



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:

JJ-1.

MEETING DATE	2019-07-23 10:05 - Regular School Board Meeting
AGENDA ITEM	ITEMS
CATEGORY	JJ. OFFICE OF FACILITIES & CONSTRUCTION
DEPARTMENT	Facilities Construction

Special Order Request <input type="radio"/> Yes <input checked="" type="radio"/> No
Time
Open Agenda <input checked="" type="radio"/> Yes <input type="radio"/> No

TITLE:
 Construction Bid Recommendation of \$500,000 or Greater - ITB 19-180C - Mirror Lake Elementary School - Plantation - West Construction, Inc. - SMART Program Renovations - Project No. P.002011

REQUESTED ACTION:
 Approve the recommendation to award the Construction Agreement to West Construction, Inc. for the lump sum amount of \$3,038,785.23 and approve additional funding in the amount of \$2,113,400.

SUMMARY EXPLANATION AND BACKGROUND:
 Scope of Work: See Executive Summary (Exhibit 1).
 This Agreement has been review and approval as to form and legal content by the Office of the General Counsel.

SCHOOL BOARD GOALS:
 Goal 1: High Quality Instruction Goal 2: Continuous Improvement Goal 3: Effective Communication

FINANCIAL IMPACT:
 The financial impact of approving this Construction Bid Recommendation is \$3,038,785.23. This project has been appropriated in the Adopted District Educational Facilities Plan (September 5, 2018). There is an additional impact to the project budget. These funds in the amount of \$2,113,400 will come from the Capital Projects Reserve. This increases the project budget from \$1,720,000 to \$3,833,400.

EXHIBITS: (List)
 (1) Executive Summary (2) Recommendation Tabulation (3) ADEFP (4) Agreement (5) Collaboration Form

BOARD ACTION:
APPROVED
(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:	
Name: Phil D. Kaufold, Task Asgd. Director Constr.	Phone: 754-321-1532
Name: Daniel Jardine, CBRE I Heery Director	Phone: 754-321-4850

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
 Senior Leader & Title
 Frank Girardi - Executive Director

Signature

Frank L. Girardi
 7/8/2019, 3:37:31 PM

Approved In Open Board Meeting On: JUL 23 2019
 By: *Heather P. Burkwood*
 School Board Chair

EXECUTIVE SUMMARY
Construction Bid Recommendation of \$500,000 or Greater
ITB 19-180C
Mirror Lake Elementary School, Plantation
West Construction, Inc.
SMART Program Renovations
Project No. P.002011

PROJECT OVERVIEW:

Delivery Method:	Design/Bid/Build
Architect(s):	ACAI Associates, Inc.
Contractor(s):	West Construction, Inc.
Notice to Proceed Date:	Pending Board Approval
Budget:	See below

GENERAL OVERVIEW:

This item is requesting authorization to award a Lump Sum Contract for construction of the Mirror Lake Elementary School SMART Program Renovations to West Construction, Inc., in the amount of \$3,038,785.23. The scope of work for this project includes, but not limited to, media center improvements and building envelope improvements. Scope to provide fire sprinklers to Buildings 1, 4, 6, 7, 8, 9, and 85 was reviewed by the District's Chief Fire Official who determined that these Buildings did not require fire sprinklers, therefore, this scope of work was removed from the construction documents prior to bidding.

The Letter of Recommendation to Issue a Permit has been provided by the Building Department. Bids were received on April 23, 2019 from a total of five (5) bidders. Procurement and Warehousing Services has recommended the award of the project to West Construction, Inc. as the lowest responsive, responsible bidder that met the specifications, terms and conditions of the bid (see Exhibit 2 for details).

The Construction Bid Recommendation for Mirror Lake Elementary School exceeds the available funds and requires additional funding in the amount of \$2,113,400 to proceed with the SMART Program Renovations. Staff has evaluated both the Designer's and Atkins' 100% estimates and has deemed the bid fair and reasonable based on current market conditions, which have changed considerably since the 2014 budget development. These budget overages are included in the SMART Program Forecast. The following summarizes the previous and revised funding allocations:

Allocations of Project Funds	Previous Budget	Revised Budget	Net Change
Planning Design and Management	\$394,348	\$394,348	\$0
Construction Contract	\$1,117,423	\$3,038,785.23	\$1,921,362.23
Construction Contingency (10%)*	\$111,742	\$303,779.77	\$192,037.77
Construction Misc.**	\$44,287	\$44,287	\$0
Furnishings	\$52,200	\$52,200	\$0
Total	\$1,720,000	\$3,833,400	\$2,113,400

*Reserved for future use if required

**Includes the following items where applicable: Off-site Improvements; Misc. Construction; Hazardous Materials Abatement; Technology Infrastructures; Utility Connection Charges; PPO Work Orders; and Portables

The request for additional funding is a result of continued budget overages. The most significant budget overage is associated with the building envelope improvements due to inadequate unit prices and inflation. The HVAC improvement overage is mainly due to Test & Balance and controls. The remainder of the HVAC improvement overage is due to inadequate unit prices and inflation.

Staff has evaluated the various SMART scopes for this project. It was determined that the most cost and time efficient means to deliver these improvements is by a single construction contract. Staff does not recommend creating separate bid packages, "carve outs", for any of the approved scopes. The proposal received from West Construction, Inc. is believed to be the most cost-effective means of delivering this project.

