



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:
JJ-5.

MEETING DATE	2019-09-17 10:05 - Regular School Board Meeting
AGENDA ITEM	ITEMS
CATEGORY	JJ. OFFICE OF FACILITIES & CONSTRUCTION
DEPARTMENT	Facilities Pre-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:
 Second Amendment to the Professional Services Agreement - Nyarko Architectural Group, Inc. - Pompano Beach Middle School - Pompano Beach - Project No. P.001721 - SMART Program Renovations - RFQ 16-175C

REQUESTED ACTION:
 Approve the Second Amendment in the amount of \$414,918 to the Professional Services Agreement dated October 18, 2016 with Nyarko Architectural Group, Inc. for Pompano Beach Middle School, Project No. P.001721, SMART Program Renovations, RFQ 16-175C.

SUMMARY EXPLANATION AND BACKGROUND:
 Purpose of the Amendment: See Executive Summary (Exhibit 1).
 This Amendment has been reviewed and approved as to form and legal content by the Office of the General Counsel.

SCHOOL BOARD GOALS:
 Goal 1: High Quality Instruction Goal 2: Safe & Supportive Environment Goal 3: Effective Communication

FINANCIAL IMPACT:
 The financial impact to the Second Amendment to the Professional Services Agreement is \$414,918. This project has been appropriated in the Adopted District Educational Facilities Plan (September 5, 2018). There is no impact to the project budget.

EXHIBITS: (List)
 (1) Executive Summary (2) Second Amendment (3) Collaboration Form

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

SOURCE OF ADDITIONAL INFORMATION:	
Name: Shelley N. Meloni, Director	Phone: 754-321-1515
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
 9/10/2019, 9:57:34 AM

Approved In Open Board Meeting On: SEP 17 2019
 By: *Heather P. Burkwood*
 School Board Chair

EXECUTIVE SUMMARY

**Second Amendment to Professional Services Agreement
Nyarko Architectural Group, Inc.
Pompano Beach Middle School, Pompano Beach
Project No. P.001721
SMART Program Renovations
RFQ 16-175C**

PROJECT OVERVIEW:

Type of Contract:	Professional Services Agreement
Project Architect:	Nyarko Architectural Group, Inc.
Authorization to Proceed	Pending Board Approval
Budget:	See Below

GENERAL OVERVIEW:

The Professional Services Agreement was approved by the Board on October 18, 2016 (Agenda Item JJ-8).

The purpose of this Second Amendment to the Professional Services Agreement with Nyarko Architectural Group, Inc., is for adjustments to the Basic Services Fees in the amount of \$414,918 associated with an increase to the FLCC for SMART Program Renovations at Pompano Beach Middle School. This is based on a Construction Bid Recommendation awarded to Thornton Construction Company, Inc. approved by the Board on February 20, 2019 (Agenda Item JJ-6).

This Amendment 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](#).

**SECOND AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT**

BETWEEN

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA AND PROJECT
CONSULTANT FOR ARCHITECTURAL/ENGINEERING SERVICES

This Second Amendment to the Professional Services Agreement ("Agreement") between The School Board of Broward County, Florida (hereinafter referred to as "Owner") and Nyarko Architectural Group, Inc. (hereinafter referred to as "Project Consultant") for architectural/engineering services dated the 18th day of October, 2016, is entered into this 17th day of September, 2019 by and between the Owner and the Project Consultant.

For the project known as: **Pompano Beach Middle School
Project No. P.001721
SMART Program Renovations**

WHEREAS, the Owner and Project Consultant acknowledge and agree that the Agreement between Owner and Project Consultant dated the 18th day of October, 2016, is in full force and effect as revised by the First Amendment dated March 20, 2018 and this Second Amendment; and

WHEREAS, pursuant to Article 1.5.1.4 of the Agreement, the initial Project Consultant's fee for the Project was established as a percentage of the initial construction budget using the fee chart located in Attachment 6.b of the Agreement; and

WHEREAS, pursuant to Article 1.5.1.4 and Attachment 6.b of the Agreement, the initial Project Consultant's fee for the Project of \$475,000 was established as 9.5% of the original Fixed Limit of Construction Cost (FLCC) of \$5,436,515; and

WHEREAS, pursuant to Article 2.1.2 of the Agreement, the Design Professional's fee shall be based upon the awarded contract amount and shall be adjusted for any project scope changes and construction cost increases approved by the Owner; and

