

Scope of Services

Coral Gables Virtual Historic City Phase II -- an Enhanced Web Tool Illustrating the History of the City Beautiful

Prepared by

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Digital Collection Center

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For

City Clerk Walter Foeman, City of Coral Gables

October 2014

PROFESSIONAL SERVICES AGREEMENT

THIS COST REIMBURSABLE PROFESSIONAL SERVICE AGREEMENT is made as of this 1st day of October, 2014, between the City of Coral Gables (hereinafter called the "City"), and The Florida International University Board of Trustees, acting for and on behalf of Florida International University (hereinafter called "FIU" or the "contractor").

RECITALS

WHEREAS, the City wishes to retain FIU to provide continued technical assistance services in implementing a Coral Gables Virtual History in a geo-spatially enabled web environment for the City; and

WHEREAS, the City having investigated the qualifications of FIU to perform the services herein contemplated and found those qualifications satisfactory; and

WHEREAS, FIU, having examined the scope of the services required hereunder and having expressed desire and willingness to provide such services and having presented qualifications to the City in support of those expressed desires; and

WHEREAS, FIU agrees to accept this Agreement upon the terms and conditions hereinafter set forth; and

WHEREAS, Section 2-678(26) entitled "Exemptions" of the Procurement Code exempts university consulting contracts from formal bid or proposal requirements; and

WHEREAS, the City Commission has approved the selection of FIU to perform such services, and FIU agrees to accept this Agreement upon the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the City agrees to retain FIU for a period of 3.5 years.

I. GENERAL PROVISIONS

This Agreement incorporates and supersedes all previous agreements, written and oral, and all prior and contemporaneous communications between the parties, regarding this subject. The City reserves the right to initiate change to any provision of this Agreement. All such changes shall be accomplished only by mutually signed Amendments.

FIU shall perform the services as specifically stated in the Scope of Services, as specifically designated and authorized by the City.

1.1 Engagement. The City agrees to engage FIU for a period specified in paragraph 1.2, and FIU agrees to accept such engagement and to perform such services for the City upon the terms, and subject to the conditions set forth herein.

1.2 Agreement Period. The terms of the Agreement (the "Professional Period") shall commence October 1, 2014, and shall continue thereafter for a period of three and one-half years unless earlier terminated by either party, in accordance with the notice requirements contained in Section XII.

- a) Duties and Responsibilities/Priority of Interpretation. This document with exhibits is referred to as the "Base Agreement". In the event of any conflict of inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, service, or other work, or otherwise, between the Base Agreement and the exhibits, or between exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the body of this Base Agreement.

BACKGROUND

Building on the success of the City of Coral Gables Virtual History (CGVH) Phase I, we in Phase II plan to further enhance the web tool to include the following functions:

- 1) Build upon the MPO funded Bike route planner and Miami-Dade-Bike 305 initiative, we plan to integrate a bicycle route planner for user to plan eco tours and cultural tours in Coral Gables referencing the City of Coral Gables' Master Bike Plan. Using the Google Maps like environment, the user may plan their bicycle friendly routes from any selected origin and destination, access the rich historical contents in the form of documents, descriptions (written and/or recording); historical photographs in addition to other information that Google Maps provides.
- 2) Create a set of crowd-sourcing tools in invite both FIU students (from FIU Department of Arts and Sciences as well as Coral Gables citizens) to participate in creating historical, cultural, ecological contents in the Virtual History platform – linking historical buildings and locations to arts, people, and happenings that once upon a time, made it to history;
- 3) Initiate the process of incorporating history of property records and drawings. Much of the content may still rely upon the availability of historical property records, and citizen participation of land and property records.
- 4) Create an animated 3D display of how buildings in the City grow over the years;
- 5) Enable mobile users to view the City's Virtual City content on their phones with the exception of the 3D display (i.e. WAP enabled and/or other newer standard mobile web methods such as HTML5 and i-Mode, etc.).

The end product will be a state-of-the-art geo-spatial enabled, interactive, and public participatory web and mobile interface, hosting tens of thousands of digitized hidden treasures of Coral Gables' history and educational communities can all profoundly benefit from the rich cultural, ecological, and historical assets of Coral Gables.

SCOPE OF WORK

MAJOR TASKS:

The FIU team is requesting a total of \$154,000 to complete the following tasks of the project for the duration of 3.5 years starting from October 2014.