West Construction, Inc. is not a certified Minority/Women Business Enterprise (M/WBE). However, West Construction, Inc. has committed to M/WBE Participation of 17.46% for this project through the use of certified M/WBE subcontractors.

This Agreement has been reviewed and approved as to form and legal content by the Office of the General Counsel.

For the latest Bond Oversight Committee Quarterly Report information regarding this project [click here](#).



RECOMMENDATION TABULATION

ITB #:	<u>19-180C</u>	Tentative Board Meeting Date*:	<u>June 25, 2019</u>
Hard Bid Title:	<u>MIRROR LAKE ELEMENTARY SCHOOL SMART PROGRAM RENOVATIONS</u>	# Notified:	<u>1652</u> # Downloaded: <u>28</u>
		# of Responses Rec'd:	<u>5</u> # of "No Bids": <u>0</u>
For:	<u>OFFICE OF FACILITIES AND CONSTRUCTION</u> (School/Department)	Select One Opening Date :	<u>April 23, 2019</u>
Fund:	<u>SMART</u>	Advertised Date:	<u>March 18, 2019</u>

POSTING OF Select One RECOMMENDATION/TABULATION: Select One Recommendations and Tabulations will be posted in the Procurement & Warehousing Services and www.Demandstar.com on April 25, 2019 @ 1:30AM and will remain posted for 72 hours. Any person who is adversely affected by the decision or intended decision shall file a notice of protest, in writing, within 72 hours after the posting of the notice of decision or intended decision. The formal written protest shall be filed within ten (10) days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings under this chapter. Section 120.57(3) (b), Florida Statutes, states that "The formal written protest shall state with particularity the facts and law upon which the protest is based." Saturdays, Sundays, state holidays and days during which the District is closed shall be excluded in the computation of the 72-hour time period provided. Filings shall be at the office of the Director of Procurement & Warehousing Services, 7720 West Oakland Park Boulevard, Suite 323, Sunrise, Florida 33351. Any person who files an action protesting an intended decision shall post with the School Board, at the time of filing the formal written protest, a bond, payable to The School Board of Broward County, Florida, (SBBC), in an amount equal to one percent (1%) of the estimated value of the contract. Failure to post the bond required by SBBC Policy 3320, Part VIII, Purchasing Policies, Section N, within the time allowed for filing a bond shall constitute a waiver of the right to protest.

(*) The Cone of Silence, as stated in the ITB / RFP / RFQ / HARD BID, is in effect until it is approved by SBBC. The Board meeting date stated above is tentative. Confirm with the Purchasing Agent of record for the actual date the Cone of Silence has concluded.

RECOMMENDATION TABULATION

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA ADVERTISED THE BID 19-180C MIRROR LAKE ELEMENTARY SCHOOL SMART PROGRAM RENOVATIONS ON MARCH 18, 2019 AND FIVE (5) PROPOSALS WERE RECEIVED:

- LUNACON CONSTRUCTION GROUP
- WEST CONSTRUCTION, INC.
- LEGO CONSTRUCTION CO.
- OAC ACTION CONSTRUCTION, CORP.
- OVERHOLT CONSTRUCTION CORPORATION

IT IS RECOMMENDED THE AWARD BE MADE TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER THAT MET THE SPECIFICATIONS, TERMS AND CONDITIONS OF THE BID, WHO IS LISTED BELOW:

WEST CONSTRUCTION, INC.

IN THE BEST INTEREST FOR THE SCHOOL DISTRICT, IT IS RECOMMENDED THAT THE LISTED LOWER BIDDER BE RECOMMENDED FOR AWARD IN THE AMOUNT OF ITS LUMP-SUM BID.

THIS AWARD SHALL BE CONTINGENT UPON SUCCESSFUL COMPLETION OF A WRITTEN AGREEMENT.

By: *Luis E. Percy* Date: April 25, 2019
(Purchasing Agent)

The School Board of Broward County, Florida, prohibits any policy or procedure which results in discrimination on the basis of age, color, disability, gender expression, national origin, marital status, race, religion, sex or sexual orientation. Individuals who wish to file a discrimination complaint, may call the Executive Director, Benefits & EEO Compliance at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

Individuals with disabilities requesting accommodations under the Americans with Disabilities Act (ADA) may call the Equal Educational Opportunities (EEO) at 754-321-2150 or Teletype Machine (TTY) at 754-321-2158.

Mirror Lake Elementary School

Adopted District Educational Facilities Plan

Project	Program Year 1	Program Year 2	Program Year 3	Program Year 4	Program Year 5	Total	Scope
There are no DEFP projects for this location.							

SMART Program

Project	Program Year 1	Program Year 2	Program Year 3	Program Year 4	Program Year 5	Total	Scope
Safety & Security			225,000*	Note 1		225,000	Fire Sprinklers
Renovation			100,000			100,000	School Choice Enhancement
Renovation			175,000*			175,000	Media Center improvements
Renovation			357,000*			357,000	HVAC Improvements
Renovation			963,000*			963,000	Building Envelope Improvements (Roof, Window, Ext Wall, etc.)
SMART Sub-Total			1,820,000			1,820,000	

Completed

Project	Program Year 1	Program Year 2	Program Year 3	Program Year 4	Program Year 5	Total	Scope
SMART			50,000			50,000	Music Equipment Replacement
SMART			70,000			70,000	Wireless Network Upgrade
SMART			60,000			60,000	Additional computers to close computer gap
SMART			15,000			15,000	CAT 6 Data port Upgrade
Complete Sub-Total			195,000			195,000	

School Total 0 0 2,015,000 0 0 2,015,000

*Project Scope Included:
 Year 3 total scope \$1,720,000
 total value of scope \$1,720,000

Note 1: Fire sprinkler budget remains in the project though scope is not required.

