

Review of the Miramar High School 24 Classroom Addition Project

January 2005

Office of the Chief Auditor

The School Board of Broward County, Florida



The School Board of Broward County, Florida

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February 3, 2005

Members of the School Board of Broward County, Florida
Members of the School Board Audit Committee
Dr. Frank Till, Superintendent of Schools

Ladies and Gentlemen:

In accordance with the 2004-2005 Audit Plan, and at the request of the Audit Committee, the Office of the Chief Auditor performed a review of the Miramar High School 24 Classroom Addition, Project # 1751-98-01. The objectives of this audit were to determine if: (1) the initial 24 classroom addition designed by Zyscovich Inc. (ZI) for the west facade (Plan A) of Miramar High School was a feasible design solution, per Master Plan options; Plan A, west facade, and Plan B, a stand alone addition; (2) the new Plan B design for the 24 Classroom Addition design was requested due to Zyscovich Inc.'s failure to deliver code compliant documents for permit from the Chief Building Official (CBO) for Plan A and whether SBBC incurred additional design fees as a result; (3) the Building Department communicated effectively with the Project Manager, Design Service Department, and Zyscovich Inc. to ensure that life safety review, project schedule and costs were managed in the best interest of the School Board, and all documents complied with Florida Building Code '01.

In our opinion, the Chief Building Official must render final decisions on all design-permit issues. SBBC must define the current Appeals process to eliminate life safety issues and construction related delays; reduce additional project costs; settle disputes expeditiously by clearly stating in contract language, the immediate appeals remedy for SBBC, contractors and design professionals, as Florida Building Commission appeals process for School Boards differs from that of counties and other municipalities. As well, the District should pursue partial fee reimbursement from Zyscovich, Inc. pursuant to Article 2.1.4.5 and 2.1.10 of Professional Services Agreement. Finally, policies and procedures must be improved to ensure that all project related documents are included in each master project file. Our review revealed the need for improvements to enhance several departmental operations, in order to benefit the District. We concur with the administrative responses except, for four responses, which required follow-up responses from our office.

This report will be presented to the Audit Committee at its February 10, 2005 meeting and to the School Board at its March 1, 2005 meeting.

Sincerely,

Patrick Reilly, CPA
Chief Auditor
Office of the Chief Auditor

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Matrix of Findings

Finding	Page No.	Timeline	Agree/Disagree (Comment)
1. The Chief Building Official must render final decisions on A/E design, permitting, construction and inspection issues as prescribed by Florida Building Code 2001, prior to any appeal to the Florida Building Commission.	6	Not Specified	Agree
2. Include the properly defined appellate process in contract language to ensure that the Chief Building Official renders final decisions, thus avoiding design, permitting and construction delays.	7 - 8	Not Specified	Agree
3. The Chief Building Official must publish and distribute the current Florida Building Code 2001 interpretations process as it applies to School Boards, in order to strengthen SBBC's use of the appellate process with its in-house staff, design professionals, and contractors.	9	Not Specified	Agree
4. Pursue reimbursement from Zyscovich Inc. for 50% of the original Plan A design fees paid through Phase III 100% (\$151,900.00) and the subsequent cost for "extracting" scope from the original construction documents for the Plan B stand-alone classroom addition (\$34,000.00), for a total amount of \$185,900.00.	10-11	In Progress	Agree
5. Strengthen existing document handling, retention and maintenance procedures to ensure that all pertinent documentation is placed in the applicable project Master File.	12	Completed	Agree

EXECUTIVE SUMMARY

Scope and Methodology

This audit was performed at the request of the Audit Committee, in response to a request to review payment of design fees to Zyscovich Inc. (ZI) for the design and re-design of the 24 classroom addition for Miramar High School (Project #1751-98-01), and in accordance with the 2004-2005 Audit Plan. The review of Miramar High School design fees consisted of reviewing the original Request for Qualifications (RFQ), Professional Services Agreement (PSA), Florida Building Code '01 (FBC '01), project plans, plan review comments, project file documentation and interviews of personnel involved from the project's inception. The objectives of the audit were to determine if:

- The initial 24 classroom addition designed by ZI for the west facade (Plan A) of Miramar High School was a feasible design solution, per Master Plan options; Plan A, west façade, and Plan B, a stand alone addition.
- The new, Plan B for the 24 Classroom Addition design was requested due to ZI's failure to deliver code compliant documents for permit from the Chief Building Official (CBO) for Plan A and if SBBC incurred additional design fees as a result.
- Building Department communicated effectively with the Project Manager, Design Services Department, and ZI to ensure that life safety review, project schedule and costs were managed in the best interest of the School Board, and all documents complied with FBC '01.

Our audit was conducted in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States. The above said standards require that we plan and perform the audit to afford a reasonable basis for our judgments and conclusions regarding the function under audit. An audit includes assessments of applicable controls and compliance with the requirements of laws, rules and regulations when necessary to satisfy the audit objectives.

It is our responsibility to perform the review under generally accepted auditing standards and Government Auditing Standards, as well as report on recommendations to improve operations, strengthen internal controls and ensure compliance with the requirements of laws, rules and regulations in matters selected for review. It is administration's responsibility to implement recommendations, to maintain an internal control environment conducive to the safeguarding of District assets and to preserve the District's resources, as well as comply with applicable laws, regulations and School Board policies.

The procedures used to satisfy our objectives in this audit were:

- Review all project file documents, email correspondence, and pertinent meeting minutes.
- Review ZI's plans and specifications, peer review comments for design of Miramar High School 24 classroom addition, referencing to the Florida Building Code and Florida Statutes.
- Interview involved parties associated with the project from its inception to aid in construction of a timeline of factual events.

Opinion and Summary of Results

It is the opinion of the Office of the Chief Auditor that several elements caused design delays and additional costs in the construction of the Miramar High School 24 Classroom Addition, including:

- Failure of the Chief Building Official to formally render a final decision for the design submitted for permit.
- SBBC contract language, which lacks a well documented provision for the appeals process to offer clear and expeditious dispute remedy to reduce design and construction delays per the Florida Building Commission's process for School Boards. As a result of this, the CBO improperly deferred his decision to the DOE Construction Planning and Design Manager – Office of Educational Facilities, who rejected both design concepts offered by ZI, resulting in additional costs and design delays.
- Lack of knowledge, or failure to act on such knowledge, of the Florida Building Commission's Appeals process for School Boards, by SBBC, ZI, and DOE personnel.

- Plan A design documents were not FBC '01 compliant when submitted for approval during the tenures of the SBBC Building Officials. Project budget increases resulted, as the DOE Construction Planning and Design Manager rendered a final decision on behalf of the CBO, prompting SBBC Deputy Superintendent of F&CM Division to direct ZI to pursue a stand alone 24 Classroom Addition design at additional cost to SBBC and inconsistent with PSA Article 2.
- Inconsistent documentation management during the tenure of different Building Officials in the master project file.

Therefore, the Office of the Chief Auditor recommends that the CBO must render final decisions on all design-permit issues. SBBC must define the current Appeals process to eliminate life safety issues and construction related delays; reduce additional project costs; settle disputes expeditiously by clearly stating in contract language, the immediate appeals remedy for SBBC, contractors and design professionals, as Florida Building Commission appeals process for School Boards differs from that of counties and other municipalities. Also, the District should pursue partial fee reimbursement from Zyscovich, Inc. in the amount of \$185,900.00, pursuant to Article 2.1.4.5 and 2.1.10 of PSA. Finally, policies and procedures must be improved to ensure that all project related documents are included in each master project file. Our review revealed the need to improve several departmental operations, in order to benefit the District.

In our opinion, the plan review process must be strengthened by all involved parties to ensure that proposed designs are feasible, intent of applicable codes are met, that a proactive communication model is maintained between all SBBC Construction related Departments, and that the appeals process is properly followed. This will aid in prevention of disagreements, disputes, and reinterpretations in the future, as well as expedite processes that currently create costly project delays. The Chronology of Events, **Attachment A**, is an essential compilation of data from project documents that have revealed important facts and led to the development of the findings and recommendations that follow.

OBSERVATIONS

1. **CHIEF BUILDING OFFICIAL MUST RENDER FINAL DESIGN AND PERMIT DECISIONS PRIOR TO ANY APPELLATE ACTIVITY. – Pg. 6**
2. **DEFINE THE CURRENT APPEALS PROCESS TO BE CONSISTENT WITH THE FLORIDA BUILDING COMMISSION FOR SCHOOL BOARDS AND INCORPORATE INTO A/E AND CONSTRUCTION CONTRACTS.**
3. **STRENGTHEN PROCEDURES FOR APPLICABLE SBBC PERSONNEL TO ENSURE ACCOUNTABILITY FOR KNOWLEDGE OF APPEALS PROCESS. – Pg. 9**
4. **THE SCHOOL DISTRICT SHOULD PURSUE PARTIAL FEE REIMBURSEMENT FROM ZYSCOVICH, INC. PURSUANT TO ARTICLES 2.1.4.5 AND 2.1.10 OF THE PSA.. – Pg. 10**
5. **IMPROVE POLICIES AND PROCEDURES TO ENSURE THAT ALL PROJECT DOCUMENTS ARE INCLUDED IN EACH MASTER PROJECT FILE. – Pg. 12**

We would like to thank all District personnel who assisted in the completion of this report

Submitted by:



Patrick Reilly, CPA
Executive Director
Office of Management/Facility Audits

Audit Performed by: Dave Rhodes
Joe Wright

BACKGROUND

SCHOOL BOARD POLICY 7003

School Board Policy 7003 describes the process for soliciting professional services:

“The School Board shall publicly announce, in a uniform and consistent manner, each occasion when professional services are required to be purchased in compliance with CCNA statutory threshold requirement or for a planning or study activity when the fee for professional service exceeds \$25,000, except in case of valid public emergencies so certified by the School Board of Broward County. Public notice shall include a general description of the project and shall indicate how interested consultants can apply for consideration.”

The School Board utilizes the Consultant's Review Committee (CRC) to select A/E firms to perform design services. These firms then consult with Owner representatives to develop and obtain approval of design concepts. Upon approval of design concepts, firms are given the 'Authorization to Proceed' (ATP) with their respective projects. This is the process that was used to select Zyscovich Inc. as the A/E firm to design the 24 Classroom Addition at Miramar High School. Prior to the selection of a location, ZI developed a Master Plan depicting two possible design solutions for the addition. The School Board chose Plan A, which was to abut the west façade of the school, thereby presenting a new façade to the traffic along Douglas Road, the main access road for Miramar High School. Plan A was selected as an innovative way to pursue the addition and gave the facility a new façade. This project was part of a combined effort between SBBC and the City of Miramar. The project was advertised pursuant to Policy 7003 in November, 2000, and awarded to ZI in April of 2001.

SECTION 103 – FLORIDA BUILDING CODE 2001: POWERS AND DUTIES OF THE CHIEF BUILDING OFFICIAL

103.1 General – The Building Officials Association of Florida (BOAF) is proud to present this model document for use by its members as a tool to facilitate the uniform and consistent application of local amendments to the administrative provisions of the Florida Building Code. Every effort has been made to present the amendments in mandatory language format. The language that is shaded represents those text revisions approved by the BOAF Board of Directors at their summer meeting in August 2001:

The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code, and shall not have the effect of waiving requirements specifically provided for in this code.

FLORIDA STATUTE § 1013.37 (5)

The CBO does not appear to presently have the legal authority to develop and implement a Board of Rules and Appeals. The creation of a Board of Rules and Appeals by the School Board could be construed as a second appellate level of review, contrary to the legislative mandate in § 1013.37 (5). In addition:

LOCAL LEGISLATION PROHIBITED - After June 30, 1985, pursuant to Section 11(a) (21), Art. III of the State Constitution, there shall not be enacted any special act or general law of local application which proposes to amend, alter, or contravene any provisions of the State Building Code adopted under the authority of this section.

FLORIDA STATUTE § 1013.37 (3)

REVIEW PROCEDURE.--The Commissioner of Education shall cooperate with the Florida Building Commission in addressing all questions, disputes, or interpretations involving the provisions of the Florida Building Code which govern the construction of public educational and ancillary facilities, and any objections to decisions made by the inspectors or the department must be submitted in writing.

FLORIDA STATUTE § 1013.03 Functions of the department. The functions of the Department of Education as it pertains to educational facilities shall include, but not be limited to, the following:

(7) Provide training, technical assistance, and building code interpretation for requirements of the mandatory Florida Building Code for the educational facilities construction and capital improvement programs of the community college boards and district school boards and, upon request, approve phase III construction documents for remodeling, renovation, or new construction of educational plants or ancillary facilities, except that university boards of trustees shall approve specifications and construction documents for their respective institutions. The Department of Management Services may, upon request, provide similar services for the Florida School for the Deaf and the Blind and shall use the Florida Building Code and the Florida Fire Prevention Code.

(12) Perform any other functions that may be involved in educational facilities construction and capital improvement which shall ensure that the intent of the Legislature is implemented.

SECTION 11(A) (21), ART. III OF THE FLORIDA CONSTITUTION

Specifically prohibits the enactment of any special law pertaining to the “State Uniform Building Code for Public Education Facilities Construction.”

FLORIDA BUILDING COMMISSION – APPELLATE JURISDICTION

Upon receipt of the Petition of Declaratory Statement (see: **Attachment H**), the Commission may assign it to one committee or to the full commission for discussion and action. According to procedures published by the Commission, a committee can make recommendations but the final decision should go to the full commission for a vote.

What is a Declaratory Statement?

A declaratory statement is the administrative process by which the commission resolves controversy or answers questions concerning the applicability of a statute, rule, or order, to a particular situation.

Commission Declaratory Statement Process

1) Review of Petition - Appropriate TAC (Technical Advisory Committee) or POC (Education Program Oversight Committee) and legal staff review, including consideration of public comment, and recommendation to the Building Commission.

2) First Hearing - Commission Review and Proposed Action - Recommendation by TAC/POC or legal staff, Commission questions, and public comment, i.e., petitioner's rationale/comments, general public comment, and petitioner's response to posted public comment. The next segment includes questions from the Commission members (through the Chair), with motion and second on the petition for proposed action. Finally, a discussion by the Commission only, followed by a Commission vote for proposed action to be considered at the Commission's next plenary meeting. The Chair may refer back to TAC/POC for additional review and recommendations at the next Commission meeting.

3) Second Hearing - Commission Action on Petition - Commission review of the previous proposed action, additional public comment, motion and second on the petition, discussion by Commission only, and final vote/action by the Commission on the motion.

ATTORNEY OPINION

The Office of the Chief Auditor contracted with a law firm from Broward County who specializes in Construction Law to offer their legal expertise on specific scenarios. We formulated these scenarios after our initial field work. These scenarios are outlined for the law firm, and a synopsis of what the firm's expert opinion was on each of them is referenced in **Attachment I**.

PROFESSIONAL SERVICES AGREEMENT (PSA) – PROJECT CONSULTANT SERVICES AND RESPONSIBILITIES

The PSA executed between SBBC and ZI for the Miramar High School 24 Classroom Addition states:

2.1.4.4 – Comply with all applicable laws, statutes, rules and regulations, building codes and Owner’s guidelines or regulations, which apply to or govern the Project, and

2.1.4.5 – Will, if constructed in accordance with the Project Consultant’s Design, result in a complete and properly functioning facility. Any defective drawings, specifications or other document furnished by Consultant shall be promptly corrected by the Project Consultant at no cost to Owner, with out limitations to other remedies or rights of Owner. Owner’s approval, acceptance or use of or payment for all or any part of Project Consultant’s services hereunder or of the project itself shall in no way alter the Project Consultant’s obligations or Owner’s rights hereunder.

2.1.10 - states that “Owner’s approval of or comments on any of the documents submitted to Owner by Project Consultant shall not be deemed the approval of or by any other governmental authority having jurisdiction over the project and Project Consultant acknowledges that the aforesaid authorities may require modifications of any of the documents submitted by Project Consultant. Subject to Article 2, such modifications shall be made at no cost to Owner”

DESIGN SERVICES AND BUILDING DEPARTMENT COMMUNICATION

Previous audits of the Building Department and Design Services Department have shown that several methods of project record maintenance exist. This has been observed again in this review. This is again evident in the lack of comprehensive Project File documentation. All project related documentation should be maintained in the Project File. This information should include all design review and peer review comments, and all correspondence between contracted firms, Project Management, Building Department, Building Officials, etc. During the review of the Miramar High School 24 Classroom Addition, we found personnel at the Reception and Records Management Department to be very helpful. However, we found that the project files were not comprehensive. On several occasions it was necessary to retrieve pertinent documents from several sources. The project files should contain project records of all authorizations that pertain to financial, regulatory, and management directives. We were unable to retrieve several documents from these files as needed.