Task 1: Incorporation of a Bicycle Route planner along the Cultural/Eco Tour of Coral Gables

The contractor will:

- 1) Identify,, compile bicycle friendly network data and incorporate into NAVTAQ street network using the Bike Master Plan, Bike 305 initiative and MPO.
- 2) Incorporate the Bike route planner into the Coral Gables' Virtual History Discovery Interface.
- 3) Develop a function which allow users to visualize the historical photographs, historical maps, and other historical content (e.g. records) along any user selected eco route or cultural route (proposed design mock up in Figure 1).
- 4) Develop a filter that compiles ecological or cultural relevant historical materials which user can choose to review or read along the virtual route, prior to their trip (proposed design mock up in **Figure 1**).

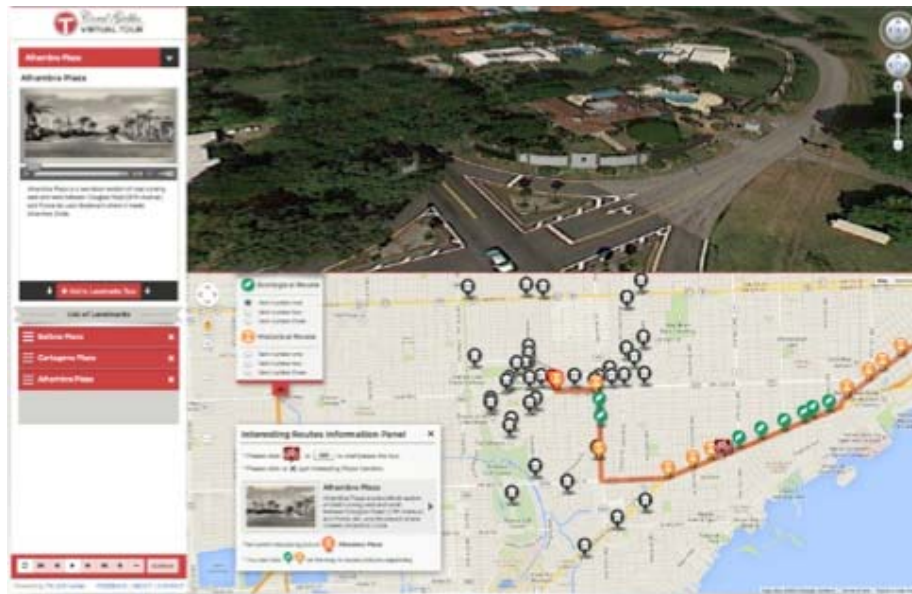


Figure 1. Visualized ecological / cultural routes along with ecological /cultural relevant historical materials.

Task 2: Create a crowd-sourcing tool set to invite students and citizen participation in creation of historical, artful content.

The contractor will:

- 1) Form a CGVH advisory group which serves as a quality control board for content contributed by the public.
- 2) Develop a series of tools which allow user to document a digital object (e.g. metadata), upload the object and publish it onto CGVH after semi-automated, streamed screening.
- 3) Reach out to FIU Arts and Sciences department to recruit students work on historical or creative projects within the geographic boundaries of Coral Gables. Students would use the same crowd-sourcing tools to publish their research results and creation of content after the professors' screening.
- 4) Select and incorporate quality content from the crowd-sourced means into the dPanther digital repository for long-term dissemination and preservation.
- 5) Create a mobile application of CGVH to facilitate public participation of historical, cultural and ecological content contribution.

Task 3: Create an animated 3D display of how the City grew over time

The contractor will:

- 1) Collect the City's historical property records, e.g. year built and incorporate the records into a geo-database;
- 2) Generate a 3D model of all properties of the City of Coral Gables using the property parcel data; draping the aerial photographs to create a more realistic impression;
- 3) Slice the 3D model by every 5 years starting from the 1920s;
- 4) Create a time series of buildings built in every 5 year interval;
- 5) Design the user interface;
- 6) Create an animated movie that shows the 3D buildings (proposed design mock up in **Figure 2**)