NOTE: Funding provided for all schools to achieve the district standard for Single Point of Entry.



The School Board of Broward County, Florida
 Procurement & Warehousing Services Department
 7720 W. Oakland Park Blvd., Suite 323
 Sunrise, Florida 33351 (754) 321-0505

Document 00520: Agreement Form

THIS AGREEMENT made and entered into this ^{23rd} ~~25th~~ day of ^{July} ~~June~~ 2019 by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

(Hereinafter referred to as "**Owner**" and

WEST CONSTRUCTION, INC.

(Hereinafter referred to as "**Contractor**").

WHEREAS, Owner is the owner of certain real property located in Broward County and Owner desires to have:

Bid No.:	19-180C
Project No.:	P.002011
Location No.:	1841
Project Title:	SMART Program Renovations
Facility Name:	Mirror Lake Elementary School

Work of this Contract comprises the renovations including, but not limited to:

1. Re-roofing buildings #1, #4, #5, #6, #7, #8 & #85;
2. Restroom renovation in building #1;
3. Media Center renovation in building #1;
4. Mechanical, Electrical, Plumbing, and Fire Protection replacements and upgrades.

Constructed pursuant to drawings, specifications and other design documents prepared by ACAI Associates, Inc. (Hereinafter referred to as **Project Consultant**).

WHEREAS, the Contractor is desirous of performing the Work in accordance with the Contract Documents and all applicable laws, codes and ordinances.

NOW THEREFORE, in exchange for the mutual covenants and promises set forth herein and the sums of money agreed to be paid by the Owner to Contractor, the parties agree as follows:

ARTICLE 1. ENTIRE AGREEMENT

- 1.01 This Construction Contract, along with the Contract Documents consisting of the Agreement Form, M/WBE Program Requirements, Documents contained in the Project Manual, General and Supplementary Conditions, Addenda, Drawings, Specifications, and modifications issued after execution of the Contract embodies the

entire agreement between Owner and Contractor and supersedes all other writings, oral agreements, or representations.

- 1.02 The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein.
- 1.03 NO CHANGES, AMENDMENTS OR MODIFICATIONS OF ANY OF THE TERMS OR CONDITIONS OF THE CONTRACT SHALL BE VALID UNLESS REDUCED TO WRITING AND SIGNED BY BOTH PARTIES.

ARTICLE 2. ENUMERATION OF THE CONTRACT DOCUMENTS.

- 2.01 The Contract Documents consisting of the Agreement Form, M/WBE Program Requirements, Documents contained in the Project Manual, General and Supplementary Conditions, Drawings, Specifications, and all Addenda and modifications issued after execution of the Contract thereto together form the Contract, and they are fully a part of the Contract as if written herein word for word. The following is an enumeration of the Drawings and Project Manual for this Project:
- 2.02 The Drawings:

Drawing Number	Drawing Title	Revision No.	Date
GN-000	COVER SHEET		
GN-001	SHEET INDEX, GENERAL NOTES, ABBREVIATIONS & CODE ANALYSIS	2	02.05.2019
GN-002	SITE DEFICIENCY LIST		
GN-003	ADA DETAILS	1	12.12.2018
GN-004	ADA DETAILS	1	12.12.2018
A01-101	BUILDING 1 – ROOM 101K ENLARGED PLANS, ELEVATIONS & SCHEDULE	2	02.05.2019
A01-102	BUILDING 1 – ROOMS 144 & 145 ENLARGED PLANS & ELEVATIONS		
A01-103	BUILDING 1 – ROOMS 126 & 126B ENLARGED PLANS		
A01-104	BUILDING 1 – PARTIAL DEMOLITION ROOF PLAN	1	12.12.2018
A01-105	BUILDING 1 – PARTIAL DEMOLITION ROOF PLAN	1	12.12.2018
A01-106	BUILDING 1 – PARTIAL DEMOLITION ROOF PLAN	1	12.12.2018
A01-107	BUILDING 1 – PARTIAL DEMOLITION ROOF PLAN	1	12.12.2018
A01-108	BUILDING 1 – PARTIAL ROOF PLAN	1	12.12.2018
A01-109	BUILDING 1 – PARTIAL ROOF PLAN	1	12.12.1018
A01-110	BUILDING 1 – PARTIAL ROOF PLAN	1	12.12.2018
A01-111	BUILDING 1 – PARTIAL ROOF PLAN	1	12.12.2018
A04-101	BUILDINGS 4 & 5 – DEMOLITION ROOF PLANS	1	12.12.2018
A04-102	BUILDINGS 4 & 5 – ROOF PLANS	1	12.12.2018
A06-101	BUILDINGS 6 & 7 – DEMOLITION ROOF PLANS	1	12.12.2018
A06-102	BUILDING 6 & 7 – ROOF PLANS	1	12.12.2018
A08-101	BUILDINGS 8 & 85 – DEMOLITION ROOF PLAN	1	12.12.2018
A08-102	BUILDINGS 8 & 85 – ROOF PLAN	1	12.12.2018
D85-101	BUILDING 85 – DEMOLITION FFE PLANS AND ELEVATIONS 1	1	12.12.2018
D85-102	BUILDING 85 – DEMOLITION FFE ELEVATIONS 2	1	12.12.2018
A85-101	BUILDING 85 – RELOCATED FFE PLANS & ELEVATIONS	1	12.12.2018
A85-102	BUILDING 85 – RELOCATED FFE PLANS & ELEVATIONS	1	12.12.2018
A-801	ROOF DETAILS 1	1	12.12.2018
A-802	ROOF DETAILS 2	1	12.12.2018
A-803	ROOF DETAILS 3	1	12.12.2018