SECTION I

DETAILED OBSERVATIONS

1. **CHIEF BUILDING OFFICIAL MUST RENDER FINAL DESIGN AND PERMIT DECISIONS PRIOR TO ANY APPELLATE ACTIVITY.**

OBSERVATION

Currently, the Building Department is headed by a Chief Building Official (CBO). The CBO is authorized and directed to enforce provisions of the Florida Building Code (FBC '01). Our review of the Miramar High School 24 Classroom Addition revealed that the CBO did not render a final decision to accept or reject the design concept(s) presented by the project architect; Zyscovich Inc. (ZI) at Phase III 100% CD submittal. Furthermore, the CBO invited the DOE Construction Planning and Design Manager – Office of Educational Facilities (who also sits on the Florida Building Commission), to an October 29, 2003 meeting intended to clarify code requirements to achieve a code compliant four hour fire rated wall for the 24 Classroom Addition. The CBO, unable to attend the meeting he had arranged, deferred “Authority having Jurisdiction” to the DOE representative on the day of the meeting, entrusting him to “render a final decision in the matter.” The DOE representative then rendered a final decision, rejecting designs, on behalf of the CBO. This action contradicts the Florida Building Commission’s published process. This activity has resulted in the CBO circumventing his primary authority. Therefore, the CBO did not perform his primary function nor complete step one of the Florida Building Commission process; rendering a final design/permit decision for the Miramar High School 24 Classroom Addition project. As stated by ZI, the decision of the DOE representative mentioned above *gave the appearance of hindering any appeal remedy.*

BACKGROUND

The CBO Powers and Duties are reserved pursuant to FBC '01. Furthermore, BOAF states that an “effort has been made to present the amendments in mandatory language format” in **FBC '01 103.1 General:**

The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code, and shall not have the effect of waiving requirements specifically provided for in this code

Pursuant to a review of the Building Department, September, 2003, regarding the plan review function being assigned to Building Department; **FBC '01 Section 104.3.1 Plan Review**, the CBO issued an administrative response: “While it makes sense for DSS to continue doing Phase I and Phase II reviews, it would be helpful and more cost-effective for the Building Department to review the life safety plans at the end of Phase II, and to review the Phase III 50% submittals, since many code issues could be resolved before bid documents are completed by the design professionals.” Conversely, in a review of the Design Services Department, September, 2004, the CBO responded that, “The Building Department believes that a concurrent review of life safety and Phase III 50% construction document submittals by the Building Department and the Facilities and Construction Management Department, would address the concerns of the Chief Auditor. This review will begin not later than November 1, 2004.” These responses, though subtly contradictory, indicate that a more proactive approach to avoiding delays and ensuring code compliance should be goals of the Building Department leadership.

RECOMMENDATION

The Chief Building Official must act in a manner consistent with published procedures of the Florida Building Commission, as prescribed by FBC '01, and render final decisions on A/E design, permitting, construction and inspection issues. The CBO bears the responsibility of ensuring compliance with building code and life safety requirements and therefore, must render a decision prior to any appeal to the Florida Building Commission, pursuant to the published process, in order to comply with and promulgate proper utilization of the Florida Building Commission’s interpretation process for School Boards.

ADMINISTRATIVE RESPONSE (Building Department) See Pg. 57

2. **DEFINE THE CURRENT APPEALS PROCESS TO BE CONSISTENT WITH THE FLORIDA BUILDING COMMISSION FOR SCHOOL BOARDS AND INCORPORATE INTO A/E AND CONSTRUCTION CONTRACTS.**

OBSERVATION

Dating back to November, 2000, the Miramar High School 24 Classroom Addition was subject to at least six separate code interpreters for its design. The first design approach proposed a four-hour fire wall between the existing building and the new addition on the west facade; this approach was approved through Phase II. Prior to March 1, 2002 a new CBO was hired and rejected the four hour wall. An "Alternate materials and methods (i.e. enhanced sprinkler system)" approach was recommended and approved by that CBO for ZI to pursue. Subsequently, the current CBO (hired September, 2002) rejected the "Alternate materials and methods" approach. The current CBO then sent a memo to the SBBC Miramar High School Project Manager, on October 7, 2003, nearly 3 years into the design of the project, indicating that the original four-hour wall approach was required and feasible, and that a meeting was required by him to discuss the details of this directive. The meeting was arranged for October 29, 2003 to include all involved parties including, the DOE Construction Planning and Design Manager – Office of Educational Facilities to discuss how to "tweak" the construction documents to expedite permit issuance. All SBBC staff and involved parties were present for that meeting except the CBO, who had arranged the meeting. Instead, the DOE representative was entrusted to render a final decision on behalf of the CBO. After hearing discussion on the implementation of both design methods, the DOE representative rendered a final decision that neither design concept was feasible, without specifically citing FBC '01. The decision rendered prompted the Deputy Superintendent of F&CM to issue a directive to move the addition to a remote location on the site and directed ZI to prepare design and construction cost estimates for the new scope of work. After four years, Phase III 100% construction documents are still pending. The CBO improperly authorized the DOE representative to render a decision, pursuant to **Florida Statutes § 1013.37 (3)** as the DOE representative's involvement was predicated on dispute resolution to expedite permit issuance. This decision triggered an order by the Deputy Superintendent F&CM that negatively impacted the District, as new design fees; portable classroom move costs; and construction delays were incurred.

BACKGROUND

Shortly before March 1, 2002, a CBO was employed by the SBBC, as Florida Building Code '01 went into effect. Subsequently, that CBO resigned in July, 2002. By September, 2002, SBBC hired the current CBO. Prior to FBC '01 adoption, Director of Design and Support Services issued Letters of Approval in lieu of building permits. Prior to statewide adoption of FBC '01, a process was in place that routinely utilized the DOE Construction Planning and Design Manager – Office of Educational Facilities to render interpretations and code consultation. That practice continues to be used. A Board of Rules and Appeals is not currently used for School Boards, per **Section 11 (a) (21), Art. III of the Florida Constitution**, which specifically prohibits the enactment of any special law pertaining to the "State Uniform Building Code for Public Educational Facilities Construction." Furthermore, the Board can only create and implement a Board of Rules and Appeals if it has been granted the requisite legal authority by the legislature. However, there is a process in place and published by the Florida Building Commission that defines the proper appeals process for School Boards. That process requires that: (1) the CBO has rendered a decision and; (2) the decision has been appealed in writing to the Commission (Petition for Declaratory Statement), then sent to the Commission for a final vote. A final appellate level is the District Court of Appeals.

FLORIDA STATUTE § 1013.03 (7) and (12) - Functions of the department. The functions of the Department of Education as it pertains to educational facilities shall include, but not be limited to, the following:

- (7) Provide training, technical assistance, and building code interpretation for requirements of the mandatory Florida Building Code for the educational facilities construction and capital improvement programs of the community college boards and district school boards and, upon request, approve phase III construction documents for remodeling, renovation, or new construction

of educational plants or ancillary facilities, except that university boards of trustees shall approve specifications and construction documents for their respective institutions. The Department of Management Services may, upon request, provide similar services for the Florida School for the Deaf and the Blind and shall use the Florida Building Code and the Florida Fire Prevention Code.

(12) Perform any other functions that may be involved in educational facilities construction and capital improvement which shall ensure that the intent of the Legislature is implemented.

Florida Statutes 1013.03 (7) and (12), state that functions of the Department of Education are meant to provide technical assistance and building code interpretation, as well as to perform functions “which shall ensure that the intent of the Legislature is implemented” as applied to the Miramar High School 24 Classroom Addition. Contrary to statutory requirements, the DOE Construction Planning and Design Manager – Office of Educational Facilities was asked to render a final decision that rejected both plans being considered under circumstances where dispute resolution was the overriding objective. The language of **Section 1013.37 (3) REVIEW PROCEDURE** states that:

The Commissioner of Education shall cooperate with the Florida Building Commission in addressing all questions, disputes, or interpretations involving the provisions of the Florida Building Code which govern the construction of public educational and ancillary facilities, and any objections to decisions made by the inspectors or the department must be submitted in writing.

The language of **Florida Statute 1013.37 (3)** speaks to the intent of addressing disputes in cooperation with the Florida Building Commission. This is clearly a condition that invokes the use of the appeals procedure published by the Florida Building Commission for School Boards.

RECOMMENDATION

SBBC should include language to describe the proper appellate process in our A/E and construction contracts. We must ensure that the CBO renders decisions, avoiding costly design, permitting and construction delays, and ensure that the Florida Building Commission interpretations process is properly utilized in accordance with the published Appeals process for School Boards. Affording SBBC, A/E and construction firms access to the properly defined Appeals process, will expedite SBBC construction projects.

ADMINISTRATIVE RESPONSE (Building Department) See Pg. 58

ADMINISTRATIVE RESPONSE (Facilities and Construction Management Division) See Pg. 63

3. **STRENGTHEN PROCEDURES FOR APPLICABLE SBBC PERSONNEL TO ENSURE ACCOUNTABILITY FOR KNOWLEDGE OF APPEALS PROCESS.**

OBSERVATION

During our review of the Miramar High School 24 Classroom Addition, we noted a lack of knowledge or a failure to adhere to published procedures regarding FBC '01 implementation. The SBBC employees, ZI, and the DOE Construction Planning and Design Manager – Office of Educational Facilities, did not adhere to regulations and procedures prescribed by FBC '01, Florida Statutes and published by the Florida Building Commission, respectively. It has yet to be determined whether the original design of the 24 Classroom Addition meets the requirements of FBC '01 for permit and construction. This is evident based on the fact that the CBO did not render a final design/permit decision, the DOE representative rendered a decision without authority, and ZI did not attempt to utilize the existing appeals process when their design concepts were rejected. ZI did express that they had no opportunity to appeal, as the entity that they would normally appeal to, DOE Construction Planning and Design Manager – Office of Educational Facilities, had already rejected their proposed designs. This project has been ongoing since November, 2000. It had an originally agreed upon design fee in the contract, which stated that ZI would provide code compliant documents on either of the two designs submitted per their Master Plan, as selected by the owner. It should be logically anticipated that all parties involved had a responsibility to know and understand the applicable Appeals process, as it relates to dispute resolution, the issues of the Miramar High School 24 Classroom Addition and all School Board design and construction projects. With a member of the Florida Building Commission acting as a code expert at the October 29, 2003 meeting, who is accountable for knowledge of the Florida Building Commission's appeals process, it would seem unlikely that the group, as a whole, would not have had knowledge of the Florida Building Commission's appeals process for School Boards.

BACKGROUND

The current procedure for code interpretation and subsequent appeals by inspectors, architects, engineers, contractors, etc., includes three primary entities. Pursuant to **FLORIDA STATUTE § 1013.37 (3) REVIEW PROCEDURE**, (1) it is the responsibility of the CBO to render a decision. (2) it is the responsibility of the appealing party to contact the Florida Building Commission in writing; this is known as a Petition for Declaratory Statement. (3) an appeal can be made to the District Court of Appeals. A clear understanding of the interpretations process should be required when managing, designing and consulting on projects paid for with taxpayers' dollars, especially when the process is specific to statutes pertaining to FBC '01 and School Boards. The existing Florida Building Commission interpretation model shows a three level appellate process for counties and municipalities as: "Any disagreement regarding the interpretation will be resolved first by the building official then by a local board of appeal (if one exists) and finally by appeal to the Florida Building Commission. However, there is specific Florida Constitutional Art. III language that states: "...prohibits the enactment of any special law pertaining to the 'State Uniform Building Code for Public Educational Facilities Construction.'" This is the primary difference between the two appellate processes.

RECOMMENDATION

The Chief Building Official must publish and distribute the current FBC '01 interpretations process, as it applies to School Boards, in order to strengthen the SBBC's use of the appellate process with its in-house staff, design professionals, contractors, etc... This information should also be incorporated into contract language. This will ensure that the contracts define rights and duties of both the Owner and those entering into contracts with the Owner for remedy that is based on such interpretations to expedite the document approval process; thereby reducing construction related delays. This will aid in clarification of the Florida Building Commission's role and the Commission's process for settling disputes and will result in a clear process to determine if A/E design documents comply with the intent of FBC '01.

ADMINISTRATIVE RESPONSE (Building Department) See Pg. 60

ADMINISTRATIVE RESPONSE (Facilities and Construction Management Division) See Pg. 63

4. **THE SCHOOL DISTRICT SHOULD PURSUE PARTIAL FEE REIMBURSEMENT FROM ZYSCOVICH, INC. PURSUANT TO ARTICLES 2.1.4.5 AND 2.1.10 OF THE PSA.**

OBSERVATION

During our review we determined that the CBO did not render a final decision to determine whether or not ZI construction documents met the intent of the code as required by FBC '01 for the Miramar High School 24 Classroom Addition. Additionally, the decision that was rendered by the DOE Construction Planning and Design Manager – Office of Educational Facilities to reject both ZI proposals did not specifically cite FBC '01. ZI was not given an opportunity to respond to the direction the CBO had referenced in his October 7, 2003 memo to the Project Manager referring to the necessary changes to achieve code compliance. However, on October 29, 2003, when the proposed design solutions were rejected, ZI did not attempt to appeal (see: entry 81 of **Attachment A**, pertaining to appeals) per the Florida Building Commission's Appeals process, and SBBC did not attempt to hold ZI accountable to the contract of April 17, 2001. We found ample documentation that clearly shows that ZI made attempts to satisfy the Owner when changes were requested, based on the input of the "Authority having Jurisdiction" with each rejection (see: **Attachment A**). ZI abandoned the four hour wall, as requested by the previous CBO in March, 2002, without specific documentation citing FBC '01 and then pursued the "Alternate method and materials (i.e. enhanced sprinkler system)" approach that was recommended by the same CBO in March, 2002. Additionally, ZI stated that they attended the October 29, 2003 meeting with intentions of, again, meeting the needs of the Owner, pursuant to the current CBO's request. On that day, when both of their design proposals were improperly rejected by the DOE representative, the SBBC Deputy Superintendent, F&CM directed ZI to relocate the 24 Classroom Addition to the southeast portion of the school site. ZI was offered additional Design Fees to design an alternative stand-alone classroom addition. However, we believe that the design fees associated with Phase I through Phase III 100% CD (Plan A) should not be incurred, in total, by SBBC. In addition, we believe that the amount of \$34,000.00 authorized, on 5/4/04, Agenda Item J-13, to "extract scope" from Plan A documents, for incorporation into Plan B construction documents should not be incurred by SBBC, per the Professional Services Agreement between ZI and the SBBC in which:

Article 2.1.4.5 states that:

The project "Will, if constructed in accordance with the Project Consultant's Design, result in a complete and properly functioning facility. Any defective drawings, specifications or other document furnished by the Consultant shall be promptly corrected by the Project Consultant at no cost to the Owner, without limitations to other remedies or rights of Owner. Owner's approval, acceptance or use of or payment for all or any part of Project Consultant's services hereunder or of the project itself shall in no way alter the Project Consultant's obligations or Owner's rights hereunder."

Article 2.1.10 states that:

"Owner's approval of or comments on any of the documents submitted to Owner by Project Consultant shall not be deemed the approval of or by any other governmental authority having jurisdiction over the project and Project Consultant acknowledges that the aforesaid authorities may require modifications of any of the documents submitted by Project Consultant. Subject to Article 2, such modifications shall be made at no cost to Owner"

BACKGROUND

In the Review of the Building Department – September 2003 our office recommended that "the Building Official supervise all of the District's plan review functions within the Building Department as allowed under Section 104.3.1 of the Florida Building Code." Having all of the plan review functions under the supervision of the Building Official will minimize plan review disagreements and code interpretation issues. The Miramar High School 24 Classroom Addition issue is an example which supports such a recommendation. Peer Review comments were nominal (20 Mandatory comments) when the Design Services Director, submitted the Phase III 50% document Approval Letter for Building Department Review. The subsequent review directed by the CBO resulted in the identification of 128 Mandatory comments. In addition, F&CM is responsible, under such circumstances, to administer the contract, to protect the interest of the Owner, and keep the Owner

aware of any project overruns. The responsibilities of all involved parties to understand contract terms and deliverables extend from the Owner's representatives to the Design Professionals.

RECOMMENDATION

As a result of our field work and the development of a Chronology of Events (**Attachment A**) that occurred during the life of this project, it is evident that the responsibility for the original design option being abandoned was the responsibility of both the Owner and Architect. Therefore, pursuant to our analysis of project budget vs. costs, comparative analysis of a like project (see: **Attachment C**), other audit procedures, and based on the seemingly unattainable explanation of this project's rejection for permit, we recommend that F&CM Division pursue reimbursement from ZI for a portion of the Plan A design fees. The reimbursement amount is based on 50% of the original Plan A design fees, paid for Phase I through Phase III 100% construction documents (\$151,900.00) and the subsequent cost to "extract scope" from the original Plan A construction documents for use in the Plan B stand-alone classroom addition (\$34,000.00), for a total amount of \$185,900.00 (see: **Attachment B**). Partial reimbursement is based on evidence of joint culpability, as ZI did not attempt to utilize the available appeals process to substantiate either of their rejected designs purported to be feasible when the project was awarded, as well, the SBBC failed to enforce Article 2 of the PSA when ZI Phase III 100% Plan A construction documents were rejected for permit, rendering the construction documents non-compliant.