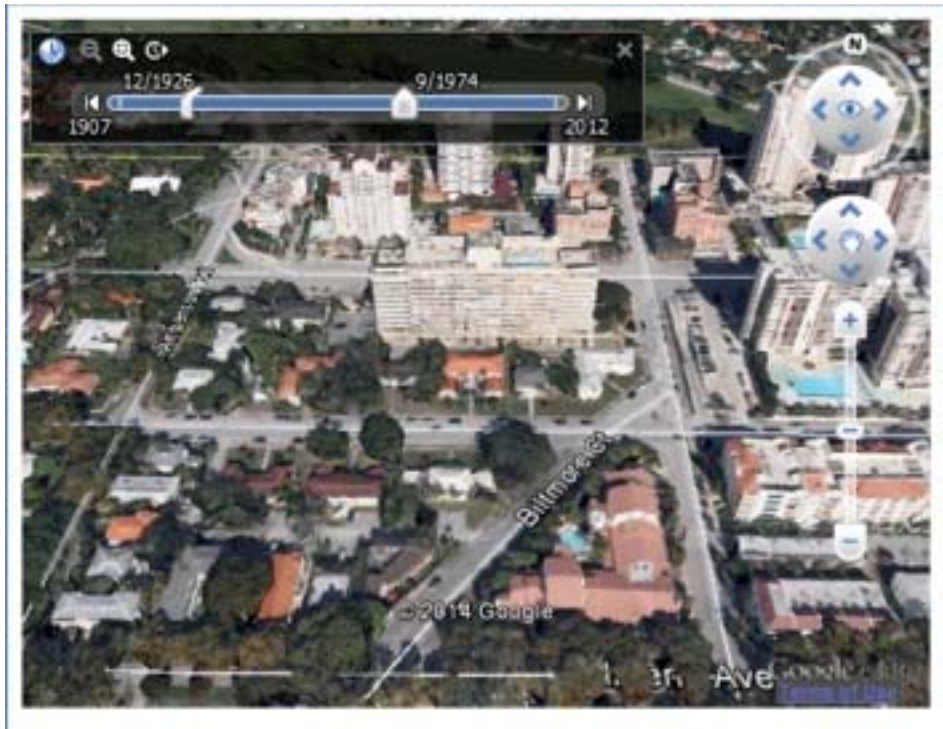


Figure 2: 3D building changes by setting time slide bar

Task 4: Create a base of historical property and land records for public to contribute scanned documents, floor plans, etc. relating to private or public properties.

The contractor will:

- 1) Create a web interface for map display and search of properties;
- 2) Create a data collection tool where attribute and description of the property can be modified, created, and deleted;
- 3) Create a uploading functions for digital objects (e.g. scanned documents, floor plans);
- 4) Create a 3-tier authentication method from FIU Library dPanther Digital Repository framework as shown in **Figure 3** to authorize different type of user to upload digital contents;

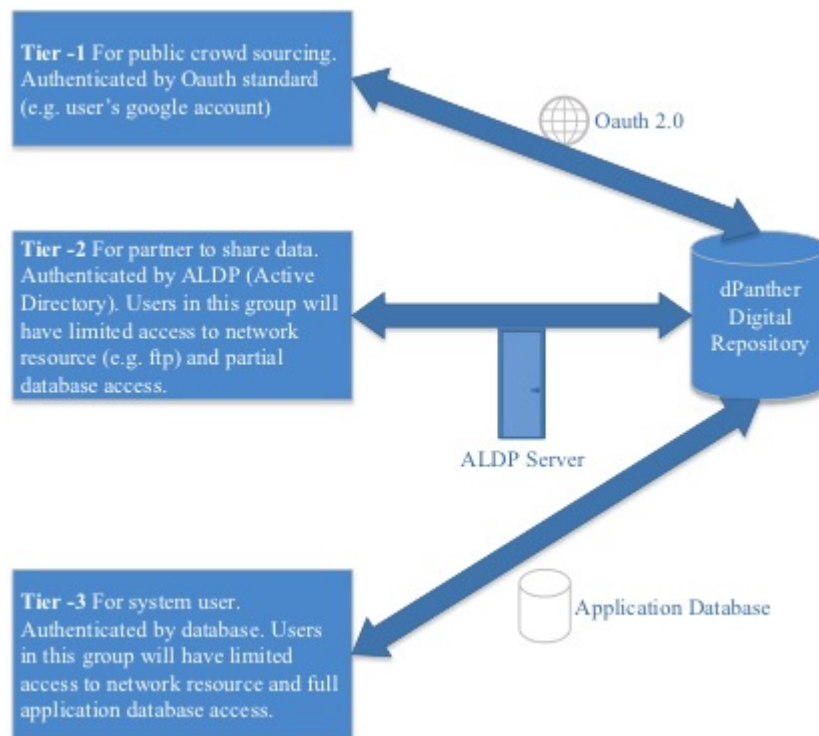


Figure 3: 3-tiers user authentication method

PROPOSED TIMELINE:

Bicycle Route Planner for Eco/Cultural tour (Mobile as well)

Beta Version Available – April 2016

Final Version Available – October 2017

Crowd-Sourcing Tour for public participation and contribution (Mobile as well)

Beta Version Available – April 2016

Final Version Available – October 2017

3D display of how the City grew over time

Beta Version Available – April 2016

Final Version Available – October 2017

Historical Property Records Collection

Beta Version Available – April 2016

Final Version Available – October 2017

PROPOSED BUDGET (US \$)

TASKS	YEAR 1	YEAR 2	YEAR 3	TOTAL
1.Bicycle Route Planner for Eco/Cultural tour (Mobile as well)	5,000	5,000	5,000	15,000
2.Crowd-Sourcing Tour for public participation and contribution (Mobile as well)	7,000	7,000	6,000	20,000
3. 3D display of how the City grew over time	9,000	8,000	8,000	25,000
4.Historical Property Records Collection	17,000	17,000	16,000	50,000
5.Life time IT web Maintenance*				30,000
PROJECT TOTAL	48,000	47,000	45,000	140,000
Indirect Cost (10%)**	4,800	4,700	4,500	14,000
TOTAL	52,800	51,700	49,500	154,000

*Standard IT web maintenance of geo-spatial web project performed by FIU GIS Center is \$5,000 per year. The \$30,000 to be paid in three years will provide the lifetime IT maintenance for as long as the City needs the project.

**FIU Office of Sponsored Research Charges an indirect cost rate ranging from 10% to 45% of the total project direct cost -- An indirect cost is requested by FIU office of research on ALL externally funded projects and contracts. As all staff involved in a funded project need offices, computers, furniture, electricity (AC) etc. 10% IDC is the lowest possible rate.

1.3 Confidential Information. FIU agrees that any information received by FIU for the City and in providing services in accordance with this Agreement which is not publicly available, shall not be revealed to any other persons, firm or organizations. Nothing in this Agreement shall prevent FIU from complying with the requirements of Chapter 119 of the Florida Statutes or Fla. Stat. Section 1004.22(2) regarding the disclosure of public documents.

1.4 Most Favored Public Entity. FIU represents that the prices charged to City in this Agreement do not exceed existing prices to other customers for the same or substantially similar items or services for comparable quantities under similar terms and conditions.

II. PROFESSIONAL SERVICES

2.1 Basic Services. The duties and responsibilities are outlined in Section 1.2.

2.2 Reporting. FIU shall provide the necessary reporting requirements as outlined by the City Clerk, hereinafter referred to as the "Director" or designee for review. In addition, FIU shall submit a monthly report to the Director or designee, which shall include detailed information regarding activities during the previous month.

III. COMPENSATION

3.1 Basic Compensation. That the City Commission does hereby further allocate an amount of \$51,000 per year, for year one (FY 2014-2015) and year two (FY 2015-2016) of the aforementioned project, and an amount of \$52,000 in year three (FY 2016-2017), the final year of funding for same; said amounts to be taken from the Special Revenue Fund entitled, "Office of the City Clerk/Document Filing Fee" (Account Code No. 001-0601-511-9002).

In full consideration of the services to be performed by CONSULTANT hereunder, CONSULTANT shall be A flat rate of in monthly increments upon presentation of invoices and a monthly status report regarding the project. Any increase in the agreed upon amount shall be approved by the Director or designee, and shall be in accordance with applicable CITY and State regulations.

IV. INDEPENDENT CONTRACTOR AND PROFESSIONAL HOLD HARMLESS PROVISIONS

4.1 Agency. Nothing herein shall imply or shall be deemed to imply an agency relationship between the City and FIU.

4.2.1 FIU warrants that it fully complies with all Federal statutes and regulations regarding the employment of aliens and others and that all employees performing work under this Agreement meet the citizenship or alien status requirements set forth in Federal statutes and regulations, to the extent permitted by Florida Law and without waiving any defense or immunity. To the extent permitted by and within the limitations of Fla. Stat. Section 768.28, FIU shall indemnify, defend, and hold harmless City, its officers and employees from and against any sanctions and any other liability which may be assessed against FIU or City in connection with any alleged violation of any Federal statutes or regulations pertaining to the eligibility for employment of any persons performing work hereunder.