A-804	ROOF DETAILS 4	1	12.12.2018
A-805	ROOF DETAILS 5	1	12.12.2018
S00-001	STRUCTURAL GENERAL NOTES		
S00-201	STRUCTURAL DETAILS	1	12.12.2018
S01-001	BUILDING 1 – ROOF PLAN & WIND PRESSURE DIAGRAM		
S01-102	BUILDING 1 – ROOF PLAN & PARTIAL FLOOR PLAN	1	12.12.2018
S04-001	BUILDING 4 – ROOF PLAN & WIND PRESSURE DIAGRAM		
S05-001	BUILDING 5 – ROOF PLAN & WIND PRESSURE DIAGRAM		
S06-001	BUILDING 6 – ROOF PLAN & WIND PRESSURE DIAGRAM	1	12.12.2018
S07-001	BUILDING 7 – ROOF PLAN & WIND PRESSURE DIAGRAM	1	12.12.2018
S08-001	BUILDING 8 – ROOF PLAN & WIND PRESSURE DIAGRAM	1	12.12.2018
S85-001	BUILDING 85 – ROOF PLAN & WIND PRESSURE DIAGRAM	1	12.12.2018
M-001	HVAC GENERAL NOTES, ABBREVIATIONS & CODE ANALYSIS	1	12.12.2018
M-101	HVAC SITE PLAN		
M01-201	BUILDING 1 – HVAC FLOOR PLAN		
M01-202	BUILDING 1 – HVAC ROOF PLAN	1	12.12.2018
M01-301	BUILDING 1 – HVAC ENLARGED PLANS	1	12.12.2018
M01-302	BUILDING 1 – HVAC ENLARGED PLANS		
M04-201	BUILDING 4 – HVAC FLOOR PLAN		
M06-201	BUILDING 6 – HVAC FLOOR PLAN		
M07-201	BUILDING 7 – HVAC FLOOR PLAN		
M08-201	BUILDING 8 – HVAC FLOOR PLAN		
M09-201	BUILDING 9 – HVAC FLOOR PLAN		
M85-201	BUILDING 85 – HVAC FLOOR PLAN		
M-501	HVAC CONTROLS		
M-502	HVAC CONTROLS		
M-601	HVAC DETAILS		
E-001	ELECTRICAL GENERAL NOTES, LEGEND AND DETAILS	1	12.12.2018
E-002	ELECTRICAL LEGEND	1	12.12.2018
E-101	ELECTRICAL SITE PLAN		
E01-201	BUILDING 1 – ELECTRICAL FLOOR PLAN	1	12.12.2018
E01-202	BUILDING 1 – ELECTRICAL ROOF PLAN	1	12.12.2018
E01-301	BUILDING 1 – ELECTRICAL ENLARGED PLAN	1	12.12.2018
E01-302	BUILDING 1 – ELECTRICAL ENLARGED PLANS		
E01-303	BUILDING 1 – ELECTRICAL ENLARGED PLANS	1	12.12.2018
E01-501	BUILDING 1 – ELECTRICAL PANELS	1	12.12.2018
E01-502	BUILDING 1 – ELECTRICAL PANELS	1	12.12.2018
E85-301	BUILDING 85 – ELECTRICAL FLOOR PLANS	1	12.12.2018
E-301	CHILLER YARD ELECTRICAL PLAN	1	03.28.2018
E-401	ELECTRICAL RISER	1	03.28.2018
E-501	ELECTRICAL PANELS	1	03.28.2018
E-502	ELECTRICAL PANELS	1	03.28.2018
E-503	ELECTRICAL PANELS	1	03.28.2018
E-504	ELECTRICAL PANELS	1	03.28.2018
E-505	ELECTRICAL PANELS	1	03.28.2018
P-001	PLUMBING GENERAL NOTES, LEGEND AND DETAILS	1	12.12.2018
P01-202	BUILDING 1 – PLUMBING ROOF PLAN	1	12.12.2018
P04-201	BUILDING 4 – PLUMBING FLOOR PLAN	1	12.12.2018
P05-201	BUILDING 5 – PLUMBING ROOF PLAN	1	12.12.2018
P06-201	BUILDING 6 – PLUMBING ROOF PLAN	1	12.12.2018
P07-201	BUILDING 7 – PLUMBING ROOF PLAN	1	12.12.2018
P08-201	BUILDING 8 – PLUMBING ROOF PLAN	1	12.12.2018
P85-201	BUILDING 85 – PLUMBING ROOF PLAN	1	12.12.2018

2.03 The Project Manual:

- Division 0 - Documents
- Division 1 - General Requirements
- Division 2 - Site Work
- Division 3 - Concrete
- Division 4 - Masonry
- Division 5 - Metals
- Division 6 - Wood and Plastics
- Division 7 - Thermal & Moisture Protection
- Division 8 - Doors & Windows
- Division 9 - Finishes
- Division 10 - Specialties
- Division 15 - Mechanical
- Division 16 - Electrical

ARTICLE 3. CONTRACT SUM

- 3.01 The Owner shall pay, and the Contractor shall accept, as full and complete payment for the Contractor's timely performance of its obligations hereunder, the lump-sum amount of:

Three Million Thirty-Eight Thousand Seven Hundred Eighty- Five Dollars and Twenty-Three Cents \$ 3,038,785.23

This shall constitute the Contract Price, which shall not be modified except by Change Order or by Unit Prices, if any, as provided in the Contract Documents.