ADMINISTRATIVE RESPONSE (Facilities and Construction Management Division) See Pg. 64

5. IMPROVE POLICIES AND PROCEDURES TO ENSURE THAT ALL PROJECT DOCUMENTS ARE INCLUDED IN EACH MASTER PROJECT FILE.

OBSERVATION

Our office reviewed the master project file for the Miramar High School 24 Classroom Addition, **Project #1751-98-01**. The Reception and Records Management Department could not locate several important documents referenced by other documents found in the file. This required our office to request documentation from other sources, when the documentation should have been readily available in the project file. Examples of missing documents include, but are not limited to: certain project meeting minutes, e-mail correspondence, authorization documents to verify expenditures and other related information, etc. These documents were ultimately obtained from alternate sources, including the Project Manager, Project Architect, Design Services personnel, Building Department personnel, etc. Of all of the documents retrieved from other sources it was believed that the problem is a result of loosely defined or administered procedures, as all entities were eager to provide documents when requested. The Project Manager produced a document which was over a year old, yet had not been logged, stamped or added to the Project File. The Project Consultant complied with Article 10.3 of the Professional Services Agreement and promptly submitted all record requested by the Audit Department. However, the Design Services Department was unable to produce the Phase III 100% documents after several attempts by our staff to obtain them. This has been explained as being a function of multiple historical construction documents being stored in alternate locations.

BACKGROUND

Article 10.3.2 of the Professional Services Agreement (PSA) states:

For the purpose of such audits, inspections, examinations and evaluations, the Owner's agent or authorized representative shall have access to said records for the effective date of this contract, for the duration of the work, and until five (5) years after the date of final payment by Owner to Project Consultant pursuant to this contract. All costs which the Consultant is unable to provide support or documentation to substantiate that it was incurred as represented by the original estimated breakdown of cost or found not to be in compliance with provisions of this contract, shall be reimbursed to the Owner.

The PSA between the School Board and ZI states that ZI is responsible for maintaining proper documentation for Audit purposes. The internal control of project documents by SBBC staff should be equally stringent, as collection, distribution and maintenance of project documents is critical to the Audit and Legal Department's ability to reconstruct events for factual reports for audits and litigation, as well as identification of operational and regulatory deficiencies. Therefore, proper maintenance of all SBBC project documents is incumbent upon all personnel in the chain of custody of such documents.

RECOMMENDATION

Reception and Records Management Department, as well as all other SBBC personnel in the F&CM Division must strengthen existing document handling, retention and maintenance procedures to ensure that all pertinent documentation is placed in the applicable project Master File. This will reduce records retrieval time for all involved personnel, as well as maintain necessary documents to allow reconstruction of a chronology of events to determine facts during any subsequent reviews by the Internal Audit, Legal Departments, and/or any other personnel tasked with finding pertinent project related documents.

ADMINISTRATIVE RESPONSE (Facilities and Construction Management Division) See Pg. 64

SECTION II

ATTACHMENTS

**Chronology of Events – Miramar High School 24 Classroom Addition
11/14/2000 - Present**

1. 11/14/2000 – RFQ Professional Services Architectural/Engineering Services for Projects over \$500,000 is prepared.
2. 11/22/2000 – Public Request for Professional Architectural and Engineering Services. RFQ for A/E to design 24 Classroom Addition for Miramar High School. The RFQ states a budget of \$8,792,232 to “construct 24 classroom addition and all related spaces; renovate business classrooms; five Business Ed Labs and related space; repair existing HVAC and upgrade power for classroom addition; and IAQ Program including interior repairs and HVAC test, balance, engineering and repairs/replacement.”
3. 2/1/2001 – Zyscovich Inc. (ZI) presents concept for Miramar High School project. They have an innovative approach to the 24 classroom addition, and are subsequently selected by the Consultant’s Review Committee (CRC) to be awarded the project.
4. 3/1/01- CRC meets to discuss what to do about the ZI presentation prior to being selected as the Project’s design firm. Members were discussing whether ZI had misled and sold the committee on a design concept that could not be delivered and sought legal opinion on the matter.
5. 3/1/2001- Sonjia Coley, Project Manager (SBBC) sends a memo to Johnny Farmer, Community Services Director City of Miramar. The memo states that during a pre-construction meeting for the Miramar Traffic Improvement project on 2/2/02, she was informed that the Project Consultant (ZI) met with the City of Miramar about a design concept at Miramar High School that would affect the Traffic Improvement project and that the City had rejected such a concept. Ms. Coley asked for written documentation to that end.
6. 3/2/2001 – Johnny Farmer, Community Services Director City of Miramar replies in writing to Sonjia Coley, stating that the City of Miramar’s position was that they “...did not want to lose vast amounts of landscaping in front of the school, or face the possibility of the landscaping project not moving forward due to the proposed classroom addition being in the front of the school.”
7. 3/5/2001 – Denis Herrmann receives a written response pursuant to a telephone conversation with Jose Murguido of ZI dating back to 3/2/2000. Mr. Murguido’s memo stated that the proposed cancellation of the negotiation meeting for Miramar HS was due to statements he had made at the CRC meeting, which were intended “strictly to illustrate our firm’s qualifications, creative problem solving abilities, and our familiarity with the project.” He included a pros and cons list that was meant to show that they had offered “two solutions”, not a “specific proposal.” This memo was to leave it in the school district’s hands to determine what was in their best interest.

8. 3/5/2001 – Sonjia Coley sends an email to Steven Feldman of the SBBC legal team. The correspondence shows Ms. Coley informing Mr. Feldman that Bob Goode instructed her to get in touch with Mr. Feldman regarding how Johnny Farmer had spoken to Jose Murguido prior to a 2/2/2001 during a preconstruction meeting for the Traffic Improvement Project, and informed Mr. Murguido prior to the Feb. 1, 2001 CRC meeting and stated that the City of Miramar was opposed to the new addition being in the front of the building for a number of reasons. Sonjia had also already contacted the consultant for the Traffic Improvement Project on the matter.
9. 3/9/2001 – Steven Feldman of the SBBC legal team received correspondence from Joseph Goldstein from the law firm of Shutts & Bowen stating that ZI acted in a manner consistent with School Board Policy 7003, at 2, Rule 4(d)(6) and Fla. Stat. § 287.055(4)(b). In this correspondence, Mr. Goldstein points out that ZI followed the above listed policies and informed the School Board that if they were to rescind their selection of ZI, SBBC would need to forward the appropriate public documents so that ZI could promptly “challenge your decision.”
10. 3/9/2001 – Sonjia Coley sends a memo to Johnny Farmer stating that, “as per our conversation” the School Board was constructing a 24 classroom addition on the West side of existing Building #1, and that it would encroach on Phase II of the Traffic Improvement project. She continued that SBBC would assess the viability of the project with Miller Legg and the design professional. She mentioned that additional costs and or credits would likely result, and stated that the SBBC would address such issues within project budget.
11. 3/15/2001 – A memo from Paul Knight (Craven Thompson & Associates Inc.) to Martin Vila regarding what project activities to continue on with, and which to hold off on.
12. 3/15/01 – A memo from Paul Knight of Craven Thompson & Associates Inc. to Martin Vila, M. Vila, states that the City of Miramar had contacted Craven Thompson to inform them that they “do not wish to proceed with certain portions of the work in Phase two.”
13. 3/15/2001 – A memo from Miller Legg (Eric Czerniejewski) to Sonjia V. Coley. The comments are to the viability of the potential of offsetting the building and whether some other site changes could be done on the south side of the access road on the south side of the facility. He explained that an existing water main “which eventually runs along the south side of the access road that would also cause a maintenance conflict.”
14. 3/19/2001 – A memo to Charlotte Greenbarg (CRC Chairperson at that time) from SBBC legal staff was sent out, regarding the CRC’s request for legal guidance in the matter. The legal opinion was given that, based on the review of the law and the audio tapes of the CRC meetings, that there was no legal basis to reconsider the selection of ZI for the Miramar High School project. They then represent that, per Fla. Stat. § 287.055, Sec. 4.1 of SREF, Board Policy 7003, and RFQ and Public Announcement of each project set forth the criteria that the CRC must consider when short-listing and interviewing consultants. They further represent

that the “actual design of the project is determined after the selection of the architect. Therefore, consultant’s statements concerning the feasibility of proposed design solutions or alternatives are irrelevant to qualification based scoring”.

15. 3/22/01 – Second Request for information and documentation required to conduct negotiations and process PSA.
16. 3/26/2001 – CRC transcripts from 3/1/2001 meeting from Bob Goode.
17. 3/26/01 – Jose Murguido sends Denis Herrmann a memo, stating that ZI was “delighted to submit this proposal for A/E design services for the Miramar Senior High School addition, renovation, and remodeling project,” this was negotiated for \$434,000 at a 3/23/01 negotiations meeting.
18. 4/4/01 – A notice of workshop meeting was sent out by the City Commission of Miramar, Florida. The meeting was scheduled for 4/11/04.
19. 4/11/01 – A meeting took place at the City of Miramar Civic Center Theatre. The meeting discussed the Miramar High School Renovation Project. Mr. Kevin Hart of Craven Thompson presented on behalf of the City. They discussed the widening of Douglas Rd. and how the cost would be \$876,854, and how that cost would be shared by the City and the School Board of Broward County. The City had awarded the Contract to M. Vila and Assoc. in January, 2001. M. Vila was to start on 2/01 and complete the project on 10/01. The City had instructed the Contractor to skip phase 2 to accommodate the construction phase of the 24 classroom addition that the School Board was working on with ZI. Mr. Hart listed the advantages of the classroom addition going in the front (west) of the school on behalf of the City. He cited 8 reasons for the idea having merit. Discussion followed between Mayor Lori Moseley and other attendees to answer questions on the project. Questions were primarily focused on the feasibility and duration of the project and how it would affect the City’s timeline. Tom Calhoun and Beverly Gallagher primarily fielded questions on behalf of the School Board. The topics were duration, landscaping issues, and parking lot construction to clarify whose responsibility those items would be. The group generally agreed that the project was feasible, reacted enthusiastically overall, and determined that change orders would not be a concern to the City as a result of the School Board scope.
20. 4/17/2001 – Board Agenda Item J-15 was presented to the Board and a PSA was issued between the owner and ZI for \$496,000; \$434,000 for fixed design fee and \$62,000 for Supplemental/Reimbursable Services. The design fees were based on an FLCC of \$6,200,000.00. Scope of Work includes: Construct 24 classroom building and all related spaces; renovate business classrooms; five Business Ed Labs and related space; repair existing HVAC and upgrade power for classroom addition; and IAQ Program including interior repairs and HVAC test, balance, engineering and repairs/replacement.
21. 4/30/01 – Jay Flynn, of Flynn Engineering Services, P.A. sent a memo to Rudy Hernandez at ZI, stating that Kevin Hart at Craven Thompson had agreed to alter the plan timeline and scope regarding the Traffic Improvement Project to allow

for the construction of the new classrooms along the west facade of the existing building.

22. 5/2/01 – Meeting with Broward County School Board Staff. Meeting included: Harland Woodard – Director Design Services, Claudia Munroe - Architect, Sonjia Coley – SBBC Project Manager, Rudy Hernandez – ZI, David Feinberg – ZI, Jose Murguido – ZI. The list of items that came out of the meeting was as follows:
 - a) Original building built in 1968. It is not sprinkled
 - b) Original plans show rating
 - c) Existing building construction type not established
 - d) Need to research existing building center mall option
 - e) Is it 1 building or is it 2, or 6 compartments
 - f) Original building design might have been a mall concept review definition
 - g) All doors to toilets swing out
 - h) Elevator to be centered and 4500 #
 - i) Add Hc drinking fountains for each floor
 - j) Need 4 hour Fire Wall with Class A protected openings
 - k) Lot line issue to be reviewed
 - l) No need to touch central stairs, not part of addition program
 - m) No problem to use existing corridor as long as it has proper fire ratings
 - n) Provide calculations for egress, toilets etc. MIN 4-24-2001
 - o) Set up UBCI meeting to review a full Life Safety Plan, ASAP
23. 5/11/01 – Facilities Plan Review – Separate package was signed off by Harland Woodard – Director Design Services. Plans were reviewed by Alice Shapiro – SBBC Architect. 14 Mandatory comments, some addressing need for 4 hour Fire Wall.
24. 5/18/01 – Facilities Plan Review – Phase I: Schematic Design was signed off by Harland Woodard, Director of Design and Support Services. Note: Alice Shapiro– SBBC Architect performed the plan review, completed on 7/24/01. The review comments begin with: General – “This has been ‘Approved as Noted’ based on a meeting held with the project Architects, Project Manager and Design and Support Department members on July 24, 2001 discussing the Life Safety comments below.” The comments continue to require a four hour Fire Wall. Design Consultant listed as JLSD, Inc.
25. 5/21/01 – Denis Herrmann sends Jose Murguido c/o ZI, a Notice to Proceed memo on the Miramar High School Classroom Addition project, regarding the scope of work related to the referenced project and included in PSA.
26. 6/1/01 - Consultant’s ATP for \$434,000 and \$0 additional services is issued to PO# 2100051939 to ZI ATP amount for Phase I was \$65,100.00
27. 7/16/01 – Sonjia Coley SBBC Project Manager, sends a memo to Rudy Hernandez to inform ZI that the Owner was in receipt of the Master Plan prepared by ZI. Plan B of Master Plan, to locate the classroom addition in the SE portion of the property (6/27/01), as well as Plan A (5/16/01), and that the School Board of Broward County is “in agreement with the consultant to pursue Master Plan A.”

28. 7/24/01 – ZI meeting minutes from a meeting to review the comments issued by Harlan Woodard, Director, Facilities & Support Management. The meeting was to review Life Safety Plans Submission for the proposed classroom building additions scheme for the referenced project. The A/E was advised that the “Attached Additions” shall be the selected design direction, in lieu of the freestanding alternate design. The overall life safety concept was found to be acceptable by the School Board with the exception of a few comments that are currently being addressed. A formal response will be forwarded for re-review and approval by SBBC before a Notice to Proceed is issued for Phase II (Design Development Phase) of the work. *A proposed 4 hour wall will be required to separate the new addition from the existing 2 story building. This “Fire Wall” shall go from the foundation to the underside of the non-combustible roof, as indicated per 704.1, exception #1 of FBC-’01 definition.* This approach was reviewed in detail with Alice Shapiro in the meeting. **It was agreed that the FBC-’01 will be used in lieu of previous submissions using SREF 1999 code.** Also, it was determined that the Science classroom building addition shall also utilize a 4 hour “fire wall” adjacent to the existing “open corridor”. The existing open corridor shall be treated as an interior exit corridor for code purposes.
29. 10/23/01 – Facilities Plan Review Phase II: Construction Documents were received, and subsequently reviewed and issued on 12/7/01. The Documents’ Peer Review was performed by the Russell Partnership (or designated sub-consultants) accept for Architectural and Life Safety, which was reviewed by Alice Shapiro, SBBC Architect V. Although the review comments contained between 65-70 Mandatory Comments, the review was approved as noted (civil – approved no comments). Drawings were signed off by Shelley Meloni, Task Assigned Director, Design & Support Services, as Harlan Woodard was no longer the Director of Design and Support Services. A 4 hour wall was recommended per FBC 2001 requirements. This appears to have been updated based upon the meeting notes of the 7/24/01 meeting listed in the previous note.
30. 11/14/01 – DRC (Design Review Committee) Meeting Minutes note that: during a phase II meeting, regarding the Miramar High School 24 Classroom Addition, it was discussed that the Russell Partnership was in the process of reviewing the Phase II CD. Although the Russell Partnership was not able to attend the meeting, review comments were provided by SBBC Staff (per Alice Shapiro – SBBC Architect). In 2.1 of the meeting minutes, Ms. Shapiro’s input relates that “A review of the location and construction of the 4 hour party wall was discussed as well as the horizontal fire rating within the proposed classroom entrances and found acceptable. Furthermore, in 2.2 Ms. Shapiro indicated that the computation to verify compliance with the required net free open area “is equivalent to five percent of the floor area, per FBC ’01 (424) (12) (h). Attached to minutes was a group of miscellaneous drawings, one depicting the 4 hour wall and expansion joint detail, labeled Russell Partnership (peer reviewer).
31. 12/4/01 – Rudy Hernandez of ZI, sent a memo to Sonjia Coley SBBC Project Manager to confirm a phone conversation from 12/3/01. He was confirming with Ms. Coley that ZI had still not received the DRC meeting comments for Phase II, from a meeting held on 11/14/01. He further stated that it was ZI understanding

that DRC comments needed to be addressed and incorporated into the Construction Document Phase for the 50% Submission Phase to follow.