4.2.2 The employees and agents of each party, shall while on the premises of the other party, comply with all rules and regulations of the premises, including, but not limited to, security and requirements.

4.2 Indemnification and Hold Harmless. To the extent permitted by and within the limitations of Fla. Stat. Section 768.28, FIU shall indemnify and hold harmless the City and its consultants, agents, and employees from and against all claims, damages, losses, and expenses (including but not limited to fees and charges of attorneys and others and court and arbitration costs) arising out of or resulting from the performance of the work under this Agreement, provided that any such claim, damage, loss, or expense (a) is attributable to bodily injury, sickness, disease or death, and (b) is caused in whole or in part by any willful or negligent act or omission of FIU, any subsequent, or any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by Law and Regulations regardless of the negligence of any such party.

It is the specific intent of the parties hereto that the foregoing indemnification complies with Section 768.28, Florida Statutes.

V. INSURANCE

FIU is a self-insured entity.

VI. STANDARD OF CARE

6.1 FIU shall exercise the same degree of care, skill, and diligence in the performance of the services as is ordinarily provided by a comparable professional under similar circumstances, and FIU shall, at no additional cost to the City, re-perform services which fail to satisfy the foregoing standard of care.

6.2 FIU warrants that skilled and competent personnel to the highest professional standards in the field shall perform all services.

VII. NON-DISCRIMINATION

7.1 EEO and ADA: The contractor must be and remain in compliance with all local, state and federal Equal Employment Opportunity (EEO) and American Disabilities Act (ADA) requirements.

7.2 It is understood that FIU shall not discriminate against any employee in the performance or the contract with respect to hire, tenure, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment because of age, marital status, race, color, religion, national origin, sex, or disability.

7.3 City Policy Regarding Conduct. All contractors, their employees, agents and subcontractors must abide by the City's policies regarding conduct, as applicable. Discrimination, harassment, and/or violations of City policies will not be tolerated and are grounds for termination of the contract without harm to the City or its employees.

VIII. CONFLICT OF INTEREST

8.1 Any potential or actual conflict between private interests and responsibilities under this Agreement shall be immediately disclosed to the City.

IX. CONFIDENTIALITY

9.1 Except if required by law, no reports, information, computer programs, documentation, and/or data given to or prepared or assembled by FIU under this Agreement shall be made available to any individual or organization by the FIU without prior written approval of the City.

X. OWNERSHIP OF DOCUMENTS

10.1 Any and all documents, records, disks, or other information shall become the property of the City for its use and/or distribution within the City.

XI. TRUTH-IN-NEGOTIATION CERTIFICATE

11.1 Execution of this Agreement by FIU shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of the Agreement.

11.2 The said rates and costs shall be adjusted to exclude any significant sums should the City determine that the rates and costs were increased due to inaccurate,

incomplete, or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The City shall exercise its rights under this "Certificate" within one (1) year following payment.

XII. NOTICE

12.1 Any notice, request, instruction or other document required or permitted to be given hereunder by either party hereto to the other shall be in writing, and delivered personally, or sent by certified or registered mail, postage prepaid, return receipt requested, to the address set forth for such party at the bottom of this Agreement. Any notice so given shall be deemed received when personally delivered or three (3) calendar days after mailing. Any party may change the address to which notices are to be sent by giving notice of such change of address to the other party in the manner herein provided for giving notice. Notice as the City of Coral Gables shall be to:

City Manager
City of Coral Gables
405 Biltmore Way
Coral Gables, FL 33134

Cc: City Attorney

Jennifer Fu, Principal Investigator
Director of GIS-RS Center

Notice as to FIU shall be to:

Robert Gutierrez
Director, Pre-Award
Division of Research
Florida International University
MMC, MARC 430
Miami, FL 33199

XIII. TERMINATION

13.1 Termination by default. City may, by written notice to FIU, terminate the whole or any part of this Agreement if, in the judgment of the City Manager:

- a) FIU has materially breached any portion of this Agreement;
- b) FIU fails to timely provide and/or satisfactorily perform any task, deliverable, service, or other work required under this Agreement;
- c) FIU has assigned or delegated its duties or subcontracted any performance of this Agreement without prior written consent by the City;

If, after City has given notice of termination under the provisions hereunder, it is determined by City that FIU was not in default under these provisions, or that the default was excusable under these provisions, the rights and obligations of the parties

shall be the same as if the notice of termination had been issued pursuant to Paragraph 13.2 (Termination for Convenience).

