIRECTOR shall be at the will of the Governing Body of the SFRPC, and that no civil service status, tenure or related

accoutrement shall be applicable to this type and kind of employment set forth in this Agreement.

4.2 By virtue of this acknowledgement, the parties have voluntarily and knowingly entered into and executed this Agreement on the basis of complying solely with the terms, conditions and provisions of this Employment Agreement.

4.3 This agreement may be terminated by either party for convenience. If EXECUTIVE DIRECTOR seeks to terminate this Agreement for convenience, she shall provide SFRPC with thirty (30) days prior written notice of her intention to terminate. If SFRPC seeks to terminate this Agreement for convenience, it shall provide EXECUTIVE DIRECTOR with thirty (30) days prior written notice of its intention to terminate, subject to Section 4.4. The notice provision herein shall not apply to termination for cause as outlined in subsection 4.5 herein.

4.4 If it be the will and pleasure of the Governing Body of the SFRPC to terminate the employment of the EXECUTIVE DIRECTOR, the SFRPC shall, by not less than a majority vote, adopt a motion or resolution terminating the services of the EXECUTIVE DIRECTOR based upon this Agreement. Upon approval of such motion or resolution, Executive Director shall be entitled to severance pay as follows:

4.4.1 As otherwise in accordance with Section 215.425, F.S., the SFRPC shall provide the EXECUTIVE DIRECTOR with a lump sum severance payment in the pro rata amount equivalent to three (3) months of EXECUTIVE DIRECTOR's annual compensation as set forth in Article 1 of this Agreement. This payment shall include the three (3) month equivalent of EXECUTIVE DIRECTOR's annual salary, annual car allowance, annual health insurance and annual retirement contributions for the period covered by the severance pay. This provision shall not apply to any termination in accordance with Section 443.036(29), F.S.

4.5 The EXECUTIVE DIRECTOR may be terminated immediately for cause or because of her conviction of any criminal act. In the event the EXECUTIVE DIRECTOR is terminated pursuant to this sub-section, SFRPC shall have no obligation to pay the aggregate severance benefit designated in this section. For purposes of this Agreement, "cause" shall include, but shall not be limited to, malfeasance, misfeasance, gross negligence, and gross mismanagement of the SFRPC's funds or operations, as may be determined by a majority of the SFRPC Board.

4.6 The Parties agree that a material negative change in the SFRPC budget, as determined by the SFRPC's governing board, shall not constitute a constructive termination pursuant to this Section. In the event of such a change which results in a reduction of compensation for all SFRPC employees, EXECUTIVE DIRECTOR agrees to have her compensation, as set forth in Section 1.2 of this Agreement, reduced proportionally in accordance with all other SFRPC employees.

ARTICLE V

MISCELLANEOUS

5.0 It is understood and agreed that this document incorporates and includes all prior negotiations, correspondence, conversations, agreement or understandings applicable to the matters contained herein and that the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

5.1 It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and with equal dignity herewith.

5.2 This document shall be executed in at least three (3) counterparts each of which shall be deemed to be a duplicate original.

5.3 This Agreement is executed and is to be performed in the State of Florida, and shall be governed by and construed in accordance with the laws of the State of Florida.

5.4 In connection with any litigation arising out of this Agreement, including any administration, trial level, or appellate proceedings, the prevailing party shall be entitled to recover all costs incurred, including a reasonable attorneys' fee.

5.5 If any clause, section or other part or application of this Agreement shall be held by any Court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

THE REST OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the parties hereto have made and executed this Employment Agreement on the respective dates under each signature: THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL, through its Governing Body, signing by and through its Chairman and Secretary, authorized to execute same by SFRPC action on 18th _____ day of _____, 2023 and ISABEL COSIO CARBALLO.

SFRPC:

ATTEST:

SOUTH FLORIDA REGIONAL PLANNING COUNCIL

BY: _____
STEVE GELLER, Chair

MICHELLE LINCOLN, Secretary

Approved as to legal form by General Counsel for the SOUTH FLORIDA REGIONAL PLANNING COUNCIL

SAMUEL S. GOREN, ESQUIRE
GOREN, CHEROF, DOODY & EZROL, P.A.
3099 E. Commercial Boulevard, Suite 200
Fort Lauderdale, FL 33308

ATTEST:

EXECUTIVE DIRECTOR:

BY: _____
ISABEL COSIO CARBALLO

STATE OF FLORIDA

COUNTY OF BROWARD

BEFORE ME, ____ personally appeared or ____ via online notarization, STEVE GELLER, Chair of the South Florida Regional Planning Council, to me well known to be the person described in and who executed the foregoing instrument and acknowledged to and before me that she executed said Agreement for the purposes therein expressed on behalf of the SFRPC.

