



MEMORANDUM

AGENDA ITEM #III.K

DATE: SEPTEMBER 12, 2011

TO: COUNCIL MEMBERS

FROM: STAFF

SUBJECT: MEMORANDUM OF UNDERSTANDING BETWEEN SFRPC AND INTERIM EXECUTIVE DIRECTOR

The Memorandum of Understanding between the South Florida Regional Planning Council and James F. Murley for Interim Executive Director Services is attached for the Council's review and approval.

Recommendation

Approve the attached MOU between SFRPC and James F. Murley.

**MEMORANDUM OF UNDERSTANDING BETWEEN THE SOUTH FLORIDA
REGIONAL PLANNING COUNCIL AND JAMES F. MURLEY. FOR INTERIM
EXECUTIVE DIRECTOR SERVICES**

THIS IS MEMORANDUM OF UNDERSTANDING (“MOU”), made and entered into this ___ day of _____, 2011, 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 JAMES F. MURLEY, hereinafter referred to at “INTERIM EXECUTIVE DIRECTOR”.

WITNESSETH:

WHEREAS, the SFRPC was created pursuant to Section 186.501, F.S., as amended and known as the “Florida Regional Planning Council Act”; and

WHEREAS, Section 186.505, F.S., provides that the SFRPC may employ, engage 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, F.S.; and

WHEREAS, the SFRPC has indicated its interest in entering into this MOU for the purposes of establishing the basis, framework and context for the engagement of James F. Murley to serve as the SFRPC’s Interim Executive Director; and

WHEREAS, this MOU is the culmination of discussions, negotiations and agreements as to the engagement by the SFRPC of James F. Murley 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 hiring, firing and evaluating the Interim Executive Director to the Executive Committee of the SFRPC and, therefore, the term “SFRPC” shall be defined and interpreted to mean the Executive Committee in this MOU unless later modified by formal action of the SFRPC subsequent hereto.

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 understand, 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 engage James F. Murley. to serve as the INTERIM EXECUTIVE DIRECTOR of the SFRPC for the terms 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 INTERIM EXECUTIVE DIRECTOR by existing SFRPC rules of existing agreements as they may be amended from time to time.
- 1.2 To pay and to compensate the INTERIM EXECUTIVE DIRECTOR the sum of \$138,216.00 annually to be paid on a bi-weekly basis hereinafter for the term of this MOU, payable in accordance with the regularly scheduled method of compensation for other SFRPC employees. This compensation shall include INTERIM EXECUTIVE DIRECTOR's salary of \$129,500.00 along with additional compensation for services performed pursuant to this MOU. The Parties recognize that INTERIM EXECUTIVE DIRECTOR has procured private health insurance and does not receive health benefits from the SFRPC. SFRPC shall pay INTERIM EXECUTIVE DIRECTOR \$1,268.00 per month as additional compensation for INTERIM EXECUTIVE DIRECTOR's health insurance. INTERIM EXECUTIVE DIRECTOR shall join the SFRPC's health plan immediately upon becoming eligible to do so. When INTERIM EXECUTIVE DIRECTOR joins the SFRPC's health plan, the additional compensation of \$1,268.00 per month shall immediately terminate.
- 1.3 To pay and to reimburse the INTERIM EXECUTIVE DIRECTOR for any SFRPC-related travel or other reasonable out-of-pocket expenses in accordance with SFRPC policies, subject to INTERIM EXECUTIVE DIRECTOR providing receipts or other appropriate documentation evidencing such expenses. Reimbursements to the INTERIM EXECUTIVE DIRECTOR shall be made at cost, without increase for profit and/or overhead.
- 1.4 To provide INTERIM EXECUTIVE DIRECTOR with an SFRPC-issued cellular telephone, which shall be used solely for SFRPC business.
- 1.5 To honor and to conform in all ways possible with the terms, conditions and provision of the Florida Regional Planning Council Act, and other applicable rules and regulations affecting State of Florida employees as the same may now apply or as may be applicable in the future, as amended, as well as the ethical consideration imposed upon the INTERIM EXECUTIVE DIRECTOR.
- 1.6 That in the event that the SFRPC chooses to remove James F. Murley as INTERIM EXECUTIVE DIRECTOR, it shall follow the provisions set forth hereinafter under the heading "Term and Termination".