The rights and remedies of City provided in this Paragraph 13.1 are non-exclusive and cumulative.

13.2 Termination for Convenience. This Agreement may be terminated by either party without cause. Termination shall be effected by delivery to the other party of a notice of termination specifying the extent to which performance of Agreement is terminated and the date upon which such termination becomes effective, which shall be no less than thirty (30) days after the notice is sent.

After receipt of a notice of termination, FIU shall submit its invoice to City, in the form and with any certifications as may reasonably be prescribed by City. Such claim and invoice shall be submitted promptly, but not later than three months from the effective date of termination. Upon failure by FIU to submit its invoice within the time allowed, City may determine on the basis of the information available to the City, the amount, if any, due to FIU in respect to the termination. When such determination is made, City shall pay FIU the amount so determined.

13.3 Termination Payment. Unless FIU is in breach of this Agreement, FIU shall be paid for services rendered to the City's satisfaction through the date of termination. After receipt of a Termination Notice, and except as otherwise directed by the City, FIU shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in progress, completed work, and other material related to the terminated work to the City.
- D. Continue to complete all parts of the work that have not been terminated.

FIU shall be paid for services actually rendered to the date of termination to include non-cancelable commitments.

XIV. UNCONTROLLABLE FORCES

14.1 Neither the City nor FIU shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to, fire, flood, earthquake, storm, lighting, epidemic, war, riot, civil disturbance, sabotage, and governmental action.

14.2 Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented,

removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

XV. MODIFICATION

15.1 This Agreement may not be amended or modified unless in writing and signed by both parties.

XVI. ASSIGNMENT AND SUBCONTRACTING

16.1 This Agreement and the rights of FIU and obligations hereunder may not be assigned, delegated or subcontracted by FIU without the express prior written consent of the City. Any assignment, delegation or subcontract without such express prior written consent shall be null and void and shall constitute a material breach of this Agreement, upon which the City may immediately terminate the Agreement in accordance with the provisions of paragraph 13.1 (Termination by Default). The City may assign its rights, together with its obligations hereunder.

XVII. AUDITS

17.1 FIU shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. FIU shall maintain adequate records to justify all charges and costs incurred in performing the services for at least three (3) years after completion of this Agreement. FIU shall also maintain accurate and complete employment and other records relating to its performance of this Agreement. FIU agrees that City, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or records relating to this Agreement. All financial records, timecards and other employment records, and proprietary data and information shall be kept and maintained by FIU and made available to the City during the terms of this Agreement and for a period of three (3) years thereafter unless City's written permission is given to dispose of any such material prior to such time. All such materials shall be maintained by FIU at its University Park campus (at GL 273 or other applicable FIU location, Miami, FL 33199). The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal working business hours at FIU.

In the event that an audit is conducted of FIU specifically regarding this Agreement by any Federal or State auditor, or by any auditor or accountant employed by FIU, then FIU shall file a copy of the audit report with the City's Auditor within thirty (30) days of FIU's receipt thereof, unless otherwise provided by applicable Federal or State law. City shall make a reasonable effort to maintain the confidentiality of such audit report(s).

Failure on the part of FIU to comply with the provisions of this Paragraph 17.1 shall constitute a material breach upon which the City may terminate or suspend this Agreement.

17.2 City Audit Settlements. If, at any time during or after the term of this Agreement, representatives of the City conduct an audit of FIU regarding the work performed under this Agreement, and if such audit finds that City's dollar liability for any such work is less than payments made by City to FIU, then the difference shall be either repaid by FIU to City by cash payment upon demand or, at the sole option of City, deducted from any amounts due to FIU from City. If such audit finds that City's dollar liability for such work is more than the payments made by City to FIU, then the difference shall be paid to FIU by cash payment.

XVIII. AVAILABILITY OF FUNDS

18.1 The obligations of the City under this Agreement are subject to the availability of funds lawfully appropriated for its purpose by the City Commission.