32. 12/5/01 – DRC Committee Meeting Minutes were issued. The meeting took place in the West Trailer at Hortt. Comments were noted from the appropriate attendees. Alice Shapiro's section noted that the 4 hour party wall was discussed, as well as the horizontal fire rating within the proposed classroom entrances and found acceptable
33. 12/21/01 – Sonjia Coley sends a memo to ZI regarding the Miramar High School Project # 1751-98-01. In the memo she makes them aware that their project is on schedule for submission of Phase III 100% Construction Submission. She goes on to inform them that *if they wish to avoid revisions required under the FBC 2001 effective Jan. 1, 2002, they would have to submit Phase III 50% foundation Construction Documents in full compliance with SREF and the PSA to the Design and Support Services Department, on or before Feb. 28, 2002 (See 7/24/01).* She went on to say that if they chose not to submit the documents prior to Dec. 28, 2001, the project would fall under the jurisdiction of the new FBC 2001 and they would be required to make any and all revisions required under FBC 2001 to the Construction Documents at no additional cost to the School Board of Broward County, Florida. Note: that on 7/24/01, it was agreed that the documents would meet the requirements of FBC '01.
34. 1/9/02 – Life Safety Plan Review meeting was held to explain the design of the project and review the Life Safety Plans with the Fire Dept. Reviewers. It was confirmed that the design and ratings were based upon the FBC 2001 code. The group unanimously agreed to the 4 hour fire rated party wall extending from the foundation and is continuous to the underside of the roof deck. The fire wall runs north to south separated from the existing building façade by a 1" expansion joint. Other things were discussed concerning other fire and life safety issues. In conclusion, the above recommendations to Buildings "A" and "B" regarding Life Safety exit requirements and general Building limitations as required by Chapter 5 of FBC '01 for height, area, distance separation and construction types, discussed in the meeting have been agreed upon by all parties present at this meeting.
35. 2/11/02 – A Building Official is hired by SBBC. Alan Gilbert is the new Building Official. Mr. Gilbert was hired as CBO to direct an SBBC Building Department and interpret FBC '01, as well as issue building permits at Phase III 100% and the subsequent Certificate of Occupancy. Some time between his arrival and 3/13/02, Mr. Gilbert expressed that the 4 hour fire wall concept was unacceptable. Project file did not contain documentation, other than comments represented in e-mail correspondence and meeting minutes, as to Mr. Gilbert direction and decisions.
36. 3/13/02 – Sonjia Coley sends an e-mail to Rudy Hernandez confirming that "as stated we will need to hold off on the 100% documents until the issue with the fire wall can be resolved."
37. 3/13/02 – Rudy Hernandez replies via e-mail to Sonjia Coley. He states that ZI will not be submitting 100% Construction Document Set to SBBC, as scheduled for

- 3/19/02. He further stated that they would hold on the project until a meeting could be scheduled with the new Head of the Building Department, Alan Gilbert, ZI, and SBBC staff to “review, discuss and resolve the concerns that have been stated by Mr. Gilbert regarding the proposed (4) fire rated wall and any others he may have.” He went on to request review comments from the Building Department or an internal review.
38. 3/20/02 - Transfer of Funds for Miramar High School Document was sent from Jerry Graziose, Director-Safety Department to Jeff Whitney, Capital Budget Analyst IV, Capital Systems, Reporting and Control and Harvey Miles, Budget Analyst V, Capital Systems, Reporting and Control. The memo was Jerry Graziose asking that Capital Systems transfer \$65,000 from the HSS Budget that was earmarked for generator upgrade (2000-2001) at Miramar High School to Sonjia Coley. The memo stated that Ms Coley needs the funding to hire a contractor to design a fire sprinkler system for Miramar High School Project 1751-98-01. The need for the fire sprinkler system is a greater safety priority than the generator upgrade concern at this time.
39. 3/27/02 – A meeting was held with Alan Gilbert, ZI, SBBC staff and Jim Luke from Rolf Jensen & Associates Inc (RJA). The purpose of the meeting was to discuss the conditions of the existing school building and to determine a course of action to implement the proposed addition. During the meeting, the group revisited some of the existing building’s construction features (See 5/2/01), as well as a couple of new items. During the meeting Mr. Luke of Rolf Jensen & Associates Inc., experts in Life Safety and Code Analysis, was introduced to the group. Mr. Luke stated that after a walk through of the building, it was his opinion that by introducing an “Ordinary Hazard Group 1” fire sprinkler system throughout the building, the structure could be brought very close to a Type II construction. He suggested that a redundant water supply and dual riser system be considered. It was agreed by the SBBC Staff that the proposal has sound merit and that Mr. Luke should proceed to prepare a “Draft” Report on his findings to offer specific steps to achieve approximation of a Type II Construction. Note: Mr. Alan Gilbert was present during the meeting and the directive.
40. 4/3/02 – Rudy Hernandez of ZI contacted Sonjia Coley SBBC Project Manager to inform her that per the 3/13/02 hold and the subsequent 3/27/02 meeting, life safety issues were reviewed and an approach to resolve the concerns was determined. He went on to explain that the 3/27/02 meeting yielded direction to pursue a two step course of action: 1) Rolf Jensen & Associates (RJA), Life Safety Consultants will prepare an Alternate Method of Compliance Report to SBBC for approval. 2) Upon approval of the Alternate Method of Compliance being approved, ZI would provide a fee and time schedule for the implementation of the Alternate Method.
41. 4/3/02 – Jim Luke of Rolf Jensen & Associates Inc. sends Jose Murguido of ZI a memo stating that Jose requested a recent meeting and proposal to provide services for the Miramar High School addition project. He outlined RJA scope of services to include: 1) Meet Client in Ft. Lauderdale to review the project concepts and goals (Completed March 19, 2002). 2) Meet with Client in Miramar, Florida to inspect the facility and meet with SBBC to discuss the issues of the

planned addition (Completed March 27, 2002). 3) Review drawings of the existing structure, and prepare an alternate method of compliance report for the type of construction for the facility. 4) Prepare and present the alternate methods of compliance report to the SBBC regarding the consideration for the type of construction of the existing facility. It goes on to state that RJA cannot assure acceptance of the proposed alternate methods of construction, and this proposal does not include destructive testing of the existing construction to determine the conditions. It is the Client's responsibility to perform onsite inspections and provide RJA with the details of existing construction.

42. 4/19/02 – RJA sends ZI a “Draft” Report, including an Executive Summary outlining how the concept meets the intent of FBC '01. It includes an analysis that describes how the Type II intent of FBC '01 would be met through fire resistivity. The report was to be forwarded to the “Authority having Jurisdiction”, who was Alan Gilbert at that time.
43. 4/22/02 – A meeting took place at Hortt to discuss the RJA report. At this meeting, Alan Gilbert, CBO expressed concern that the proposed solution to meeting the intent of the code with an “Alternate Method” would become the basis for similar additions at other schools of similar design. He therefore, cautioned that the solution of the addition of an enhanced sprinkler system throughout the existing as well as the new construction be full supported by the code references to achieve a near type II construction. He requested that meetings be scheduled with the City of Miramar and Broward County Fire Marshal's to obtain their concurrence with this approach. Alan Gilbert did support this approach with the above cautions.
44. 4/30/02 – A meeting took place, which included: SBBC CBO Alan Gilbert, Uniform Building Code Inspectors (UBCI) staff member Rebecca Blackwood, SBBC Architect - Alfredo Leon, SBBC Safety Director - Jerry Graziose, City of Miramar and Broward County Fire Marshals, and ZI. The purpose of the meeting was to further discuss the “Alternate Method” for review of the “Draft” report by RJA. Both Fire Marshals expressed satisfaction with the RJA Report. Both Fire Marshals stated that this report was “an excellent way to provide both life safety and resolve building code issues.” It was stated at the meeting that a review of the plans with the engineered sprinkler system and service lines shown as well as the integrated fire alarm details shall be held with SBBC Staff and the 2 Fire Marshals. This meeting shall be prior to the final submission of the 100% CD. It was agreed by all present, that RJA Report in hand and the above Fire Alarm System Integration as well as the instructions to the Fire Contractor, the SBBC Staff instructed ZI to proceed with the project. Furthermore, provide the SBBC with estimates of the new time schedule, budget and supplemental services.
45. 5/7/02 – RJA sends a memo to ZI as an attachment to a proposal to perform the scope of work that had been the topic of the previously mentioned meetings. ZI pointed out a sprinkler installation cost of about \$2.25 per square foot for budgetary purposes. They also pointed out that the cost may vary according to contractor availability in the area. RJA was only the “Alternate Method” designer, not the installer.

46. 5/7/02 – RJA presents ZI with the attached proposal showing lump sum fee of \$26,200 for Sprinkler Design Services, Fire Alarm System Assessment, and other related expenses. Also attached were Standard Terms and Conditions with the paragraphs relating to reimbursable expenses and deposit scratched out and initialed by Jim Luke of RJA.
47. 6/27/02 – Sonjia Coley – SBBC Project Manager sends Rudy Hernandez of ZI a memo stating that the Parameters Committee had met on 6/21/02, and denied an amount of \$49,890 submitted for supplemental services, but SBBC was offering \$45,330.
48. 6/9/02 – Design Services sent Phase III 50%R documents for outside peer review to The Russell Partnership. These review comments were issued on 9/17/02 with 148 (M) mandatory comments. These documents were signed off by new Director, Design Services – Claudia Munroe. The comments included no Structural mandatory comments.
49. 7/1/02 – Rudy Hernandez of ZI, sends Sonjia Coley – SBBC Project Manager an e-mail to confirm acceptance of the \$45,330 offer for the supplemental services, as offered by SBBC. Rudy was also inquiring about a meeting with the Miramar Principal to schedule construction phasing and time scheduling for the installation of the proposed sprinkler system. He also mentioned that a Stand-Up review was agreed to a few weeks earlier by Sonjia and Claudia Munroe to review the revised status of the project since 50% CD submittal was not performed by SBBC. This was an effort to ensure that “any new concerns that may arise from the stand-up review will be addressed and incorporated into the 100% CDs in order to expedite the project.
50. 7/10/02 – An ATP, authorizing an amount of \$45,330 for existing school fire sprinkler design, also shows \$303,800 in previously authorized fees. It also shows a balance of \$130,200, for Bid, Contract Administration, and Warranty, which accounts for the originally approved amount of \$434,000 in A/E fees.
51. 7/12/02 – Rudy Hernandez meets with Sonjia Coley and recommends the possibility of incorporating the 75% Stand-Up Review into the 100% Construction Document Submission scheduled for Wednesday, September 11, 2002 in order to expedite the process. Sonjia was to investigate this possibility and provide ZI direction on this matter.
52. 7/29/02 – Chief Building Official, Alan Gilbert resigns his position.
53. 7/30/02 – Rudy Hernandez sends Sonjia Coley an e-mail regarding the stand-up review. He is asking for confirmation of an 8/9/02 meeting at 9:00 AM. He asks Sonjia to review a suggestion with Claudia Munroe that states: “Based on the proposed life safety strategy for this project we recommend that the SBBC-DSS Staff review this project in-house and NOT submit this project to a Peer Reviewer that has NO HISTORY of all the past discussions and agreements concerning the life safety strategy such as the Alternate Method Protection Report prepared by RJ&A and approved by the School Board, Building Official and Chief Raiken Fire Marshal as accepted method for this project.” He goes on to say that ZI feels

that by having SBBC review the Miramar project In-house will save valuable time and “avoid any new confusion by a Peer Review Group that has not been involved with all the past issues we have reviewed and resolved collectively.” He then stated that a revised 50% Submittal Set will be delivered to Sonjia’s office on 8/2/02.

54. 8/29/02 – A meeting was held at the Miramar High School site to perform a flow test of water pressure due to previous tests yielding unusually low water pressure creating a concern to all parties present. Suggestions were made on how to increase the water pressure levels to meet the needs of the Alternate Method design. It was determined that a meeting would be scheduled by Sonjia Coley to present and review the solution with the Board, the City of Miramar Fire Department and Charlie Raiken, Fire Marshal Broward County Fire Rescue Division prior to submitting the final documents for permitting.
55. 9/9/02 – RJA submit their Fire Alarm System Analysis for Miramar High School. This report was submitted with the objective to perform an analysis of the existing fire alarm system and prepare options for replacement in whole or part. They prepared a non-detailed estimate of costs associated with modifying existing system for evaluation purposes only.
56. 9/17/02 – A meeting took place with SBBC Project Manager, Civil Engineer, Jim Luke of RJA, LT. Bill Keys of City of Miramar Fire Department, Frank Steward of Flynn Engineering, and ZI. The meeting was held to determine solutions to the water pressure problem, RJA Report, and to discuss construction scheduling logistics. There were several ideas shared about potential causes and solutions to the low water pressure issue. All were to cost SBBC to investigate and resolve. RJA concept was found to be acceptable by “both authorizing entities present.” Finally, the construction sequence required a travel distance determination before being submitted for approval.
57. 9/23/02 – New CBO is hired. Lee Martin is the new Chief Building Official.
58. 11/7/02 – Project Consultant’s invoice was submitted by the Russell Partnership and approved by Claudia Munroe for \$3,500.00. This was for the Phase III 50% R (R=Revised) document peer review.
59. 1/31/03 - Phase III 50% R2 (2nd Revision) containing 20 (M) mandatory comments were issued after review by the Russell Partnership. Status: Approved as Noted. (See entry 47 – 148 Mandatory Comments)
60. 1/31/03 – An approval letter was issued as “Notice to Submit Documents to Building Department for Permitting” by Claudia Munroe. The document stated that, per the Design Services Department Director, “It has been determined that the consultant may now issue the Phase III 100% Construction Documents to the SBBC Building Department for review to obtain a permit.” Two non-signed and sealed sets must also be issued to the Project Manager for distribution to the Executive Director of Compliance & Contracts and the Director of Design Services.

61. 3/28/03 – A meeting was held at Miramar High School between SBBC Project Manager, Miramar High School Principal and some Staff, Harry LaCava (South Area Superintendent SBBC), and ZI. The purpose of the meeting was to review and revise that construction sequencing. There was mention of the existing schedule being moved back. Project Manager stated that any interior renovations that would happen while school was in session would be performed during off school hours and not interfering with normal school activities. Sonjia mentioned that a pre-construction meeting will be required with the awarded contractor. Sonjia stated that Construction Documents are being reviewed by the Building Department for permit. She stated that she had called and left messages for Mr. Lee Martin regarding the possibility of expediting the review to allow the Bidding Process to begin. Mr. LaCava indicated that he would attempt to speak with Mr. Martin about this matter.
62. 4/29/03 – School Board Agenda Item J-2 was approved to increase the Basic Services from \$434,000 to \$499,000 on the Professional Services Agreement with ZI. The difference was for Additional Basic Services required for design of a fire sprinkler system for the existing building. (See 3/20/02 - \$65,000 transfer from Safety Budget per Jerry Graziose)
63. 5/7/03 – Building Department Phase III 100% Construction Documents are reviewed and issued by Lee Martin, Chief Building Official. The Peer Review was performed by the Russell Partnership. Phase III 100% CDs contained 128 (M) mandatory comments. Review comments are completed by Terry L. Holt, R.A and Michael McGuinn. These are different Peer Reviewers than had previously reviewed the plans when prior peer review comments were issued through the Design Services Department.
64. 5/12/03 – Alice Shapiro receives a memo from Michael McGuinn of the Russell Partnership stating that NFPA 101 Chapter 9 Section 9.4.7 appears to not allow inclusion of an elevator opening to the main breezeway corridor. (Per a recent stand up review)
65. 7/2/03 – Craig Redfern, PE, sends a memo to Rudy Hernandez responding to the interpretation offered by the Russell Partnership's Michael McGuinn, dated 5/12/03. In the memo Mr. Redfern cites NFPA 101 – 2000 Edition (LSC) Section 7.7.2. In this response he mentions the 50 percent rule and conditions to invoke the rule. He states that RJA meets 2 of 3 criteria, and that the third criterion does not apply.
66. 7/2/03 – Rudy Hernandez of ZI sends a memo to Alice Shapiro, SBBC Architect, stating that ZI and RJA have reviewed the comments of the Russell Partnership and have resolved the matter with citation.
67. 9/29/03 – A meeting between SBBC Building Official, Inspectors, Claudia Munroe, Sonjia Coley, Terry Holt of the Russell Partnership, Jim Luke of RJA, and ZI was held at the offices of the Building Department. Items of discussion included RJA Report approved by the previous Building Official, the size of the existing structure, the fact that the existing structure has protected columns, and series of masonry firewalls creating a series of compartmental area throughout the

building. Jim Luke reiterated that the “proposed alternate method of protection, in accordance with, Section 103.7 Alternate Materials and Methods, and meets the intent of Chapter 5 of the FBC for protection of the structure and life safety of the occupants” as depicted in RJA proposed design. ZI stated that the Alternate Method would accomplish two significant benefits: 1) the existing building would be protected by an enhanced, redundant fire sprinkler system and correcting many current outstanding Life Safety violations. 2) the fire protection system would achieve the equivalent of a Type II construction allowing the new addition to be constructed as designed. Tom Keen stated that a (4) hour wall should be installed as originally included prior to Alan Gilbert’s rejection. Rebecca Blackwood suggested the use of sprayed on fire proofing protection to the steel bar joists. But the meeting minutes stated that to be “un-practical due to the existing conditions in the ceilings such as ductwork, cabling, and other utility distribution systems.” Mr. Martin stated that a separate meeting would be held with the District to determine the support for the previously approved “Alternate Method of Protection Report. He further mentioned the idea of sending drawings and data to Jon Hamrick in Tallahassee for approval of DOE.