WITNESS my hand and official seal, this ____ day of September 18, 2023.

BY: _____
Notary Public

My Commission Expires:

STATE OF FLORIDA

COUNTY OF BROWARD

BEFORE ME, ____ personally appeared or ____ via online notarization, ISABEL COSIO CARBALLO, to me well known to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that she executed said Agreement for the purposes therein expressed.

WITNESS my hand and official seal, this ____ day of September 18, 2023.

BY: _____
Notary Public

My Commission Expires:

EXHIBIT "A"

PERFORMANCE STANDARDS - EXECUTIVE DIRECTOR

General Responsibilities: Direct the activities of the South Florida Regional Planning Council staff. Establish the Council work program and complete the work program in a timely manner. Manage the operation of the agency.

Objectives of the position:

1. Anticipate emerging issues within the region and articulate an agency mission statement which reflects these emerging issues.
2. Set long and short-term agency objectives that are responsive to the agency mission.
3. Assure that the organization is staffed and structured for effective mission accomplishment.
4. Maintain effective communication with all Council Members and member unit local governments.
5. Implement an objective performance agreement system by which Regional Planning Council staff will be assessed.
6. Ensure the statutory responsibilities of the agency are carried out in a timely and complete manner.
7. Develop and maintain good organizational relationships with other relevant organizations.
8. Assist all Council officers in performing their duties.
9. Prepare an adequate annual budget and operate the agency within that budget.

An agency work program will be prepared. At the end of the appraisal period, the record of progress will provide a measure of whether the Director met, failed to meet or exceeded expectations.

South Florida Regional Planning Council Executive Director Annual Performance Review

Executive Director: Isabel Cosio Carballo, MPA

Evaluation Period: October 1, 2022 – September 18, 2023

Evaluation Date: September 18, 2023

Ratings on Job Performance

- 5 = Exceeds Job Requirements
- 4 = Above Average Performance
- 3 = Satisfactory Performance
- 2 = Needs to Take Action to Improve
- 1 = Performance Does not Meet Job Requirements

	Executive Director	5	4	3	2	1
1.	Represents the Council in a positive, professional manner					
2.	Accurately represents the goals and policies of the Council					
3.	Maintains a positive image and relationships with local, state, and federal agencies					
4.	Promotes the Council and its services					
5.	Makes clear and concise recommendations to the Council					
6.	Deals honestly and fairly with all parties					
7.	Exercises sound judgment in business transactions					
8.	Is respected by peers and leaders in the region					
9.	Is knowledgeable about regional issues					
10.	Provides good overall leadership for the Council					

Additional Comments: _____

Signature

Date



MEMORANDUM

AGENDA ITEM # V

DATE: SEPTEMBER 18, 2023

TO: COUNCIL MEMBERS

FROM: STAFF

SUBJECT: EXECUTIVE DIRECTOR COMPENSATION FOR UNUSED ANNUAL LEAVE

Section 1.7 of the Executive Director’s Contract states that “Effective October 1, 2023, and each subsequent fiscal year start date thereafter, the Executive Director’s annual leave account will be credited with two hundred forty (240) hours, exclusive of paid holidays. No annual leave hours may be carried over from September 30th. However, the SFRPC shall reimburse the EXECUTIVE DIRECTOR up to fifty (50%) percent of the unused portion of the annual leave account per year. No additional payments will be made for any unused vacation, however, in the event of termination, the EXECUTIVE DIRECTOR will be entitled to the same vacation accrual policy that is in place for all regular employees of the SFRPC at the time of said termination.”

This year the Executive Director was unable to utilize the full annual leave authorized by the Council due to an unusually heavy work schedule. As a result, the Executive Director is poised to loose 32 hours of annual leave that cannot be rolled over to the next fiscal year or reimbursed due to the terms of her contract with the Council.

The Executive Director requests that the Executive Committee authorize compensation of up to 32 hours of vacation leave over and above the 120 hours reimbursement of the unused portion of annual leave authorized per year by the Council. If approved, this represents no more than additional \$3,094.72 in compensation to the Executive Director.

Recommendation

Authorize that the Executive Director be authorized for a reimbursement of up to an additional 32 hours of annual leave for FY 22-23.