ARTICLE 4. TIME FOR CONTRACTOR'S PERFORMANCE.

- 4.01 Upon execution of the contract by both the successful Bidder and the Owner, submittal of the required performance and payment bonds, certificates of insurance, and receipt and approval of the required post-bid information, the Owner will issue **Document 00550, Notice to Proceed** which will stipulate the commencement date for the Work.

- 4.02 The Contractor shall commence the performance of the Work on the date stipulated on Document 00550, Notice to Proceed, and shall diligently continue its performance to and until final completion of the Project.

4.03 Required date(s) of Substantial Completion

- 4.03.01 The Contractor shall accomplish Substantial Completion of the Work on or before:

365 Consecutive calendar days from the commencement date stipulated on Document 00550: Notice To Proceed

- 4.03.02 Preceding Substantial Completion, the following Milestone Dates are required to commence and be completed as follows:

Phase	Commencement Date:	Required Substantial Completion Date
N/A		

4.04 Liquidated Damages for Substantial Completion:

- 4.04.01 Owner and Contractor acknowledge that any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing a reasonable estimate of delay damages, inconvenience, additional overhead and costs, likely to be sustained by the Owner, estimated at the time of executing this Contract. If the Owner reasonably believes in its discretion that Substantial Completion will be delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when in its discretion the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.
- 4.04.02 In the event more than one Milestone is involved, then the liquidated damages due for each Milestone shall be as follows:

Each Milestone	Five Hundred Dollars \$500.00 per day
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- 4.04.03 Partial use or occupancy of the Work shall not result in the Work deemed substantially completed, and such partial use or occupancy shall not be evidence of Substantial Completion.
- 4.04.04 Substantial Completion, in the context of this Contract, does not refer to any prior dates wherein the Owner employs other contractors to work on the same site of the Project or Work.

ARTICLE 5. SUBSTANTIAL COMPLETION AND FINAL PAYMENT.

5.01 Substantial Completion:

- 5.01.01 When the Contractor believes that Substantial Completion has been achieved, the Contractor shall notify the Project Consultant in writing and shall provide to the Project Consultant a listing of those matters yet to be finished. The Project Consultant will determine whether the Work (or portion thereof) is appropriately ready for a Substantial Completion Inspection.
- 5.01.02 If the Work is determined to be ready for a Substantial Completion Inspection, the Project Consultant and Owner will thereupon conduct an inspection of the Work to determine if the Work is, in fact, substantially complete and establish a list of items necessary for the Contractor to correct or finish. When Substantial Completion has been granted as evidenced by the Substantial Completion Inspection, the Project Consultant will issue a letter formally establishing the Substantial Completion Date for the Work or portion thereof.

5.01.03 Upon Substantial Completion, the Owner shall pay the Contractor an amount sufficient to increase total payments to the Contractor to the Contract Price, less any amounts attributable to liquidated damages, together with two hundred percent (200%) of the reasonable costs (as determined by the Owner at its sole discretion), for completing all incomplete work, correcting and bringing into conformance all defective and nonconforming Work and handling any outstanding or threatened claims or any other matters which could cause the Owner damage, cost, expense or delay.

5.02 **Final Completion:**

5.02.01 When the Contractor believes that the Work or portion thereof, is finally complete and is ready for a final inspection, the Contractor shall notify the Project Consultant, in writing. The Project Consultant will then determine whether the Work (or portion thereof) is appropriately ready for a Final Completion Inspection.

5.02.02 If the Work is determined to be ready for a Final Completion Inspection, the Project Consultant and Owner will thereupon conduct an inspection of the Work to determine if the Work is, in fact, finally complete. When Final Completion has been granted as evidenced by the Final Completion Inspection, the Project Consultant will issue a letter formally establishing the Final Completion Date for the Work or portion thereof.

5.02.03 When the Project Consultant and Owner confirms that the Project is complete in full accordance with the Contract Documents and has passed all required inspections, including but not limited to those required by the State Department of Education, and/or from any and all governmental bodies, boards, entities, etc., and that the Contractor has performed all of its obligations to the Owner, the Project Consultant will provide a final Approval for Payment to the Owner certifying to the Owner that the Project is complete and the Contractor is entitled to the remainder of the unpaid Contract Price, less any amount withheld pursuant to Contract Documents.

5.03 **Liquidated Damages for Final Completion:**

5.03.01 If the Contractor fails to achieve final completion within 30 consecutive calendar days of the date of Substantial Completion, the Contractor shall pay the Owner the sum of:
Five Hundred Dollars \$500
per day for each and every calendar day of unexcused delay in achieving final completion beyond the date set forth for final completion of the Work.

