



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:

JJ-6.

MEETING DATE	2020-10-20 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:

Third Amendment to the Professional Services Agreement - M.C. Harry and Associates, Inc. - Broadview Elementary School - Pompano Beach - Project No. P.001638 - SMART Program Renovations - RFQ 16-083F

REQUESTED ACTION:

Approve the Third Amendment in the amount of \$158,358 to the Professional Services Agreement dated June 21, 2016 with M.C. Harry and Associates, Inc., Broadview Elementary School, Project No. P.001638, SMART Program Renovations, RFQ 16-083F.

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:

This project has been appropriated in the Adopted District Educational Facilities Plan (September 1, 2020). There is no impact to the project budget.

EXHIBITS: (List)

(1) Executive Summary (2) Third Amendment (3) Collaboration Form

BOARD ACTION:

APPROVED

(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Shelley N. Meloni, Director, Pre-Constr.	Phone: 754-321-1515
Name: Kathleen Langan, Director, AECOM	Phone: 754-321-4850

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Senior Leader & Title

Frank Girardi - Executive Director

Signature

Frank L. Girardi
10/9/2020, 7:54:52 AM

Approved In Open Board Meeting On:

OCT 20 2020

By:

Donna K...
School Board Chair

Electronic Signature

Form #4189 Revised 07/25/2019
RWR/ FG/SNM/KL:dch

EXECUTIVE SUMMARY

**Third Amendment to Professional Services Agreement
M.C. Harry and Associates, Inc.
Broadview Elementary School, Pompano Beach
Project No. P.001638
SMART Program Renovations
RFQ 16-083F**

PROJECT OVERVIEW:

Type of Contract:	Professional Services Agreement
Project Architect:	M.C. Harry and Associates, Inc.
Authorization to Proceed: Date:	TBD
Original Funding Allocation:	See Below

GENERAL OVERVIEW:

The Professional Services Agreement was approved by the Board on June 21, 2016 (Agenda Item JJ-6).

The purpose of this Third Amendment in the amount of \$158,358 to the Professional Services Agreement with M.C. Harry and Associates, Inc., is for adjustments to the Basic Services Fees associated with an increase to the FLCC for the SMART Program Renovations at Broadview Elementary School. Included in this Third Amendment is a fee credit of \$24,500 due to delays associated with deliverables. This is based on a Construction Bid Recommendation awarded to OAC Action Construction Corp. in the amount of \$4,381,582.66 that was approved by the Board on July 21, 2020 (Agenda Item JJ-3).

The table below reflects the FLCC amounts by which the Professional Services Fee Percentages are calculated.

Original FLCC	Original % Fee	New FLCC	New % Fee
\$1,231,220	10%	\$4,381,582	9.0%

AGENDA ITEM	AGENDA ITEM No.	DATE APPROVED	DESCRIPTION	AMOUNT	REVISED FEE AMOUNT
Original PSA	JJ-6	6/21/2016	Professional Services Agreement	\$148,000	\$148,000
First Amendment	JJ-6	8/08/2017	Increase to Professional Fees associated with Re-Roofing of Building 1, Additional Fire Main Loop & Supplemental Services Fees Totaling \$98,362	\$59,938	\$246,362
				\$28,646	
				\$10,000	
Second Amendment	JJ-3	3/20/2018	eBuilder Language	\$0	\$246,362
Third Amendment	JJ-6	Pending Board Approval	Adjustment to Basic Services Fees Associated with an Increase to FLCC Totaling \$158,358	\$182,858	\$404,720
				\$(24,500)	

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](#).

**THIRD AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT**

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

This Third Amendment to the Professional Services Agreement ("Agreement") between The School Board of Broward County, Florida (hereinafter referred to as "Owner") and M.C. Harry & Associates, Inc. (hereinafter referred to as "Project Consultant") for architectural/engineering services dated the 21st day of June, 2016, is entered into this 20th day of October, 2020 by and between the Owner and the Project Consultant.

For the Project known as: **Broadview Elementary School
Project No. P.001638
SMART Program Renovations**

WHEREAS, the Owner and Project Consultant acknowledge and agree that the Agreement between Owner and Project Consultant dated the 21st day of June, 2016, is in full force and effect as revised by the First Amendment dated 8th day of August, 2017, and the Second Amendment dated the 20th day of March 2018; and

WHEREAS, pursuant to Article 2.1.2 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, the initial Project Consultant's fee for the Project of \$123,122 was established at approximately 10.00% of the original Fixed Limit of Construction Cost (FLCC) of \$1,231,220; and