ARTICLE II
TERMS AND CONDITIONS – THE INTERIM EXECUTIVE DIRECTOR

- 2.0 JAMES MURLEY agrees as follows:
- 2.1 To serve as Interim Executive Director in accordance with the terms, conditions and provisions contained in the Florida Regional Planning Council Act as set forth in Chapter 186, F.S., or as otherwise set forth in this MOU.
- 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 Subject to the expressed approval of the SFRPC Executive Committee, to appoint and to designate such other qualified professional staff, as may be necessary and proper in connection with the discharge of his functions as the INTERIM EXECUTIVE DIRECTOR of the SFRPC.
- 2.4 That the position of INTERIM EXECUTIVE DIRECTOR is not and cannot be an hourly type employment. It is a "Job Basis" form of employment. Hence, the INTERIM EXECUTIVE DIRECTOR shall do all things necessary and required to be available to the SFRPC, its agents, servants, and employees during the course of this MOU consistent with good and respectable management requirements and as otherwise dictated and provided by the Florida Regional Planning Council Act, as well as such other rules, regulations and ethical considerations imposed upon the State of Florida employees, including, but not limited to, staffing the SFRPC office on a full-time basis.
- 2.5 That INTERIM EXECUTIVE DIRECTOR shall not have signing authority for checks issued by the SFRPC, and that INTERIM EXECUTIVE DIRECTOR shall not sign any loan-related documents on behalf of the SFRPC.
- 2.6 INTERIM EXECUTIVE DIRECTOR shall complete and submit to the SFRPC Executive Committee a weekly time sheet to insure that the SFRPC can document the INTERIM EXECUTIVE DIRECTOR's time charges by project providing SFRPC with such other reasonable documentation as may be required for billings to any granting agencies.
- 2.7 INTERIM EXECUTIVE DIRECTOR shall not engage in any outside or concurrent employment while engaged by the SFRPC pursuant to this MOU.

ARTICLE III
TERM AND TERMINATION

- 3.0 The term of this MOU shall commence upon execution of this MOU and shall extend until the new Executive Director is hired, installed and oriented at the SFRPC, unless otherwise provided for herein.
- 3.1 In the event the INTERIM EXECUTIVE DIRECTOR elects to voluntarily terminate this MOU, he shall provide the SFRPC with not less than thirty (30) days written notice to the Chair of the Governing Body of the SFRPC indicating his intention to discontinue his relationship with the SFRPC as its INTERIM EXECUTIVE DIRECTOR, consistent with the Florida Regional Planning Council Act. In the event of such termination, INTERIM EXECUTIVE DIRECTOR may return to his prior position as Deputy Executive Director.
- 3.2 In the event the SFRPC terminates the engagement of the INTERIM EXECUTIVE DIRECTOR as provided for hereinafter, the SFRPC shall continue to pay to the INTERIM EXECUTIVE DIRECTOR all compensation earned to the date of termination as well as any severance pay, if any, which would otherwise be payable to her in accordance with the terms and conditions of this MOU.

ARTICLE IV
MISCELLANEOUS

- 4.0 This MOU shall not inure to the benefit of, nor be enforceable by, any third party.
- 4.1 It is understood and agreed that this document incorporates and includes all prior negotiations, correspondence, conversations, agreements 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.
- 4.2 It is further agreed that no modification, amendment or alternation 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.
- 4.3 This document shall be executed in at least three (3) counterparts, each of which shall be deemed to be a duplicate original.
- 4.4 This MOU 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.
- 4.5 In connection with any litigation arising out of this MOU, including any

administration, trial level or appellate proceedings, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees.

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

IN WITNESS WHEREOF, the parties hereto have made and executed this MOU on the respective dates under each signature: The South Florida Regional Planning Council, through its Governing Body, signing by and through its Chair and secretary, authorized to execute same by SFRPC action on the ___ day of _____, 2011 and JAMES MURLEY.

SFRPC

By: _____
SUZANNE GUNZBURGER, Chair

ATTEST:

REBECCA SOSA, Secretary

Approved as to legal form by the General Counsel
for the South Florida Regional Planning Council:

Samuel S. Goren, Esq.

INTERIM EXECUTIVE DIRECTOR

By: _____
JAMES MURLEY

ATTEST:

(Print name)

STATE OF FLORIDA
COUNTY OF BROWARD

BEFORE ME, personally appeared, SUZANNE GUNZBURGER, Chair of the South Florida Regional Planning Counsel, to me well known to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said MOU for the purposes therein expressed on behalf of the SFRPC.

WITNESS my hand and official seal, this ____ day of _____ 2011.

My Commission Expires:

Notary Public

STATE OF FLORIDA
COUNTY OF BROWARD

BEFORE ME, personally appeared, JAMES MURLEY, to me well known to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said MOU for the purposes therein expressed on behalf of the SFRPC.

WITNESS my hand and official seal, this ____ day of _____ 2011.

My Commission Expires:

Notary Public