68. 10/3/03 – CBO, Lee Martin sends a memo to Mr. Jon Hamrick, Construction & Planning Manager with Florida Department of Education, Office of Educational Facilities. In the memo, Mr. Martin states that the previous Building Official, Alan Gilbert, rendered a decision that required Mr. Hamrick’s review. Mr. Martin went on to describe that he and the building inspectors had concerns with the Alternate Method of complying with FBC ’01 as designed and proposed by RJA. He felt that since this “one project would set a precedent for several others, clarification before proceeding would be helpful in terms of avoiding disputes down the road on this and other projects.” Mr. Martin stated that “...While the initial plan called for a separate, freestanding building,” (See: RFQ) “the decision was made in April of 2002 to make the addition an integral part of the existing structure, placing the new space across the front of the existing classroom and laboratory space.” Mr. Martin gave a brief description of RJA proposal and stated that a copy of the report was attached for his review. Mr. Martin also included a “very crude” sketch of what was being proposed. He explained that, where the new addition abuts to the existing, there was no proposed fire separation wall. He went on to say that he believed the open-web joists should be fireproofed. Mr. Martin expressed a difference of opinion on whether a Type II building could be achieved by using the Alternate Method to meet the intent of the code, and therefore, sought Mr. Hamrick’s comments prior to peer review activity. There is no written record of Mr. Hamrick’s comments to Mr. Martin’s memo to date.
69. 10/7/03 – Mr. Martin sends a memo to Sonjia Coley to discuss thoughts after the September 29, 2003 meeting. He indicated that he was still not convinced that the Alternate Method was the way to go. He also indicated that, in a phone conversation responding to Mr. Martin’s memo, Jon Hamrick indicated that his FISH data shows the existing building 15,000 to 20,000 more square feet than that referenced in the RJA Report. Mr. Hamrick also stated, according to Mr. Martin, that due to the size of the facility, a (4) hour fire separation wall was being recommended. Mr. Martin then states in the memo that “we will, therefore, require a four-hour fire separation wall between the new and existing portions of the school. Mr. Martin then stated that “As designed, a double wall is already

shown between the existing building and the proposed new addition. Making it a fire separation wall will not involve that much additional time or expense.” He went on to say that following this direction could result in some savings.

70. 10/14/03 – Rudy Hernandez of ZI, sends Sonjia Coley a memo stating that ZI was in receipt of the October 7, 2003 memo from Mr. Martin. He stated that a (4) hour fire separation wall was originally proposed in the early phases, and that previous Building Official Alan Gilbert had decided that a (4) hour wall was not acceptable. He continued that those circumstances occurred to bring them back to Mr. Martin’s proposal for the (4) hour fire separation wall. Mr. Hernandez had been unable to reach Mr. Martin to determine what changes were being referenced specifically in the October 7, memo. ZI then asked for Ms. Coley’s assistance in scheduling a meeting to clarify this approach.
71. 10/29/03 – A meeting was held at Miramar High School to determine the direction of the project. The Project Manager, Director of Design Services, Deputy Superintendent of Facilities & Construction Management, other SBBC Staff, Miramar High School Staff, Jim Luke of RJA, David Tillotson a Code Consultant, Jon Hamrick of DOE and ZI were all present. Lee Martin was unable to attend the meeting he had arranged. Mr. Hamrick stated at that meeting that he was “entrusted” by Mr. Martin to render a final decision on his behalf. In an e-mail correspondence with Mr. Hamrick, he stated that Mr. Martin invited him to a meeting at Miramar High School to discuss building code issues and their implementation. Note: at the meeting he states that he was “entrusted” to “render a final decision.” He also stated that arrangements were made for all parties to meet on October 29, 2003, and that Mr. Martin had made arrangements to have lunch with Mr. Hamrick, where he was informed that Mr. Martin would not be attending the meeting, but would join in after another meeting in the district’s administrative center (per Mr. Hamrick’s December 28, 2004 e-mail). However, the group waited for nearly an hour for Mr. Martin to arrive and, subsequently, commenced the meeting without him. The history of the project was briefly reviewed and the purpose of the meeting, to define the new requirements of the four-hour wall between the new and existing building, was now to be discussed.

The group first looked at the Alternate Method design concept. This method had already been discarded by Mr. Martin (See: October 3, 2003 memo to It was discussed that the existing building was 172,000 square feet and grossly in excess of what Table 500 of FBC ’01 allowed. Z.I. explained that the Alternate Method was designed to meet the intent of a Type II building which would negate Type IV allowable square footage thresholds. Jim Luke (RJA) explained how the design met the intent of FBC ’01, as well as how the system would operate. He stated that RJA proposal was in accordance with Section 103.7 Alternate Materials and Methods, meets the intent of Chapter 5 of the FBC ’01 for protection of the structure and life safety of the occupants due to increased design density and dual water supply connections provided for the new automatic sprinkler system which is to be installed in the entire structure. Mr. Hamrick stated that there is “**no precedence**” in the School District of Broward County for using such an Alternate Method. He also stated that he felt the sprinkler system would not provide the required protection needed to achieve a Type II building, primarily because the steel bar joists would require a means of protection. Mr. Hamrick further added that he felt the egress calculation shown on the drawings

was done incorrectly for the stairs located on the second floor. Z.I. stated that they would recalculate, but felt the egress capacity was sufficient to accommodate the full student body capacity at the second floor based on the life safety evaluation performed.

Mr. Hamrick and Mrs. Blackwood (SBBC Building Dept.) both stated their support for replacing the Alternate Method with a fire rated four hour wall and a light hazard sprinkler system. Mr. Hamrick stated that if the proposed two-story addition were to remain in its current location, a four hour wall would be required. Z.I. then inquired about the location of the four hour wall and sketches were developed by the qualified attendees. **DOE made a placement recommendation that was deemed “not practical”** due to its proximity to load bearing walls. Then, the idea was disregarded by SBBC. **Mike Garretson, Deputy Superintendent of Facilities & Construction Management Division then stated that all in attendance needed to arrive at a viable solution for this project prior to ending the meeting.**

Next, the group discussed the option of moving the building west approximately twenty-five feet (25'). However, this concept created concern of a courtyard effect between two very large walls, as well as concerns for student security. Furthermore, the building would encroach on the parent drop off area. Thus, the second option was disregarded.

Finally, a third option was discussed. It included moving the twenty-four classroom addition to the south-east portion of the campus that was currently occupied by 18 student portables, and this was consistent with Plan B of the original master plan, as proposed by ZI. This option was found acceptable to Mr. Hamrick, Mr. Garretson, and Mrs. Blackwood. Ms. Coley stated that this would require relocation of the portables and would be expensive to accomplish. Mr. Garretson then directed Z.I. to submit a proposal and a schedule to complete the new project. This proposal was to include the improvements to the existing classroom building and develop the new twenty-four classroom annex in the proposed location.

ZI stated that they would evaluate the new project scope, determine what is “salvageable” from the old project, and generate a proposal to reflect the new work. With that, the meeting was adjourned.

72. 10/29/03 – After the meeting had adjourned at Miramar High School, Mr. Martin and Mr. Klink arrived at the school’s parking lot as Mr. Hamrick was about to leave. He had a short discussion with them about the outcome of the meeting and then left the location.
73. 10/30/03 - Building Department Phase III 100% Construction Documents are reviewed and issued by Lee Martin, Chief Building Official. The Peer Review was performed by the Russell Partnership. The documents were submitted for review on September 8, 2003 after the previous review (see: 5/7/03) Phase III 100% CDs contained 65 (M) mandatory comments. (Terry Holt from the Russell Partnership the reviewed documents)
74. 11/18/03 – A meeting took place at Facilities between Project Manager, Sonjia Coley, Deputy Superintendent F&CM Mike Garretson, Senior Project Manager Shelley Meloni (SBBC members), Jose Murguido, and Michael McGuinn (ZI). (Note: Michael McGuinn was previously employed by The Russell Partnership and

performed Phase III 100% Peer Review for Building Department prior to Plan A being abandoned) During this meeting Mr. Garretson asked for clarification of meeting minutes to include the revamped existing building façade. Mr. Murguido stated that this was understood as a part of the scope of the existing building and that the meeting minutes shall be amended and re-issued. They then discussed and Mr. Murguido confirmed that a new low hazard sprinkler system is to be redesigned for the existing building. Then they discussed the Recovery Plan (Plan B design). They discussed the redesign of the entry plaza to satisfy the agreement with the City of Miramar. Next, they discussed that the science lab building from Plan A would be salvaged and rotated to east/west direction. Classroom packs (five each) taken from the original design and turned to each other with interior corridor. The changes to Plan A design included egress stairs at both ends of the classroom structure, group toilet rooms required for new remote building, and teacher planning room split to be on both floors to increase observation at core of building. The new remote plan also included, for clarification to the Board, **a request by Mr. Garretson for construction costs associated with the Building Department's requirements for two additional stairs and the four hour fire-wall to be estimated and included to the original project costs.** Mr. Murguido agreed to provide information as requested. Finally, design fees were discussed and Mr. Garretson requested that Sonjia Coley call parameters meeting to expedite process.

75. 11/18/03 – A memo from Jose Murguido of ZI to Sonjia Coley SBBC Project Manager, stating that, per meeting minutes from October 29, 2003, he was requesting supplemental services for new work required to move the 24 classroom addition at Miramar High School. He proposed the scope in two phases. First, (Package I) the scope was to provide for mechanical and electrical services previously fed from the addition. The new fire sprinkler system would be modified for the existing building due to removal of addition. Site-work would be modified in parent drop off area. Finally a new façade and student entry plaza will be developed to incorporate into the City of Miramar Beautification Project. The second phase (Package II), a new 24 classroom addition will be located in the southeast parking lot as per the October 29, 2003 meeting. Design documents will be provided for a stand-alone building. The work will include all related architectural and engineering services for the work at the new location. To expedite the work, it will be arranged into two packages. Permits will be required for both phases (packages). 100% Package I on February 21, 2004 and 100% Package II on May 30, 2004. FLCC for each package will be impacted by the increased scope of work: Phase I FLCC - \$2,568,753.00 and Phase II FLCC - \$5,839,157.00. ZI fees will be \$49,830.00 for Phase I, and \$199,320.00 for Phase II. An additional fee for Permitting/Bidding/Construction Administration for Phase I Independent Package will be \$44,953.00. Insurance will be reimbursed by the Owner, but amount will be confirmed upon confirmation of scope.
76. 11/24/03 – ZI submits an invoice for remaining Phase III 100% payment of west façade design that was abandoned on 10/29/03. The invoice includes an amount of \$6,575.00 for "Other Services". The entire amount of the invoice requested amount is \$15,255.00. On 6/23/04 Derrick Ragland signs off on the invoice a day after Sonjia Coley. ZI has now been paid 100% of Phases I, II, and III, as well as 100% of Other Services for the original scope of work for the west façade. The balance of \$130,200.00 is still outstanding for Bid, Contract Administration, and Warrantee.

77. 1/7/04 – Michael McGuinn of ZI sends Sonjia Coley SBBC Project Manager a memo stating that, per the Parameters and Negotiations Committee, an additional fee of \$280,000.00 was agreed to for the scope of work defined on 11/18/03, as well as the additional work accepted to include the paving of an exterior area. The amounts agreed to were: \$47,630.00 for Phase I, \$190,500.00 for Phase II, and an fee of \$41,870.00 for Permitting/Bidding/Construction Administration for Phase I Independent Package. The additional paving area is to be used as an outdoor seating area. Also, per request from Denis Herrmann, a re-use fee was agreed to for the 24 classroom addition at \$240,000.00 for future use by the District. It further states that insurance is reimbursable by Owner and that the total FLCC is \$8,407,910.00, but a hand written note states that portable relocation is to be added.
78. 2/17/04 – Board Item J-8 is presented to the Board to Amend the PSA – Miramar High School. The item is approved as amended. This Amendment gives the Deputy Superintendent, F &CM the authority to negotiate with ZI to resolve the Professional Services Agreement (PSA) issue, with a limit of up to \$200,000.00. Exhibit 3 (of Attachment F) shows a revised project budget of \$11,928,985.00 for the 24 Classroom Addition. General Comments noted that “Additional funding required in the amount of \$3,038,205.00 due to relocating building. Additional funding required for (1) Basic Fees, (2) Insurance, and (3) Relocation of Portables
79. 3/1/04 – A Recovery Plan Meeting document is issued by ZI. The recovery plan shows the plan for ZI to move the 24 classroom addition to the SE portion of the property. It shows that several portables will require relocation to complete site work and construct the addition. The site plan documents the scope of the work to include additional fees of \$200,000.00 for Scope 1. Scope 2 depicts an additional cost of \$34,000.00 for design of the IAQ, Fire Sprinklers, ADA Toilets and Business Labs **(note: that in entry 37 - 3/20/02, Jerry Grazioplene, Director of the Safety Department authorizes a transfer of \$65,000.00 for the design of a sprinkler system, also see: entry 61 – 4/29/03 Board Agenda Item J-2, as the Board Approved Additional Basic Services increase of \$65,000.00 for design of fire sprinkler system. Also note: that design fees for Business Labs and IAQ renovations were included in original scope in entry 20 – 4/17/01).** Finally, Scope 3 shows a cost of \$46,000 for redesign of building façade, redesign site – plaza entry. However, handwritten into the document is an amount of \$36,000 as an apparent amendment to the \$46,000.00 amount documented for Scope 3. These amounts total \$270,000.00. The third page of the Recovery Plan depicts the floor plan of the new proposed design for the 24 classroom addition in SE portion of the lot. For all intents and purposes, it matches the description given by ZI on 11/18/04 (entry 73 of chronology). A large portion of the original design has been incorporated into the new design. However, on the final page of the Recovery Plan there is a documented FLCC deficiency of \$2,207,910.55. An asterisk next to the FLCC Deficiency row is referenced to: “Please note the items listed do not include complete SBBC Planning, Construction and Furnishings anticipated costs.” A note at the bottom of the page describes how costs have decreased as a result of value engineering and removal of 4 hour wall. It further notes a cost increase as a result of the addition of required corridors, egress stairs, and toilet rooms. Other items referenced are insurance reimbursement, non-school hours sprinkler modifications, and upgraded sprinkler system upgrade in one story science building.

80. 5/4/04 – Board Agenda Item J-13 amendment is approved, authorizing an additional \$270,000.00 increase to the limit on Basic Services portion of the PSA with ZI. The amounts listed in the breakdown are consistent, overall, with those documented in the Recovery Plan. The amounts are specified as \$180,000.00 for design of 24 classroom addition, \$20,000.00 for site adaptation, \$34,000.00 for extraction of scope from previously submitted plans, and \$36,000.00 for design of building façade and plaza entry. Note: Amendment also included an additional \$72,686.00 for an increase in supplemental services. This made a total approved amount for J-13 of \$342,686.00 for the Miramar High School 24 Classroom Addition. (See: entry 2/17/04 – Board Item J-8. This Amendment gives the Deputy Superintendent, F & CM the authority to negotiate with ZI to resolve the Professional Services Agreement (PSA) issue, with a limit of \$200,000.00 to negotiate to resolve the issue of the Professional Services Agreement at Miramar High School – Project # 1751-98-01.
81. 6/16/04 – CRC Meeting Transcripts quotes Jose Murguido, stating: “...so I encourage you to appeal that decision and take it back like other districts have, and I’ve talked to Mike Garretson about it, and I, I, I’m willing to do that for free because I believe it is so important to this district to be able to upgrade its older buildings...”
82. 7/29/04 – CRC Meeting Excerpts were transcribed to document a meeting in which Zyscovich Inc. was, again before the CRC to discuss issues from the 6/16/04 meeting, as well as to set the record straight from their perspective on comments made during the 6/23/04 meeting. Mr. Murguido, of ZI was discussing how the integrity of his firm had been attacked with less than factual information regarding the Miramar High School 24 Classroom Addition, when ZI was attending CRC to compete for a subsequent project. A primary point of contention was based on Charlotte Greenbarg questioning whether or not ZI had agreement from the City of Miramar, prior to stating to the CRC that the original Plan A (west façade) was acceptable to the City of Miramar. Mr. Murguido had stated back in 2001 that the concept for the west façade classroom addition was acceptable to the City of Miramar, and Ms. Greenbarg was challenging that the ZI was not being truthful about some issues. ZI had Richard Daniels as their legal representative there to refute and set the record straight for Jose Murguido. As the meeting progressed Ms. Greenbarg requested an opportunity to respond to the comments made by Mr. Murguido and Mr. Daniels. Jeff Siniawsky, the Chair of the committee represented that the meeting was not a cross examination, and that Ms. Greenbarg would have to refrain, unless ZI would have a chance to respond. Ms. Greenbarg spoke to a motion, that they should reconsider the scoring because of what Mike Garretson had informed them of on the 6/23/04 meeting. Ms. Greenbarg quoted Mr. Garretson, “And we wasted six months in time and a lot of money fighting the issue of the firewall until finally the State sent Mr. Hamrick here, and we actually had a meeting at Miramar, and he told him that what he wanted to do hadn’t been done anywhere in the state, and he would not permit us, so that put a quick end to that.” Then a question was asked of Mr. Garretson by Alanna Mersinger, “...did we pay for all the original plans that we couldn’t use and then we paid them to fix what they broke?” Mike Garretson replied, “Yup” Mr. Garretson went on to state that he felt the architects were misled by Alan Gilbert. He also represented that the School Board was not willing to pay more than the cost of a reuse to “redo” the project and that amount was \$200,000.00.