WHEREAS, pursuant to Article 2.1.2 of the Agreement, the Project Consultant'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 July 21, 2020 the Board approved the recommendation to award the Construction Agreement for this Project to OAC Action Construction Corp. for a lump sum of \$4,381,582; and

WHEREAS, a portion of this additional funding was used to increase the FLCC from \$1,231,220 to \$4,381,582; and

WHEREAS, pursuant to Article 2.1.2 and Attachment 6.b of the Agreement, the Project Consultant has requested a fee adjustment based on the increase to the FLCC that will increase basic fees in the net amount of \$158,358, which was calculated as \$394,342 (9.00% of the adjusted FLCC), minus the original fee of \$123,122, minus the First Amendment fee increase of \$88,362, minus a negotiated credit from the Project Consultant in the amount of \$24,500; and

WHEREAS, the Owner's Program Manager, CBRE | Heery and District staff have successfully negotiated and hereby recommend such additional fees as set forth herein above and below.

NOW, THEREFORE, in exchange for the mutual covenants and promises set forth herein and the sums of money agreed to be paid by the Project Consultant to the Owner, 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 perform all related design services for the additional Project scope identified herein as set forth below:

	Original Amount	First Amendment Amount	Second Amendment Amount	Third Amendment Amount	Description	Revised Amount
Basic Fees	\$123,122	\$88,362	\$0	\$158,358	Net fee increase associated with increase to FLCC minus \$24,500 negotiated credit	\$369,842
Reimbursable Expenses	\$24,878	\$0	\$0	\$0	N/A	\$24,878
Supplemental Allowances	\$0	\$10,000	\$0	\$0	N/A	\$10,000
Total	\$148,000	\$98,362	\$0	\$158,358	---	\$404,720

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 Third Amendment to Agreement; then
- b) the Second Amendment to Agreement; then
- c) the First Amendment to Agreement; then
- d) the Agreement.

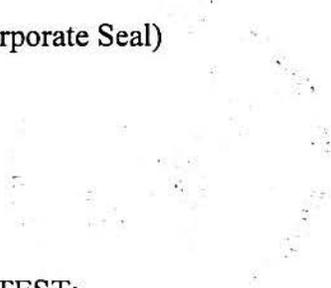
5. **Authority:** Each person signing this Third Amendment on behalf of either party warrants that he or she has full legal power to execute this Third Amendment on behalf of the party for whom he or she is signing it to bind and obligate such party with respect to all provisions contained in this Third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

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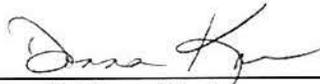
IN WITNESS WHEREOF, the parties hereto have caused this Third Amendment to be executed and their Corporate Seal affixed by and through their proper offices, thereunto duly authorized on this day and year first above written.

FOR OWNER

(Corporate Seal)



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

By 
Donna P. Korn, Chair

ATTEST:


Robert W. Runcie, Superintendent of Schools

Approved as to Form and Legal Content:


Office of the General Counsel

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FOR PROJECT CONSULTANT

M.C. HARRY & ASSOCIATES, Inc.

[Signature]
Lourdes Solera, Secretary

[Signature]
Craig Aquart, AIA, President

-or-

_____, Witness

_____, Witness

AR96477
Project Consultant's
Registration Number

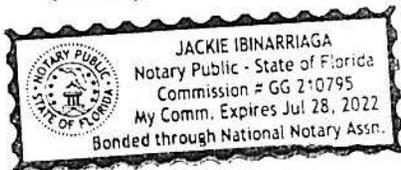
STATE OF FLORIDA)
)
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization, this 24 day of Sept, 2020 by **Craig Aquart** of **M.C. Harry & Associates, Inc.** 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:

(SEAL)



[Signature]
Signature, Notary Public
Jackie Ibinarriga
Printed Name of Notary

COLLABORATION

SIGN-OFF FORM

Item #/Title of Agenda Request Item: JJ-6./Third Amendment to Professional Services Agreement
M.C. Harry and Associates, Inc.
Broadview Elementary School, Pompano Beach
Project No. P.001638
SMART Program Renovations
RFQ 16-083F

School Board Meeting: 10/20/2020

The financial impact of this item is \$158,358

() This project has not been appropriated in the Adopted District Educational Facilities Plan (September 1,2020). These funds in the amount of \$_____ will come from the Capital Projects Reserve.

axS

This project has been appropriated in the Adopted District Educational Facilities Plan (September 1, 2020). There is no impact to the project budget.

() This project has been appropriated in the Adopted District Educational Facilities Plan (September 1, 2020). There is no current impact to the project budget. There is a potential future impact to the project budget.

() This project has been appropriated in the Adopted District Educational Facilities Plan (September 1, 2020). 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

Omar Shim

10/5/2020

Signature

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.