5.03.02 In the event the Project involves more than one Milestone Date; the final completion date and liquidated damages amount for each Milestone Date shall be as follows:

Each Milestone	Five Hundred Dollars \$500.00 per day
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5.03.03 Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing a reasonable estimate of delay damages, inconvenience, additional overhead and costs likely to be sustained by the Owner, estimated at or before the time of executing this Contract. When the Owner reasonably believes that final completion will be inexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays.

- 5.04 Prior to being entitled to receive final payment and as a condition precedent thereto, the Contractor shall provide the Owner, in the form and manner required by Owner, if any, with a copy to the Project Consultant: of the following:
- 5.04.01 An affidavit that all of the Contractor's obligations to subcontractors, laborers, equipment or suppliers, or other third parties in connection with the Project, have been paid or otherwise satisfied;
- 5.04.02 Such other documents as required by the Owner from each subcontractor, lower tier subcontractor, laborer, supplier or other person or entity who has or might have a claim against the Owner;
- 5.04.03 All product warranties, operating manuals, instruction manuals and other things or documents customarily required of the Contractor, or reasonably required by Owner, including but not limited to those required elsewhere in the Contract Documents, as part of its Project Closeout procedures;
- 5.04.04 The Owner shall, subject to its rights set forth in the Contract Documents, make final payment of all sums due the Contractor within thirty (30) days of the final Approval for Payment.
- 5.04.05 The Owner and Project Consultant may acknowledge satisfactory completion and accept the Work notwithstanding the existence of certain items of Work which are incomplete. As set forth in Article 5.03.03 of Article 5 hereof, the Owner may, but is not obligated to guarantee completion of incomplete items of Work by escrowing funds equal to two hundred (200%) percent of the estimated cost of the incomplete Work and shall establish a reasonable date by which all incomplete Work must finally be complete.

ARTICLE 6. TIME AND DELAYS.

- 6.01 All time in the Contract Documents is calculated on a consecutive calendar day basis.
- 6.02 Time is of the essence in this Contract, and any breach of same shall go to the essence hereof, and Contractor, in agreeing to complete the Work within the time herein mentioned, has taken into consideration and made allowances for all reasonable hindrances and delays incident to his work.
- 6.03 Contractor agrees to commence the Work when directed by Owner and to diligently and continuously perform such Work and to coordinate the Work with other Work being performed on the Project by other trades so that the Owner shall not be delayed by any act or omission of Contractor in completion of the Project within the time specified above.
- 6.04 Contractor shall make payments promptly to its vendors, subcontractors, suppliers and for labor, material and equipment used by it in the performance of its work.
- 6.05 The Contractor shall not be entitled to any claim for damages or an extension of Time on account of hindrance or delays from any cause whatsoever, but if caused by any act of God or active interference on the part of the Owner, such act, hindrance, or

delay may only entitle the Contractor to receive an extension of time as its sole and exclusive remedy.

- 6.05.01 Adverse weather such as rain is not to be considered to be an Act of God unless it exceeds the ten (10) year average as published by the National Weather Service (or equivalent organization acceptable to the Owner at its sole discretion) for that time of year in Broward County.
- 6.05.02 An extension of time to complete the Work shall be determined by the Owner provided that the Contractor provides the Owner with notice in writing of the cause of said act, hindrance or delay within twenty (20) days after its occurrence.
- 6.05.03 In the event the request for extension is not made in writing within that twenty (20) day time period, Contractor acknowledges and agrees it has forever waived any and all rights to such an extension.
- 6.05.04 All extensions of time shall be authorized only by a written change order executed by the Owner and Project Consultant.
- 6.05.05 This "no damage for delay" clause will encompass any damages for delay or disruption even if the Contractor completes construction of the Work in a timely fashion in accordance with this Contract.
- 6.05.06 Damages as referenced in this "no damage for delay" shall include any type of damages that are or could be awarded by any court or arbitration panel such as, by way of general example, but not limitation, tort, contract, strict liability, consequential damages, liquidated damages and/or punitive damages.
- 6.05.07 By way of specific example but not limitation, damages as referenced within this clause includes loss of use, loss of profits, labor inefficiency, loss of bonding capacity, overhead and repair costs, costs of capital replacement, loss of wages, pain and suffering, loss of production costs to replace facilities, equipment and/or product loss, increased and/or extended home office overhead, increased general conditions, costs of mobilization and demobilization, decrease in value, and/or any other damage or loss.
- 6.05.08 The Contractor recognizes and specifically acknowledges the terms and conditions of the "no damage for delay" clause upon execution of this Contract.

ARTICLE 7. CONTRACT BONDS

- 7.01 The Contract shall become effective and in full force upon the execution of this agreement, concurrently with the delivery of a bond issued by a Surety Company acceptable to Owner in its sole discretion, such Surety being qualified and rated in accordance with Article 42.08 of Document 00700, General Conditions of the Contract, and approved by the United States Treasury Department and licensed to do business in the State of Florida.
- 7.02 This Agreement must be executed and signed by a resident agent having an office in Florida, representing such Surety Company, for one hundred per cent (100%) of the

Contract price, said bond guaranteeing the performance of this Contract and as security for the payment of all persons performing labor and providing materials in connection with this Contract.

- 7.03 The form of Bonds required is included elsewhere in the Contract Documents. This is in addition to any bonds of subcontractors or others.
- 7.04 Insurance Provider and Surety: Refer to Document 00700 - General Conditions, Article 42.09 Contractor's Insurance.
- 7.04.01 Contractor and Surety shall have a continuing obligation to insure that all insurance or surety requirements are satisfied throughout the construction of the project and until all post completion obligations, including punch list and warranty requirements, are completed or expire.