83. 12/28/04 – Audit Department receives an e-mail from Jon Hamrick's DOE office stating that he was invited by Lee Martin to attend a meeting in which building code issues and their implementation would be discussed. He further stated, that during a lunch meeting, Mr. Martin informed him that he would not be attending the meeting, but would join them after another meeting in the district's administration center. Mr. Hamrick goes on to state that during the meeting at Miramar High School, he provided advice and opinions regarding building code requirements as it applied to the project, but that final decisions were made by district personnel or by the designers. He addressed the alternative method design stating no existing prior history of being used for school construction and that he could not see how it could be used for this project. He knew of no precedence for using such an alternative fire protection method as proposed in this project to substitute for protecting a building's structural components from fire in an educational occupancy to compensate for a new addition. Then, regarding the four hour fire wall, two locations were discussed for the wall, and in both cases obstacles to constructing them, as required by building and fire codes. He stated that the designer could not come up with a solution to the obstacles encountered in creating a four hour fire-rated wall. He then referenced a suggestion to locate the building in the back of the school as proposed in an earlier design. Then he states that Mr. Garretson made the decision to locate the addition in the back of the school and revise the front façade of the building. Then he adds that the meeting broke-up. Mr. Martin and Ken Klink arrived at the school's parking lot as he was about to leave. He had a short discussion with these two about the outcome of the meeting and left.

ATTACHMENT B

Miramar High School 24 Classroom Addition Project Design Fee and Budget Schedule

<u>Description</u>	<u>Budget Amount</u>	<u>Invoice Date</u>	<u>Invoice Amount</u>	<u>Amount Paid</u>	<u>Balance</u>	<u>Comments</u>
Basic Services						
Phase I Schematic Design	A \$65,100.00	05/22/01	\$65,100.00	\$65,100.00		Payment for Schematic Design services
Phase II Design Development	A 86,800.00	11/21/01	86,800.00	86,800.00		Payment for Design Development services
Phase III 50% Contract Documents	A 65,100.00	02/06/02	65,100.00	65,100.00		Payment for completion of 50% Contract Documents
Phase III 100% Contract Documents	A \$6,800.00	02/20/03	78,120.00	78,120.00		Partial Payment for 100% Contract Documents
	A	11/24/03	8,680.00	8,680.00		Release of 10% Retainage for 100% Contract Documents
Bid	21,700.00				21,700.00	Services to begin after design phase completed
Contract Administration	99,820.00				99,820.00	Services to begin after design phase completed
Warranty	8,680.00				8,680.00	Services to begin after construction of building
Original Fixed Design Fees	434,000.00	see comments				Per Agenda Item J-15 - April 17, 2001
Supplemental Reimbursable Services	62,000.00	see comments	48,031.03	48,031.03	13,968.97	Payments made between 06/18/01 and 11/20/02 for Professional Liability Insurance, Testing services, such as Boring tests, Civil Engineering services and Rolf Jensen Report
Subtotal - Original A/E Fees	<u>496,000.00</u>	see comments				Per Agenda Item J-15 - April 17, 2001
Amendment - Fire Sprinkler Design Fees	65,750.00	see comments	39,241.00	39,241.00	26,509.00	Payments made 06/23/03 & 11/24/03 for Fire Sprinkler System - Per Agenda Item J-2 April 29, 2003
Amendment - Plan B - Alternate Design	180,000.00					Per Agenda Item J-13 - May 04, 2004
Amendment - Plan B - Site Adaptation	20,000.00					Per Agenda Item J-13 - May 04, 2004
Amendment - Plan B - Extraction of Scope	34,000.00					Per Agenda Item J-13 - May 04, 2004
Amendment - Plan B - New Scope	36,000.00					Per Agenda Item J-13 - May 04, 2004
Amendment - Plan B - Supply/Reimburse Serv.	<u>72,686.00</u>					Per Agenda Item J-13 - May 04, 2004
Subtotal - Amendment - Plan B	<u>342,686.00</u>	see comments	189,475.75	189,475.75	153,210.25	Payments made between 08/03/04 and 12/20/04 for Professional Liability Insurance, Testing services, such as Boring tests, various Engineering services
Relocation cost of portables due to Plan B	480,000.00				480,000.00	Estimated cost to relocate twelve portables
Other services not included in project budget	<u>53,373.50</u>	see comments	<u>53,373.50</u>	<u>53,373.50</u>		Payments made between 05/31/01 and 07/26/04 for Plan Reviews and Surveying services
Total A/E Budget for Miramar High Project	<u>\$ 1,437,809.50</u>		<u>\$ 633,921.28</u>	<u>\$ 633,921.28</u>	<u>\$ 803,888.22</u>	
NOTE: Phase I thru Phase III 100% Contract Document costs (see A above) total \$303,800 x 50% allocation = \$151,900.00						
Amendment - Plan B - Extraction of Scope costs (see B above) in the amount of \$4,000.00						
Per Observation 4 "Pursue Partial Reimbursement Fee" total to pursue for reimbursement \$ 185,900.00						

ATTACHMENT C

Taravella High School 24 Classroom Addition Project Design Fee and Budget Schedule

<u>Description</u>	<u>Budget Amount</u>	<u>Invoice Date</u>	<u>Invoice Amount</u>	<u>Amount Paid</u>	<u>Balance</u>	<u>Comments</u>
Basic Services						
Phase I Schematic Design	\$55,500.00	09/07/99	\$55,500.00	\$55,500.00		Payment for Schematic Design services
Phase II Design Development	74,000.00	01/14/00	74,000.00	74,000.00		Payment for Design Development services
Phase III 50% Contract Documents	55,500.00	07/18/01	55,500.00	55,500.00		Payment for completion of 50% Contract Documents
Phase III 100% Contract Documents	74,000.00	06/07/00	74,000.00	74,000.00		Payment for completion of 100% Contract Documents
Bid	18,500.00	09/27/01	18,500.00	18,500.00		Payment for Bid
Contract Administration	85,100.00	10/9/2002	85,100.00	85,100.00		Payment for Contract Administration
Warranty	7,400.00	11/26/2003	7,400.00	7,400.00		Payment for Warranty
Original Fixed Design Fees	370,000.00	see comments				Per Agenda Item K-6 of 05/04/99
Supplemental/Reimbursable Services	90,000.00	see comments	79,912.00	79,912.00	10,088.00	Payments made between 06/01/99 and 07/18/03 for Professional Liability Insurance, Testing and other various services
Subtotal - Original A/E Fees	<u>460,000.00</u>	see comments	<u>5,587.50</u>	<u>5,587.50</u>		Per Agenda Item K-8 of 04/04/00 and Item J-8 of 11/12/02
Other services not included in project budget		see comments	<u>5,587.50</u>	<u>5,587.50</u>		Payments made between 05/07/01 and 02/07/02 for Plan Reviews
Total A/E Budget for Taravella High Project	\$ <u>465,587.50</u>		\$ <u>455,499.50</u>	<u>\$455,499.50</u>	<u>\$ 10,088.00</u>	
Comparative analysis of Design Fee and Budget Schedule for Miramar High (Attachment "B") vs. Taravella High (Attachment "C")						
Miramar High	<u>Budget Amount</u>			<u>Amount paid as of 12/31/04</u>		
Taravella High	\$1,437,809.50			\$633,921.28		
Difference	<u>465,587.50</u>			<u>455,499.50</u>		
	\$ <u>972,322.00</u>			\$ <u>178,421.78</u>		

AGENDA REQUEST FORM
The School Board of Broward County, Florida

ATTACHMENT D

Revised Item

Agenda Item Number

Meeting Date

4/17/01

Open Agenda

☒ Yes ☐ No

Time Certain Request

☐ Yes ☒ No

J-15

TITLE:

**PROFESSIONAL SERVICES AGREEMENT
 MIRAMAR HIGH SCHOOL
 RENOVATIONS CLASSROOM ADDITION AND IAQ PROGRAM
 PROJECT NO. 1751-99-01**

REQUESTED ACTION:

It is requested that The School Board of Broward County, Florida, approve the agreement with Zyscovich, Inc. for Renovations, Classroom Addition and IAQ Program, Miramar High School, Project No. 1751-99-01, in the form of the Professional Service Agreement and authorize the Deputy Superintendent to reimburse the Project Consultant for costs pursuant to the Professional Services Agreement.

SUMMARY EXPLANATION AND BACKGROUND:

Scope of Work: Construct 24 classroom building and all related spaces; renovate business classrooms; five Business Ed Labs and related space; repair existing HVAC and upgrade power for classroom addition; and IAQ Program including interior repairs and HVAC test, balance, engineering and repairs/replacement.

According to School Board Policy 7003, Selection of Engineers and Architects and pursuant to the Consultants' Competitive Negotiation Act, the Consultant's Review Committee selected Zyscovich, Inc., and the Superintendent's Negotiating Committee met with Zyscovich, Inc. and negotiated a fixed fee in accordance with Article 5 of the Professional Services Agreement.

The Architectural/Professional Liability Insurance has been agreed upon pursuant to Article 9 of the Professional Services Agreement based upon the Project Contract Cost. The Management/Facility Audits and Risk Management departments have reviewed this agreement, and the School Board Attorney has approved it as to form.

MAJOR SYSTEM GOALS:

- Goal One: All students will achieve at their highest potential.
- ☒ •Goal Two: All schools will have equitable resources.
- Goal Three: All operations of the school system will support and align with student achievement and needs.
- Goal Four: All stakeholders work together to build a better school system.

FINANCIAL IMPACT:

The funds for this item are included in the Adopted District Facilities Work Program, Fiscal Years 2000-2001 to 2004-2005, page 66. The total fees included in this item are **\$496,000**. They include a Fixed Design Fee of \$434,000, and Supplemental/Reimbursable Services of **\$62,000**.

EXHIBITS: (List)

1. Professional Services Agreement
2. Project Funds Allocation (PFA)
3. Collaboration Form

BOARD ACTION

APPROVED

(For Official School Board Records' Office Only)

SOURCE OF ADDITIONAL INFORMATION

Denis Herrmann, Coordinator
 Design & Construction Contracts

Name

(954) 760-7305

Phone

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

FACILITIES AND CONSTRUCTION MANAGEMENT
THOMAS J. CALHOUN, DEPUTY SUPERINTENDENT

Approved in Open Board Meeting on:

BY:

School Board Chairperson

ATTACHMENT D

The School Board of Broward County
Division of Facilities and Construction Management

EXHIBIT 2

(954)765-6390

3/29/01

Project Funds Allocation

Facility Name: Miramar High School	Project Number: 1751-99-01
Project Name: Classroom Addition	Total Square Feet: 27,114
	Student Stations: 2986
	Student Capacity: 2,837

PLANNING PHASE:

Design:

1. Basic Fees	\$434,000
2. Construction Management Fee	
3. Supplementary Services	\$62,000

Miscellaneous Costs:

4. Miscellaneous Consultant, etc.	\$70,000
5. Land Acquisition	

Allowances:

5. Project Contingency	\$240,076
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PLANNING PHASE TOTAL: \$806,076

CONSTRUCTION PHASE:

6. Construction Contracts	\$6,200,000
7. Construction C.O.'s	\$410,000
8. Miscellaneous Construction	\$80,000
9. Telecommunications	\$237,000
10. Utility Charges	\$50,000
11. Maintenance Work Orders	\$30,000
12. Portables	\$0.00

CONSTRUCTION PHASE TOTAL: \$7,007,000

FURNISHINGS:

13. Furniture Equipment	\$248,000
14. Technology Equipment	\$223,156
15. Library Books	\$248,000
16. Audio Visual	\$100,000
17. Information Services	\$80,000
18. Network Equipment	\$50,000
19. Software	\$30,000

FURNISHINGS TOTAL: \$979,156

TOTAL ESTIMATED COSTS: \$8,792,232

AGENDA REQUEST FORM

ATTACHMENT E

Meeting Date 4/29/03	Open Agenda <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Time Certain Request <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Agenda Item Number J-2
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TITLE:	Amend The Professional Services Agreement Miramar High School Classroom Addition & IEQ Project No. 1751-98-01
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REQUESTED ACTION:	It is requested that The School Board of Broward County, Florida, approve the amendment to the Professional Services Agreement, dated April 17, 2001, between The School Board of Broward County, Florida and Zyscovich, Inc., by increasing the limit on Basic Services from \$434,000 to \$499,750.
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SUMMARY EXPLANATION AND BACKGROUND:	Basic Services have been authorized for this project up to the limit previously established in the Professional Services Agreement. Additional Basic Services are required for a fire sprinkler system. Therefore, it is recommended that the amount be increased from \$434,000 to \$499,750, as originally requested. Any increase in services beyond \$499,750 will require further Board action to modify the agreement.
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MAJOR SYSTEM GOALS:	<input type="checkbox"/> Goal One: All students will achieve at their highest potential. <input checked="" type="checkbox"/> Goal Two: All schools will have equitable resources. <input type="checkbox"/> Goal Three: All operations of the school system will support and align with student achievement and needs. <input type="checkbox"/> Goal Four: All stakeholders work together to build a better school system.
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FINANCIAL IMPACT:	The funds for this item are included in the Adopted District Facilities Work Program, Fiscal Year 2002-2003 to 2006-2007, Page 59.
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EXHIBITS: (List)	1. Original Project Funds Allocation, dated April 4, 2000 2. Revised Project Funds Allocation, dated March 26, 2003 3. Approved Agenda Item J-15, dated April 17, 2001
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BOARD ACTION	SOURCE OF ADDITIONAL INFORMATION
APPROVED	<i>de</i> Sonjia V. Coley, Project Manager II
(For Official School Board Records' Office Only)	Name: <i>de</i> Phone: <i>811</i> (954) 765-6339

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

FACILITIES AND CONSTRUCTION MANAGEMENT
JAMES F. NOTTER, DEPUTY SUPERINTENDENT

Approved in Open Board Meeting on:

APR 29 2003

BY:

Louis Wexler

School Board Chair

FLT/J.F. Notter/S.V.Coley/Y.Rainford

ATTACHMENT E

The School Board of Broward County
Division of Facilities and Construction Management

EXHIBIT /

(954)765-6390

4/4/00

Project Funds Allocation

Facility Name: Miramar High School	Project Number: 1751-98-01
Project Name: Classroom Addition	Total Square Feet: 27,114
	Student Stations: 2986
	Student Capacity: 2,837

PLANNING PHASE:

Design:	
1. Basic Fees	\$434,000
2. Construction Management Fee	
3. Supplementary Services	\$62,000
Miscellaneous Costs:	
4. Miscellaneous Consultant, etc.	\$70,000
5. Land Acquisition	
Allowances:	
5. Project Contingency	\$240,076

PLANNING PHASE TOTAL: \$806,076

CONSTRUCTION PHASE:

6. Construction Contracts	\$6,200,000
7. Construction C.O.'s	\$410,000
8. Miscellaneous Construction	\$54,067
9. Telecommunications	\$237,000
10. Utility Charges	\$50,000
11. Maintenance Work Orders	\$30,000
12. Portables	\$0.00

CONSTRUCTION PHASE TOTAL: \$6,981,067

FURNISHINGS:

13. Furniture Equipment	\$248,000
14. Technology Equipment	\$223,156
15. Library Books	\$248,000
16. Audio Visual	\$100,000
17. Information Services	\$30,000
18. Network Equipment	\$50,000
19. Software	\$30,000

FURNISHINGS TOTAL: \$979,156

TOTAL ESTIMATED COSTS: \$8,766,299

Revised 3/1/01

ATTACHMENT E

The School Board of Broward County
Division of Facilities and Construction Management

3/26/03

EXHIBIT 2
(954)765-6390

Project Funds Allocation

Facility Name: Miramar High School	Project Number: 1751-98-01
Project Name: Classroom Addition	Total Square Feet: 27,114
	Student Stations: 2986
	Student Capacity: 2,837

PLANNING PHASE:

Design:	
1. Basic Fees	\$499,750
2. Construction Management Fee	
3. Supplementary Services	\$62,000

Miscellaneous Costs:	
4. Miscellaneous Consultant, etc.	\$70,000
5. Land Acquisition	

Allowances:	
5. Project Contingency	\$174,326

PLANNING PHASE TOTAL: \$806,076

CONSTRUCTION PHASE:

6. Construction Contracts	\$6,200,000
7. Construction C.O.'s	\$410,000
8. Miscellaneous Construction	\$54,067
9. Telecommunications	\$237,000
10. Utility Charges	\$50,000
11. Maintenance Work Orders	\$30,000
12. Portables	\$0.00

CONSTRUCTION PHASE TOTAL: \$6,981,067

FURNISHINGS:

13. Furniture Equipment	\$248,000
14. Technology Equipment	\$223,156
15. Library Books	\$248,000
16. Audio Visual	\$100,000
17. Information Services	\$80,000
18. Network Equipment	\$50,000
19. Software	\$30,000