XIX. COMPLIANCE WITH LAWS

19.1 In performance of the services, FIU will comply with applicable regulatory requirements, including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria, and standards.

19.2 Conflict of Interest. FIU covenants that no person employed by FIU who exercises any functions or responsibilities in connection with this Agreement has any personal financial interests direct or indirect with the City. FIU further covenants that, in the performance of this Agreement, no person having a conflicting interest shall be employed. Any such interests on the part of FIU or its employees must be disclosed in writing to City.

19.3 FIU is subject to the Ethics Laws of the State of Florida contained in Chapter 112, Part III of the Florida Statutes, and agrees that it shall fully comply in all respects with the terms of said laws.

XX. FEDERAL AND STATE TAXES

20.1 The City and FIU are exempt from Federal Tax and State Sales and Use Taxes. Based upon the City's tax exemption, FIU shall not be exempted from paying sales tax to its suppliers for materials to fulfill the contractual obligations with the City, nor shall FIU be authorized to use the City's Tax Exemption Number in securing such materials. FIU shall use it's own Tax Exemption Number in securing such materials.

XXI. SUCCESSORS AND ASSIGNS

21.1 The City and FIU each binds itself and its partners, successors, assigns, and legal representatives to the other party to this Agreement and to its partners, successors, executors, administrators, assigns, and legal representatives. FIU shall not assign this Agreement without the express written approval of the City via executed amendment.

XXII. CONTINGENT FEES

22.1 FIU warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for FIU, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for FIU, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

XXIII. ENTIRETY OF AGREEMENT

23.1 The City and FIU agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters, or other communications between the City and FIU pertaining to the services, whether written or oral. None of the provisions, terms, and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

XXIV. COUNTERPARTS

24.1 This Agreement may be executed simultaneously in several counterparts, each of which will be an original, but all of which together will constitute one and the same instrument.

XXV. WAIVER

25.1 A waiver by either the City or FIU of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

XXVI. SEVERABILITY, SURVIVAL

26.1 If any provision of this Agreement is found to be void and unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall nevertheless be binding upon the parties with the same effect as though the void or unenforceable provision had been severed and deleted.

XXVII. GOVERNING LAW AND VENUE

27.1 The laws of the State of Florida shall govern this Agreement. Any and all legal action necessary to enforce the Agreement will be held in Miami-Dade County, and the Agreement will be interpreted according to the laws of Florida.

27.2 The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way effect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement, and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

27.3 The provisions of this section shall not prevent the entire Agreement from being void should a provision, which is of the essence of the Agreement, be determined to be void. Records subject to the provisions of Public Records Law, Florida Statutes Chapter 119, shall be kept and maintained in accordance with such Statute. Contractor acknowledges that records and books, not subject to exemption under Chapter 119, may be disclosed and/or produced to third parties by the City in accordance with requests submitted under Chapter 119 or court orders without penalty or reprisal to the City for such disclosure and/or production. Contractor also agrees to assert, in good faith, any relevant exemptions provided for under Chapter 119 for records in its possession on behalf of the City. Furthermore, Contractor agrees to comply with the provisions outlined in Section 119.0701 of the Florida Statutes, the requirements of which are incorporated by reference herein.

XXVIII. TIME IS OF THE ESSENCE

28.1 Time is of the Essence. If any anticipated or actual delays arise, FIU shall immediately so notify the City. Regardless of notice if services or deliveries are not made at the time agreed upon, the City may, at its sole discretion, terminate this Agreement and proceed pursuant to Paragraph 13.1 (Termination by Default).

XXIX. HEADINGS

29.1 The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

APPROVED AS TO
PROCUREMENT CODE COMPLIANCE

AS TO CITY:

Michael Pounds
Chief Procurement Officer

Carmen Olazabal
Interim City Manager

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Walter J. Foeman,
City Clerk

Craig E. Leen
City Attorney

001-0601-511-9002
APPROVED AS TO FUNDING
AVAILABILITY

Keith Kleiman
Budget Director

**AS TO THE FLORIDA INTERNATIONAL
UNIVERSITY BOARD OF TRUSTEES**
acting for and on behalf of Florida
International University

Diana M. Gomez
Finance Director

Robert Gutierrez
Director, Pre-Award
Division of Research
Florida International University

Corporate Secretary (SEAL)

(OR)
WITNESSES:

Print Name: _____

Print Name: _____