ARTICLE 8. NOTICES

- 8.01 Any notices provided for hereunder shall be in writing and may be served either personally on the authorized representative of the receiving party at the jobsite, with a copy via telecopy or facsimile to the addresses shown below, or by registered mail or overnight delivery/courier service (e.g., Federal Express) to that party at the addresses shown below:

Party:		Address:
Owner:	Superintendent of Schools The School Board of Broward County, Florida	600 SE Third Avenue Ft. Lauderdale, FL 33301 Attn: Robert W. Runcie
With Copies To:	Project Manager Office of Facilities and Construction The School Board of Broward County, Florida	2301 NW 26th Street Ft. Lauderdale, FL 33311 Attn: Jean-Marc Dorsainvil
	AND Director Procurement & Warehousing Services The School Board of Broward County, Florida	Mary C. Coker Procurement & Warehousing Services Department 7720 W. Oakland Park Blvd. Suite 323 Sunrise, Florida 33351
Contractor:	West Construction, Inc.	820 North 4 th Street Lantana, FL 33462
Surety's Agent:	Berkley Insurance Company	Corporation Trust Center 1209 Orange St Wilmington, DE 19801

- 8.02 These addresses may be changed by either of the parties by written notice to the other party.

ARTICLE 9. CONTRACTOR'S RESPONSIBILITIES

- 9.01 The Contractor must comply with public records laws. Florida State Statute 119.0701 requires that the Contractor keep, maintain and provide public access to public records. The Contractor shall ensure that public records that are confidential and exempt from public records disclosure are not disclosed, except as authorized by law. The Contractor shall be responsible for retaining public records and transfer, at no cost to the public agency, all public records in their possession upon completion or termination of the contract. Electronically stored records must be provided in a format compatible with the information technology systems of the public agency. Failure to comply with these provisions will constitute a breach of contract and will have financial consequences.

- 9.02 **e-Builder.** The Contractor shall use the Owner's Project Management software, e-Builder, as a conduit for all project management tasks, including, but not limited to: communications to, from and between Owner, Project Consultant and Contractor; pay applications/invoicing; requests for change orders and change orders; material, equipment and systems submittals; requests for information; Architect's Supplemental Instructions; SMWBE Monthly Utilization Reporting; periodic Project observations; Weekly Progress Reports and meeting minutes.

Licenses shall be provided to Contractor to permit access and use of e-Builder for all projects awarded by Owner. Such license(s) shall be valid throughout the duration of the project(s). See Article 9.02.05 below for license request instructions.

- 9.02.01 **Forms Module.** The e-Builder Forms Module shall be used as the exclusive method to create Action Items that require a response from another Project Construction Team member. The required use of the Forms Module includes ALL e-mailed communications.
- 9.02.02 **Work Flows.** Any and all responses or required responses to an open Action Item or to an initiated Work Flow process shall be input and managed through e-Builder. Work Flow processes that will be executed through e-Builder include but are not limited to those processes identified in Article 3.1.2 above.
- 9.02.03 **Calendar Module.** The identification of Project events and required deliverables shall be input and maintained in the Calendar Module. At a minimum, such events include bi-weekly design meetings (while in design), weekly construction meetings, public meetings for the project (ex. Project Charter Meetings, Big Three-Monthly Updates, etc.) and other design and/or construction milestones and deadlines.

- 9.02.04 Meetings. Information to be input into e-Agenda related to any meeting includes, but is not limited to an agenda, a reminder of the meeting (which must occur a minimum of two (2) days prior to the meeting), meeting minutes (using the approved meeting minutes' template) and confirmation of actual meeting attendees.
- 9.02.05 Access to e-Builder and Licensing. Vendor shall designate and identify the employee(s) that shall personally access e-Builder, the projects to which the employee(s) is assigned, and the employee(s)'s duties and responsibilities as it relates to e-Builder.

This information together with a request for licensing shall be sent to Programs Controls Support, telephone number (754) 321-1537, eBuilderLicense@browardschools.com. Upon receipt, review and acceptance of the request, access information and logins shall be provided to Vendor.

Training shall be coordinated, scheduled and provided to those provided access and licenses with Programs Control Support. Additional training may be provided based on availability. The Contractor shall be required to use Owner's Project Management software, e-Builder. One (1) license will be provided to the Contractor at no cost.

In witness thereof, the said Contractor, WEST CONSTRUCTION, INC., and the Owner, The School Board of Broward County, Florida, have caused this contract to be executed and their corporate seals affixed by and through their proper officers, thereunto duly authorized, on this day and year first above written.

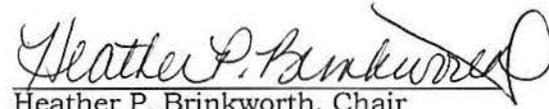
(Corporate Seal)

ATTEST:


Robert W. Runcie, Superintendent of
Schools

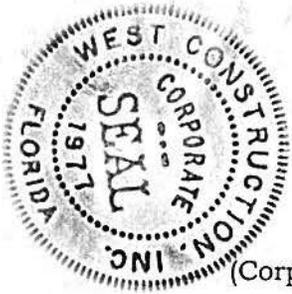
OWNER

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA


Heather P. Brinkworth, Chair

Approved as to form and legal content


Office of the General Counsel



(Corporate Seal)

CONTRACTOR

WEST CONSTRUCTION, INC.