FURNISHINGS TOTAL: \$979,156

TOTAL ESTIMATED COSTS: \$8,766,299

Revised 3/1/01

ATTACHMENT E

AGENDA REQUEST FORM The School Board of Broward County, Florida

EXHIBIT 3

772/00563

Meeting Date 4/17/01	Open Agenda <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Time Certain Request <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Revised Item Agenda Item Number J-15
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TITLE: PROFESSIONAL SERVICES AGREEMENT MIRAMAR HIGH SCHOOL RENOVATIONS CLASSROOM ADDITION AND IAQ PROGRAM PROJECT NO. 1751-99-01	
REQUESTED ACTION: It is requested that The School Board of Broward County, Florida, approve the agreement with Zyscovich, Inc. for Renovations, Classroom Addition and IAQ Program, Miramar High School, Project No. 1751-99-01, in the form of the Professional Service Agreement and authorize the Deputy Superintendent to reimburse the Project Consultant for costs pursuant to the Professional Services Agreement.	
SUMMARY EXPLANATION AND BACKGROUND: Scope of Work: Construct 24 classroom building and all related spaces; renovate business classrooms; five Business Ed Labs and related space; repair existing HVAC and upgrade power for classroom addition; and IAQ Program including interior repairs and HVAC test, balance, engineering and repairs/replacement. According to School Board Policy 7003, Selection of Engineers and Architects and pursuant to the Consultants' Competitive Negotiation Act, the Consultant's Review Committee selected Zyscovich, Inc., and the Superintendent's Negotiating Committee met with Zyscovich, Inc. and negotiated a fixed fee in accordance with Article 5 of the Professional Services Agreement. The Architectural/Professional Liability Insurance has been agreed upon pursuant to Article 9 of the Professional Services Agreement based upon the Project Contract Cost. The Management/Facility Audits and Risk Management departments have reviewed this agreement, and the School Board Attorney has approved it as to form.	
MAJOR SYSTEM GOALS: <ul style="list-style-type: none"> Goal One: All students will achieve at their highest potential. <input checked="" type="checkbox"/> Goal Two: All schools will have equitable resources. Goal Three: All operations of the school system will support and align with student achievement and needs. Goal Four: All stakeholders work together to build a better school system. 	
FINANCIAL IMPACT: The funds for this item are included in the Adopted District Facilities Work Program, Fiscal Years 2000-2001 to 2004-2005, page 66. The total fees included in this item are \$495,000 . They include a Fixed Design Fee of \$434,000, and Supplemental/Reimbursable Services of \$62,000 .	
EXHIBITS: (List) <ol style="list-style-type: none"> Professional Services Agreement Project Funds Allocation (PFA) Collaboration Form 	
BOARD ACTION APPROVED (For Official School Board Records/Office Use)	SOURCE OF ADDITIONAL INFORMATION Denis Herrmann, Coordinator Design & Construction Contracts Name: <u>Eden Hunt For D. Herrmann</u> Phone: <u>(954) 760-7305</u>

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

FACILITIES AND CONSTRUCTION MANAGEMENT
THOMAS J. CALHOUN, DEPUTY SUPERINTENDENT

Approved In Open Board Meeting on:

BY:

APR 17 2001

School Board Chairperson

FL/T: J.Calhoun/R.Goode/D.Herrmann/M.Ayres

ATTACHMENT F

Meeting Date 2/17/04	<div style="display: flex; justify-content: space-between;"> <div>Open Agenda Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></div> <div>Time Certain Request Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></div> </div>	Agenda Item Number J-8
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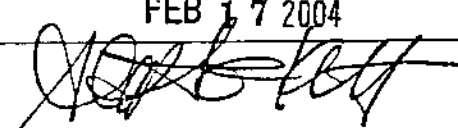
TITLE:	Amend The Professional Services Agreement Miramar High School Classroom Addition & IEQ Project No. 1751-98-01
REQUESTED ACTION:	Approve the amendment to the Professional Services Agreement, dated April 29, 2003, between The School Board of Broward County, Florida and Zyscovich, Inc., by increasing the limit on Basic Services from \$499,750 to \$779,750. It is also requested that the Supplemental/Reimbursable fee be increased from \$62,000 to \$107,000.
SUMMARY EXPLANATION AND BACKGROUND:	The scope of work for this project entails the design of a 24 Classroom Addition and remodeling of the existing building. Initially, with the consent of all stakeholders, the 24 Classroom Addition was designed to be added to and replace the existing school façade. However, due to code restrictions and interpretations, the classroom addition has to be redesigned as a stand-alone building. Therefore, it is recommended that the basic fee of \$499,750 be increased by \$280,000. In addition, the increase in the supplemental/reimbursable fee is as a result of the requirement for additional insurance.
SCHOOL BOARD GOALS:	<ul style="list-style-type: none"> <input type="checkbox"/> Goal One: All students will achieve at their highest potential. <input checked="" type="checkbox"/> Goal Two: All schools will have equitable resources. <input type="checkbox"/> Goal Three: All operations of the school system will demonstrate best practices while supporting student achievement. <input type="checkbox"/> Goal Four: All stakeholders will work together to build a better school system.
FINANCIAL IMPACT:	As a result of relocation of portables to accommodate the classroom addition in a new location additional funding required in the amount of \$3,038,205 due to relocation of building. Additional funding required for Basic Fees, Insurance and Relocation of portables.
EXHIBITS: (List)	<ol style="list-style-type: none"> 1. Original Project Funds Allocation 2. Approved Revised Project Funds Allocation, dated March 26, 2003 3. Revised Project Funds Allocation, dated January 13, 2004 4. Approved Agenda Item J-2, dated April 29, 2003 5. Approved Agenda Item J-15, dated April 17, 2001 6. Adopted District Facilities Work Program, Fiscal Year 2003-04 to 2007-08, Page 85 7. Executive Summary 8. FLCC Analysis
BOARD ACTION:	<div style="display: flex; justify-content: space-between;"> <div style="width:45%;"> <p style="font-size: 1.2em; font-weight: bold;">APPROVED AS AMENDED</p> <p style="font-size: 0.8em;">(For Official School Board Records' Office Only)</p> </div> <div style="width:50%;"> <p>SOURCE OF ADDITIONAL INFORMATION:</p> <p>Sonjia V. Coley, Project Manager II (954) 765-6339</p> <p style="font-size: 0.8em;">Name Phone</p> </div> </div>

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
FACILITIES AND CONSTRUCTION MANAGEMENT DIVISION
MICHAEL GARRETSON, DEPUTY SUPERINTENDENT

Approved in Open Board Meeting on:

By:
Revised July 31, 2003
FT/KK/MG/S.V.Coley:Y. Rainford

FEB 17 2004



mcg/lat

Amendment: To give Deputy Supt., Facilities & Construction Mgmt., a limit of \$200,000 to negotiate to resolve issue of Professional Service School Board Chair Agree.

ATTACHMENT F

The School Board of Broward County
Division of Facilities and Construction Management

EXHIBIT

(954)765-6390

Project Funds Allocation

Facility Name: Miramar High School	Project Number: 1751-98-01
Project Name: Classroom Addition	Total Square Feet: 27,114
	Student Stations: 2986
	Student Capacity: 2,837

PLANNING PHASE:

Design:

- | | |
|--------------------------------|-----------|
| 1. Basic Fees | \$434,000 |
| 2. Construction Management Fee | |
| 3. Supplementary Services | \$62,000 |

Miscellaneous Costs:

- | | |
|-----------------------------------|----------|
| 4. Miscellaneous Consultant, etc. | \$70,000 |
| 5. Land Acquisition | |

Allowances:

- | | |
|------------------------|-----------|
| 5. Project Contingency | \$240,076 |
|------------------------|-----------|

PLANNING PHASE TOTAL: \$806,076

CONSTRUCTION PHASE:

- | | |
|-------------------------------|-------------|
| 6. Construction Contracts | \$6,200,000 |
| 7. Construction C.O.'s | \$410,000 |
| 8. Miscellaneous Construction | \$54,067 |
| 9. Telecommunications | \$237,000 |
| 10. Utility Charges | \$50,000 |
| 11. Maintenance Work Orders | \$30,000 |
| 12. Portables | \$0.00 |

CONSTRUCTION PHASE TOTAL: \$6,981,067

FURNISHINGS:

- | | |
|--------------------------|-----------|
| 13. Furniture Equipment | \$248,000 |
| 14. Technology Equipment | \$223,156 |
| 15. Library Books | \$248,000 |
| 16. Audio Visual | \$100,000 |
| 17. Information Services | \$80,000 |
| 18. Network Equipment | \$50,000 |
| 19. Software | \$30,000 |

FURNISHINGS TOTAL: \$979,156

TOTAL ESTIMATED COSTS: \$8,766,299

Revised 3/1/01

ATTACHMENT F

The School Board of Broward County
Division of Facilities and Construction Management

EXHIBIT 2

(954)765-6390

3/26/03

Project Funds Allocation

Facility Name: Miramar High School	Project Number: 1751-99-01
Project Name: Classroom Addition	Total Square Feet: 27,114
	Student Stations: 2988
	Student Capacity: 2,837

PLANNING PHASE:

Design:

- | | |
|--------------------------------|-----------|
| 1. Basic Fees | \$499,750 |
| 2. Construction Management Fee | |
| 3. Supplementary Services | \$82,000 |

Miscellaneous Costs:

- | | |
|-----------------------------------|----------|
| 4. Miscellaneous Consultant, etc. | \$70,000 |
| 5. Land Acquisition | |

Allowances:

- | | |
|------------------------|-----------|
| 5. Project Contingency | \$174,326 |
|------------------------|-----------|

PLANNING PHASE TOTAL: \$806,076

CONSTRUCTION PHASE:

- | | |
|-------------------------------|-------------|
| 6. Construction Contracts | \$6,200,000 |
| 7. Construction C.O.'s | \$410,000 |
| 8. Miscellaneous Construction | \$54,067 |
| 9. Telecommunications | \$237,000 |
| 10. Utility Charges | \$50,000 |
| 11. Maintenance Work Orders | \$30,000 |
| 12. Portables | \$0.00 |

CONSTRUCTION PHASE TOTAL: \$6,981,067

FURNISHINGS:

- | | |
|--------------------------|-----------|
| 13. Furniture Equipment | \$248,000 |
| 14. Technology Equipment | \$223,156 |
| 15. Library Books | \$248,000 |
| 16. Audio Visual | \$100,000 |
| 17. Information Services | \$80,000 |
| 18. Network Equipment | \$50,000 |
| 19. Software | \$30,000 |

FURNISHINGS TOTAL: \$979,156

TOTAL ESTIMATED COSTS: \$8,766,299

ATTACHMENT F

The School Board of Broward County
Division of Facilities and Construction Management

EXHIBIT 3

01/13/04

(954) 765-6390

Project Funds Allocation

Facility Name:	Miramar H.S.	Project Number:	1751-98-01
Project Name	24 Classroom Addition & IEQ	Total Square Feet:	-
Method of Delivery:	Design/Bid/Build	Student Stations:	680
		Student Capacity:	646

PLANNING PHASE:

Approval

Design:

1. Basic Fees	\$779,750
2. Construction Management Fee	\$0
3. Supplementary Services	\$134,686

Miscellaneous

4. Miscellaneous Consultant etc.	\$25,230
5. Land Acquisition	\$0

Allowances

6. Project Contingency	\$110,000
------------------------	-----------

PLANNING PHASE TOTAL: \$1,049,666

CONSTRUCTION PHASE:

7. Construction Contracts	\$8,410,000
8. Construction C.O.'s	\$420,500
9. Miscellaneous Construction	\$53,163
10. Site Improvements	\$0
11. Communications Infrastructure	\$346,500
12. Utility Charges	\$20,000
13. Maintenance Work Orders	\$50,000
14. Portables	\$600,000

CONSTRUCTION PHASE TOTAL: \$9,900,163

FURNISHINGS:

15. Furniture & Equipment	\$248,000	_____
16. Instructional Software	\$30,000	_____
17. Technology End User Devices/System Software	\$223,156	_____
18. Textbooks	\$248,000	_____
19. Library Books	\$0	_____
20. Audio Visual Materials	\$100,000	_____
21. Information Systems	\$130,000	_____

FURNISHINGS TOTAL: \$979,156

TOTAL ESTIMATED COSTS: \$11,928,985

General Comments

Additional funding required in the amount of \$3,038,205 due to relocation of building. Additional funding required for (1) Basic Fees, (2) Insurance, and (3) Relocation of Portables.

Project Manager

Date

Director

Date

Rev. 9-26-02

ATTACHMENT F

EXHIBIT 4

AGENDA REQUEST FORM

The School Board of Broward County, Florida

Meeting Date 4/29/03	Open Agenda Yes <input checked="" type="checkbox"/> No	Time Certain Request Yes <input checked="" type="checkbox"/> No	Agenda Item Number J-2
--------------------------------	---	--	----------------------------------

TITLE:

Amend The Professional Services Agreement
Miramar High School
Classroom Addition & IEQ
Project No. 1751-98-01

REQUESTED ACTION:

It is requested that The School Board of Broward County, Florida, approve the amendment to the Professional Services Agreement, dated April 17, 2001, between The School Board of Broward County, Florida and Zyscovich, Inc., by increasing the limit on Basic Services from \$434,000 to \$499,750.

SUMMARY EXPLANATION AND BACKGROUND:

Basic Services have been authorized for this project up to the limit previously established in the Professional Services Agreement. Additional Basic Services are required for a fire sprinkler system. Therefore, it is recommended that the amount be increased from \$434,000 to \$499,750, as originally requested. Any increase in services beyond \$499,750 will require further Board action to modify the agreement.

MAJOR SYSTEM GOALS:

- ☐ Goal One: All students will achieve at their highest potential.
- ☒ Goal Two: All schools will have equitable resources.
- ☐ Goal Three: All operations of the school system will support and align with student achievement and needs.
- ☐ Goal Four: All stakeholders work together to build a better school system.

FINANCIAL IMPACT:

The funds for this item are included in the Adopted District Facilities Work Program, Fiscal Year 2002-2003 to 2006-2007, Page 59.

EXHIBITS: (List)

1. Original Project Funds Allocation, dated April 4, 2000
2. Revised Project Funds Allocation, dated March 26, 2003
3. Approved Agenda Item J-15, dated April 17, 2001

BOARD ACTION

APPROVED

(For Official School Board Records' Office Only)

SOURCE OF ADDITIONAL INFORMATION

bc
Sonjia V. Coley, Project Manager II *Sm* (954) 765-6339

Name

Phone

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

FACILITIES AND CONSTRUCTION MANAGEMENT
JAMES F. NOTTER, DEPUTY SUPERINTENDENT

Approved in Open Board Meeting on:

APR 29 2003

BY:

Louis Wapler

School Board Chair

FLT/J.F. Notter/S.V. Coley/Y. Rainford

ATTACHMENT F

EXHIBIT 5

AGENDA REQUEST FORM The School Board of Broward County, Florida

Meeting Date 4/17/01	Open Agenda <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Time Certain Request <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Revised Item Agenda Item Number J-15
--------------------------------	--	---	---

TITLE:
PROFESSIONAL SERVICES AGREEMENT
MIRAMAR HIGH SCHOOL
RENOVATIONS CLASSROOM ADDITION AND IAQ PROGRAM
PROJECT NO. 1751-99-01

REQUESTED ACTION:

It is requested that The School Board of Broward County, Florida, approve the agreement with Zyscovich, Inc. for Renovations, Classroom Addition and IAQ Program, Miramar High School, Project No. 1751-99-01, in the form of the Professional Service Agreement and authorize the Deputy Superintendent to reimburse the Project Consultant for costs pursuant to the Professional Services Agreement.

SUMMARY EXPLANATION AND BACKGROUND:

Scope of Work: Construct 24 classroom building and all related spaces; renovate business classrooms; five Business Ed Labs and related space; repair existing HVAC and upgrade power for classroom addition; and IAQ Program including interior repairs and HVAC test, balance, engineering and repairs/replacement.

According to School Board Policy 7003, Selection of Engineers and Architects and pursuant to the Consultants' Competitive Negotiation Act, the Consultant's Review Committee selected Zyscovich, Inc., and the Superintendent's Negotiating Committee met with Zyscovich, Inc. and negotiated a fixed fee in accordance with Article 5 of the Professional Services Agreement.

The Architectural/Professional Liability Insurance has been agreed upon pursuant to Article 9 of the Professional Services Agreement based upon the Project Contract Cost. The Management/Facility Audits and Risk Management departments have reviewed this agreement, and the School Board Attorney has approved it as to form.

MAJOR SYSTEM GOALS:

- Goal One: All students will achieve at their highest potential.
- ☒ -Goal Two: All schools will have equitable resources.
- Goal Three: All operations of the school system will support and align with student achievement and needs.
- Goal Four: All stakeholders work together to build a better school system.

FINANCIAL IMPACT:

The funds for this item are included in the Adopted District Facilities Work Program, Fiscal Years 2000-2001 to 2004-2005, page 66. The total fees included in this item are **\$495,000**. They include a Fixed Design Fee of \$434,000, and Supplemental/Reimbursable Services of **\$62,000**.

EXHIBITS: (List)

1. Professional Services Agreement
2. Project Funds Allocation (PFA)
3. Collaboration Form

BOARD ACTION

APPROVED

(For Official School Board Records' Office Only)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

FACILITIES AND CONSTRUCTION MANAGEMENT
THOMAS J. CALHOUN, DEPUTY SUPERINTENDENT

APR 17 2001

Approved in Open Board Meeting on:

BY:

Paul White

School Board Chairperson

(\$ 8,890,750.00
AVAILABLE

ATTACHMENT F

EXHIBIT 7



Zyscovich

SUMMARY

The project initiated with a master plan phase, which included two approaches. Scheme A proposed a 24-classroom addition to the front of the existing school. Scheme B proposed a 24-classroom addition remote from the existing school on the southeast parking lot. Scheme A was selected as the preferred option by school board staff and school district safety officials at the time. At the Schematic Design Phase I Review, the project was approved with a four-hour wall separating the new addition from the existing building. The design received approval in August 2001 from the acting Building Official at the time, Harlan Woodard, and the Design Support Services phase submission review.