WHEREAS, on February 20, 2019 the Board approved the recommendation to award the Construction Agreement for this Project to Thornton Construction, Corp. for a lump sum of \$9,887,982 in addition to approving additional funding in the amount of \$4,787,180; and

WHEREAS, a portion of this additional funding was used to increase the FLCC from \$5,436,515 to \$9,887,982; and

WHEREAS, pursuant to Article 2.1.2 and Attachment 6.b of the Agreement, the Project Consultant has requested an Amendment based on the increase to the FLCC that will increase basic fees by the amount of \$414,918; and

WHEREAS, CBRE | Heery and Atkins North America, Inc. have evaluated this request and determined that the increase is fair and reasonable based on Attachment 6.b of the Agreement which contains a fee percentage table based on construction contract ranges and project complexity.

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 the Project Consultant, the parties agree as follows:

1. The recitals contained herein are true and correct and are incorporated herein by reference.
2. **Revised Terms.** The Project Consultant shall receive additional compensation for basic fees as set forth below:

	Original PSA Amounts	First Amendment Revisions	Description	Second Amendment Revisions	Revised Amounts
Basic Fees	\$475,000	N/A	Adjustment Associated with Increase to FLCC	\$414,918	\$889,918
Allowances	\$35,000	N/A	N/A	N/A	\$35,000
Supplemental Services	N/A	N/A	N/A	N/A	N/A
TOTAL	\$510,000	---		\$414,918	\$924,918

3. **Other Provisions Remain in Force.** All other terms and conditions of the Contract shall remain in full force and effect. Except as expressly provided herein and as may have been previously amended, all other portions of the Agreement remain in full force and effect.

4. **Order of Precedence among Agreement Documents.** In the event of conflict between the provisions of the Agreement and the provisions contained herein, the provisions of the following documents shall take precedence in this order:

- a) this Second Amendment to Agreement; then
- b) the First Amendment to Agreement; then
- c) the Agreement.

5. **Authority:** Each person signing this Second Amendment on behalf of either party warrants that he or she has full legal power to execute this Second Amendment on behalf of the party for whom he or she is signing it to bind and obligate such party with respect to all provisions contained in this Second Amendment.

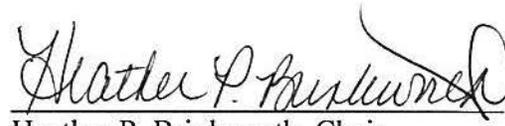
IN WITNESS WHEREOF, the parties hereto have caused this Second Amendment to be executed and their Corporate Seal affixed by and through their proper offices, thereunto duly authorized on this day and year first above written.

For The School Board of Broward County, Florida

(SEAL)

**ATTEST THE SCHOOL BOARD OF
BROWARD COUNTY, FLORIDA**


Robert W. Runcie, Superintendent of Schools


Heather P. Brinkworth, Chair

Approved as to Form and Legal Content:


Office of the General Counsel

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FOR PROJECT CONSULTANT

Nyarko Architectural Group, Inc.

ATTEST:

_____, Secretary

Charles O. Nyarko, President

-or-

Katiana Louis-Charles

Katiana Louis-Charles Witness

Wilbur Mejia

Wilbur Mejia, Witness

AR0015759

Project Consultant's
Registration Number

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 22 day of August, 2019 by Charles O. Nyarko of Nyarko Architectural Group on behalf of the corporation or agency.

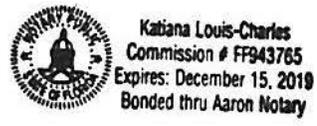
He/she is personally known to me or produced _____ as Identification and did/did not first take an oath.

My commission expires: 12-15-2019

(SEAL)

Katiana Louis-Charles
Signature, Notary Public

Katiana Louis-Charles
Printed Name of Notary



COLLABORATION

SIGN-OFF FORM

Item #/Title of Agenda Request Item: JJ-5./Second Amendment to Professional Services Agreement
 Nyarko Architectural Group, Inc.
 Pompano Beach Middle School, Pompano Beach
 Project No. P.001721
 SMART Program Renovations
 RFQ 16-175C

School Board Meeting: 09/17/2019

The financial impact of this item is \$414,918

- () 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.
- () Comments:

Department Name

Department Head

Department Head

Capital Budget

Omar Shim, Director


 Signature

8/30/2019
 Date

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.