By Martha A. Morgan
Martha A. Morgan, President

[Signature]

Matthew F. West, Secretary
Or -

Witness

Witness

CONTRACTOR NOTARIZATION

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 25th day of JUNE, 2019 by Martha A. Morgan, President of WEST CONSTRUCTION, INC. and, Matthew F. West, Secretary of WEST CONSTRUCTION, INC., on behalf of the Contractor.

Martha A. Morgan, and, Matthew F. West are personally known to me or produced _____ as identification and did/did not first take an oath.

My commission expires:

(SEAL)

[Signature]
Signature - Notary Public

Aurora Vega
Printed Name of Notary

172827
Notary's Commission No.



SURETY ACKNOWLEDGMENT

The Surety acknowledges that it has read the foregoing Construction Contract and has familiarized itself with the obligations of the Contractor and the Surety as stated therein, which obligations are agreed to by Surety and are incorporated, by reference to the Construction Contract, in the Payment and Performance Bonds.

SURETY:

Berkley Insurance Company

By: _____

Its: Warren M. Alter, Attorney-in-Fact

Date: June 25, 2019

J. Rafford

Warren M. Alter



STATE OF Florida

COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 25th day of June,
2019 by Warren M. Alter of
Berkley Insurance Company, on behalf of the Surety.

He/she is personally known to me or produced personally known as
identification and did/did not first take an oath.

My commission expires:

(SEAL) _____
Dawn Auspitz
Signature - Notary Public

Dawn Auspitz
Printed Name of Notary

GG145743
Notary's Commission No.



END OF DOCUMENT

POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: *Warren M. Alter; David T. Satine; Dawn Auspitz; or Jonathan Bursevich of Alter Surety Group, Inc. of Miami Lakes, FL* its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000.00), to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 14th day of November, 2017.

Witness:
By Ira S. Lederman
Executive Vice President & Secretary

Berkley Insurance Company
By Jeffrey M. Hafter
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

STATE OF CONNECTICUT)
) ss:
COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 14th day of November, 2017, by Ira S. Lederman and Jeffrey M. Hafter who are sworn to me to be the Executive Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

Maria C. Rundbaken
NOTARY PUBLIC
MY COMMISSION EXPIRES
APRIL 30, 2019
Notary Public, State of Connecticut

CERTIFICATE

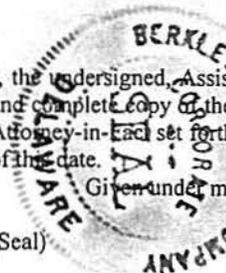
I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of the date.

Given under my hand and seal of the Company, this 25th day of June, 2019

(Seal)

Vincent P. Forte

WARNING - Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and verification instructions (on reverse) must be in blue ink.



Please **verify the authenticity** of the instrument attached to this Power by:

Toll-Free Telephone: (800) 456-5486; or

Electronic Mail: BSGInquiry@berkleysurety.com

Any written notices, inquiries, claims or demands to the Surety on the bond attached to this Power should be directed to:

Berkley Surety
412 Mount Kemble Ave.
Suite 310N
Morristown, NJ 07960
Attention: Surety Claims Department

Or

Email: BSGClaim@berkleysurety.com

Please include with all communications the bond number and the name of the principal on the bond. Where a claim is being asserted, please set forth generally the basis of the claim. In the case of a payment or performance bond, please also identify the project to which the bond pertains.

Berkley Surety is a member company of W. R. Berkley Corporation that underwrites surety business on behalf of Berkley Insurance Company, Berkley Regional Insurance Company and Carolina Casualty Insurance Company.

EXHIBIT 5

COLLABORATION

SIGN-OFF FORM

Item #/Title of Agenda Request Item: JJ-1./Construction Bid Recommendation of \$500,000 or Greater
ITB 19-180C
Mirror Lake Elementary School, Plantation
West Construction, Inc.
SMART Program Renovations
Project No. P.002011

School Board Meeting: 07/23/2019

The financial impact of this item is \$3,038,785.23

- () This project has not been appropriated in the Adopted District Educational Facilities Plan (September 5, 2018). These funds in the amount of \$_____ will come from the Capital Projects Reserve.
- () This project has been appropriated in the Adopted District Educational Facilities Plan (September 5, 2018). There is no impact to the project budget.
- () This project has been appropriated in the Adopted District Educational Facilities Plan (September 5, 2018). There is no current impact to the project budget. There is a potential future impact to the project budget based on the additional scope approved in this item.
- () This project has been appropriated in the Adopted District Educational Facilities Plan (September 5, 2018). There is an additional impact to the project budget. These funds in the amount of \$_____ will come from the Capital Projects Reserve.

(X) Comments: This project has been appropriated in the Adopted District Educational Facilities Plan (September 5, 2018). There is an additional impact to the project budget. These funds in the amount of \$2,113,400 will come from the Capital Projects Reserve. This increases the project budget from \$1,720,000 to \$3,833,400.

Department Name

Department Head

Department Head

Capital Budget

Omar Shim, Director

Signature

Date


7/2/2019

Note: By signing this collaboration the Capital Budget Department is acknowledging that the budget impact as stated is correct. Other aspects of the agenda item are the responsibility of the department submitting the item.