In early 2002 the School District retained a new Building Official, Alan Gilbert, who did not approve the four-hour wall between the new and existing buildings. An "Alternate Equivalency" approach was approved to remedy the existing building structural and life safety deficiencies and provide an equivalency of a Type-II Building categorization of the existing facility, thereby allowing for the addition without the four-hour wall. Rolf Jensen & Associates performed the analysis. The analysis was approved in April 2002 by all jurisdictional authorities at the time including Alan Gilbert, Chief Building Official, Claudia Munro, Senior Architect for Design Support Services, Chief Fire Marshall Charles Raiken of the Broward County Fire Department, and Chief Fire Marshall Maurice Majszak of the City of Miramar Fire Department. Included in the additional work in April of 2002, was the provision for ADA toilet renovations of two group toilet rooms at the existing main academic building. In January of 2003, it was requested to add the "alternate equivalency" rated fire sprinkler system to the existing one story science building, requiring an upgrade to the water service due to insufficient water pressure to support the system. Due to onsite drainage issues existing on site, additional scope was at this time included in the contract to provide a storm drainage connection to Douglas Road.

At the 100% permit submission, the new district Building Official, Lee Martin and Building Department staff expressed concern regarding the "Alternate Equivalency" method previously approved. Mr. Martin required a four-hour wall separation between the existing and new construction. A meeting was held at the request of Zyscovich, Inc. with Mr. Jon Hamrick from the Department of Education, the School Board of Broward County, the SBBC Building Department, and Rolf Jensen & Associates to review and discuss with Lee Martin, Chief Building Official, the decision to add a four-hour fire-wall separation between the existing two-story building and the proposed classroom addition. The Chief Building Official, Mr. Martin, was invited to the meeting but was unable to attend. Mr. Hamrick stated he was entrusted by Mr. Martin to render a final decision in the matter of accepting the Building Department's recommendation to install a four-hour wall separating the proposed two-story addition versus accepting the previously approved "Alternate Method" of Protection for Structural Members Report, prepared by Rolf Jensen & Associates, which was the basis for the current project design. Mr. Hamrick stated that there is no precedence in the School District of Broward County for using the Alternate Equivalency Report and stated that he felt the sprinkler system would not provide the required protection needed to achieve a Type-II Building, primarily because the existing steel bar joists would require a means of protection. Mr. Hamrick and Ms. Blackwood, Senior Supervisor for SBBC Building Department, both stated their support for replacing the proposed sprinkler system in the Alternate Equivalency report with a Light Hazard sprinkler system and the incorporation of a four-hour fire-rated wall separation. The four-hour rated wall assembly was required to be located on the east side of the existing corridor in order to protect the students' egress into the exit corridor. Upon further discussion the recommended location was not practical due to the span of the supporting structure as the current exterior walls are load bearing. Building Department then disregarded this option. Another option of creating a courtyard separation between the existing building and new addition was also reviewed and abandoned. The design option for the location of the addition was then proposed for a remote twenty-four classroom addition building located on the southeast portion of the campus currently occupied by 18 student portables, similar to Scheme B originally developed by Zyscovich.

Mr. Garretson, Deputy Superintendent of Facilities and Construction Management, proceeded to direct Zyscovich to submit a proposal and schedule to complete the revised project. He further stated that Zyscovich was to include the improvements to the existing classroom building, renovation of the existing main academic building façade and develop the new remote twenty-four classroom annex in the proposed southeast location of the site. Zyscovich stated they would evaluate the new project scope, determine what is salvageable from the old project. With the remote building addition, egress stairs, corridors and toilet rooms are now to be built new. Also added to the scope at this time, is the paving of an exterior dining court without the incorporation of drainage structures. Zyscovich has generated a preliminary budget analysis and proposal to reflect the revised scope of work.

100 N. Highway Blvd
27th Floor
Miami, FL 33112

voice 305 372 5222
fax 305 377 4521
e-mail mail@zyscovich.com
web www.zyscovich.com

1.00.4 AA (001431)

TOTAL P.02

ATTACHMENT F

EXHIBIT 8

School Board of Broward County
Miramar Senior High School
Recovery Plan

FLCC Analysis

Date of Change	Original Scope 02.28.01	Revised Original Scope I 04.20.02	Revised Original Scope II 01.05.03	Recovery Plan 10.29.03
Scope	05.01.01 Hancock Estimate Addition of twenty (20) classrooms and four (4) science labs with material preparation and storage areas. Additional teacher planning and elevator was included to upgrade accessibility of existing building. Renovation of business labs and air conditioning of central hallway corridor at first and second floor.	Addition of alternate equivalency method fire sprinkler for existing two-story academic building and addition. Additional fire rating protection of existing building interior corridors. Removal of 4 hour wall design for separation. ADA renovations of toilet rooms.	05.01.02 Hancock Estimate Addition of alternate equivalency method fire sprinkler systems for existing science building. Water infrastructure improvements to serve sprinkler protection systems.	Part I Twenty (20) classrooms and four (4) science lab units to be reconfigured including the existing design and located in the same south east area of the site at the existing corridor. Remote building will require additional square footage for egress stairs, corridors and toilet rooms. Portables to be moved by District. Existing building improvements previously included are to remain and be constructed in east one of
New Classroom / Lab Addition	\$4,872,933.80	\$4,822,933.00	2 \$ 4,158,136.03	3 \$ 4,908,000.00
Renovations to Existing Facility	\$884,806.00	\$884,806.00	\$ 558,139.00	\$ 888,139.00
Site work	\$889,273.00	\$889,273.00	\$ 1,287,825.00	\$ 1,288,824.00
Planning / Logistics	\$62,984.00	\$62,984.00	\$ 58,836.00	\$ 58,836.00
Misc. Mechanical Elec.	\$73,357.00	\$73,357.00	\$ 51,503.00	\$ 51,503.00
Fire Sprinkler System (Alternate Equivalency)		\$754,733.00	\$754,733.00	\$754,733.00
Fire Sprinkler System (Alternate Equivalency)			\$97,398.00	\$97,398.00
Water Service Improvements for Sprinkler System		\$ 64,907.00	\$ 64,907.00	\$ 64,907.00
ADA toilet renovations			\$ 30,000.00	\$ 30,000.00
Drainage Connection to Douglas Rd. Pump Station and Force Main			\$ 30,000.00	\$ 30,000.00
New Facade for Existing Building			\$ 338,008.00	\$ 338,008.00
Initiation Contingency			\$170,872.00	\$170,872.00
Total	\$6,558,233.70	\$7,143,873.00	\$6,582,064.00	\$6,407,819.00
Original FLCC	\$ 6,500,000.00	\$ 6,200,000.00	\$ 6,200,000.00	\$ 6,200,000.00
FLCC Deficiency	\$ (286,233.00)	\$ (945,873.00)	\$ (982,064.00)	\$ (2,207,819.00)

* Please note the items listed do not include complete SBBC Planning, Construction and Finishings anticipated costs. See attached PFAs.

Additional contingency logistics premium provided in May 2003 construction cost estimate (Hancock).
Project Specific Insurance Policy

\$ 1,200,000.00

\$ 72,686.00

Note:

1. Building costs decreased with removal of size 4 fr. fire rating of wall and associated openings.
2. Building costs decreased with value engineering.
3. Building costs increased due to the addition of required corridors, egress stairs and toilet rooms.
4. Project specific insurance policy quote from Lexington with reimbursement included of \$5,488.
5. Fire Sprinkler modifications to existing building to be completed during non-school hours.
6. Fire Sprinkler systems to be provided for one story science building with service upgrade.

Zyscovich

AGENDA REQUEST FORM
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ATTACHMENT G

Meeting Date <div style="border: 1px solid black; padding: 2px; text-align: center;">5/4/04</div>	Open Agenda <div style="display: flex; justify-content: space-around;"><input type="checkbox"/> Yes<input checked="" type="checkbox"/> No</div>	Time Certain Request <div style="display: flex; justify-content: space-around;"><input type="checkbox"/> Yes<input checked="" type="checkbox"/> No</div>	Agenda Item Number <div style="border: 1px solid black; padding: 2px; text-align: center;">J-13</div>
--	--	---	--

TITLE:	Amend the Professional Services Agreement Miramar High School Classroom Addition & IEQ Project No. 1751-98-01
--------	--

REQUESTED ACTION:	Approve the amendment to the Professional Services Agreement dated April 29, 2003, between The School Board of Broward County, Florida and Zyscovich, Inc., by increasing the limit on Basic Services from \$499,750 to \$769,750. It is also requested that the Supplemental/Reimbursable fee be increased from \$62,000 to \$134,686.
-------------------	---

SUMMARY EXPLANATION AND BACKGROUND:	The scope of work for this project entails (1) The design of a 24-classroom addition (\$180,000); (2) Site adaptation for the 24-classroom addition (\$20,000); (3) Extraction of scope from previously submitted plans (\$34,000); (i.e. IAQ, fire sprinkles, ADA toilet renovations, remodeling of business labs) (4) New scope of work (\$36,000) (i.e., new building façade and plaza entry). Due to code restrictions and interpretations, the classroom addition has to be redesigned to a stand-alone building. Therefore, it is recommended that the Basic Fee of \$499,750 be increased by \$270,000. In addition, due to the requirement for additional insurance, the Supplemental/Reimbursable fee must be increased.
-------------------------------------	---

SCHOOL BOARD GOALS:	<ul style="list-style-type: none"> <input type="checkbox"/> •Goal One: All students will achieve at their highest potential. <input checked="" type="checkbox"/> •Goal Two: All schools will have equitable resources. <input type="checkbox"/> •Goal Three: All operations of the school system will demonstrate best practices while supporting student achievement. <input type="checkbox"/> •Goal Four: All stakeholders will work together to build a better school system.
---------------------	--

FINANCIAL IMPACT:	Funds for this item are included in the Adopted District Educational Facilities Plan, Fiscal Year 2003-2004 to 2007-2008, Page 85. The additional financial impact of \$43,879 will come from the Capital Project Reserve.
-------------------	--

EXHIBITS: (List)	<ol style="list-style-type: none"> 1. Approved Agenda Item J-2, dated April 29, 2003 2. Project Funds Allocation (Last Approved) 3. Project Funds Allocation (Proposed) 4. Collaboration Sign-Off Form
------------------	--

BOARD ACTION: <div style="text-align: center; font-size: 1.2em; font-weight: bold;">APPROVED</div>	SOURCE OF ADDITIONAL INFORMATION: <div style="display: flex; justify-content: space-between;"> Sonjia V. Coley, Project Manager II (954) 765-6339 </div> <div style="display: flex; justify-content: space-between; font-size: 0.8em;"> Name Phone </div>
---	--

(For Official School Board Records' Office Only)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
 FACILITIES AND CONSTRUCTION MANAGEMENT DIVISION
 MICHAEL GARRETSON, DEPUTY SUPERINTENDENT

mcg/kat

Approved in Open Board Meeting on: MAY 4 2004

Carol A. Andrews

School Board Chair

By:
 Revised July 31, 2003
 FT/KK/MG/S.V.Coley-Y.Rainford

ATTACHMENT G

AGENDA REQUEST FORM The School Board of Broward County, Florida

EXHIBIT 1

Meeting Date 4/29/03	Open Agenda Yes <input checked="" type="checkbox"/> No	Time Certain Request Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Agenda Item Number J-2
--------------------------------	---	---	----------------------------------

TITLE:

**Amend The Professional Services Agreement
Miramar High School
Classroom Addition & IEQ
Project No. 1751-98-01**

REQUESTED ACTION:

It is requested that The School Board of Broward County, Florida, approve the amendment to the Professional Services Agreement, dated April 17, 2001, between The School Board of Broward County, Florida and Zyscovich, Inc., by increasing the limit on Basic Services from \$434,000 to \$499,750.

SUMMARY EXPLANATION AND BACKGROUND:

Basic Services have been authorized for this project up to the limit previously established in the Professional Services Agreement. Additional Basic Services are required for a fire sprinkler system. Therefore, it is recommended that the amount be increased from \$434,000 to \$499,750, as originally requested. Any increase in services beyond \$499,750 will require further Board action to modify the agreement.

MAJOR SYSTEM GOALS:

- Goal One: All students will achieve at their highest potential.
- ☒ • Goal Two: All schools will have equitable resources.
- Goal Three: All operations of the school system will support and align with student achievement and needs.
- Goal Four: All stakeholders work together to build a better school system.

FINANCIAL IMPACT:

The funds for this item are included in the Adopted District Facilities Work Program, Fiscal Year 2002-2003 to 2006-2007, Page 59.

EXHIBITS: (List)

1. Original Project Funds Allocation, dated April 4, 2000
2. Revised Project Funds Allocation, dated March 26, 2003
3. Approved Agenda Item J-15, dated April 17, 2001

BOARD ACTION

APPROVED

(For Official School Board Records' Office Only)

SOURCE OF ADDITIONAL INFORMATION

be
Sonjia V. Coley, Project Manager II (954) 765-6339
Name Phone

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

**FACILITIES AND CONSTRUCTION MANAGEMENT
JAMES F. NOTTER, DEPUTY SUPERINTENDENT**

Approved in Open Board Meeting on:

APR 29 2003

BY:

L. W. Weyler

School Board Chair

FLT/J.F. Notter/S.V. Coley/Y. Rainford

ATTACHMENT G

The School Board of Broward County
Division of Facilities and Construction Management

EXHIBIT 2

(954)765-6390

3/26/03

Project Funds Allocation

Facility Name: Miramar High School

Project Number: 1751-98-01

Project Name: Classroom Addition

Total Square Feet: 27,114

Student Stations: 2986

Student Capacity: 2,837

PLANNING PHASE:

Design:

- | | |
|--------------------------------|-----------|
| 1. Basic Fees | \$499,750 |
| 2. Construction Management Fee | |
| 3. Supplementary Services | \$62,000 |

Miscellaneous Costs:

- | | |
|-----------------------------------|----------|
| 4. Miscellaneous Consultant, etc. | \$70,000 |
| 5. Land Acquisition | |

Allowances:

- | | |
|------------------------|-----------|
| 5. Project Contingency | \$174,326 |
|------------------------|-----------|

PLANNING PHASE TOTAL:

\$806,076

CONSTRUCTION PHASE:

- | | |
|-------------------------------|-------------|
| 6. Construction Contracts | \$6,200,000 |
| 7. Construction C.O.'s | \$410,000 |
| 8. Miscellaneous Construction | \$54,067 |
| 9. Telecommunications | \$237,000 |
| 10. Utility Charges | \$50,000 |
| 11. Maintenance Work Orders | \$30,000 |
| 12. Portables | \$0.00 |

CONSTRUCTION PHASE TOTAL:

\$6,981,067

FURNISHINGS:

- | | |
|--------------------------|-----------|
| 13. Furniture Equipment | \$248,000 |
| 14. Technology Equipment | \$223,156 |
| 15. Library Books | \$248,000 |
| 16. Audio Visual | \$100,000 |
| 17. Information Services | \$80,000 |
| 18. Network Equipment | \$50,000 |
| 19. Software | \$30,000 |

FURNISHINGS TOTAL:

\$979,156

TOTAL ESTIMATED COSTS:

\$8,766,299

Revised 3/1/01

ATTACHMENT G

The School Board of Broward County Division of Facilities and Construction Management

04/12/04

EXHIBIT 3
(954) 765-6390

Project Funds Allocation

Facility Name:	Miramar H.S.	Project Number:	1751-98-01
Project Name	24 Classroom Addition & IEQ	Total Square Feet:	-
Method of Delivery:	Design/Bid/Build	Student Stations:	680
		Student Capacity:	646

PLANNING PHASE:

Design:

1. Basic Fees	\$769,750
2. Construction Management Fee	\$0
3. Supplementary Services	\$134,686

Miscellaneous

4. Miscellaneous Consultant etc.	\$70,000
5. Land Acquisition	\$0

Allowances

6. Project Contingency	\$0
------------------------	-----

Approval

SM
4/13/04

PLANNING PHASE TOTAL:

\$974,436

CONSTRUCTION PHASE:

7. Construction Contracts	\$6,200,000
8. Construction C.O.'s	\$410,000
9. Miscellaneous Construction	\$54,067
10. Site Improvements	\$0
11. Communications Infrastructure	\$237,000
12. Utility Charges	\$30,000
13. Maintenance Work Orders	\$50,000
14. Portables	\$0

SM
4/13/04

CONSTRUCTION PHASE TOTAL:

\$6,981,067

FURNISHINGS:

15. Furniture & Equipment	\$248,000
16. Instructional Software	\$30,000
17. Technology End User Devices/System Software	\$223,156
18. Textbooks	\$248,000
19. Library Books	\$0
20. Audio Visual Materials	\$100,000
21. Information Systems	\$130,000

SM
4-13-04

FURNISHINGS TOTAL:

\$979,156

TOTAL ESTIMATED COSTS:

\$8,934,659

General Comments

The proposed PFA reflects an increase of \$124,481.00 due to COLA adjustment.

Sofia V. Coley
Project Manager

4-13-04
Date

Director

Date

Rev. 9-26-02

COLLABORATION**SIGN-OFF FORM**

Amend the Professional Services Agreement
 Miramar High School
 Classroom Addition & IEQ
 Project No. 1751-98-01

Title of Agenda Request Item:

Agenda Request Item Number:

J-13

School Board Meeting Date:

May 4, 2004

- [X] All projects have been appropriated in the Adopted District Educational Facilities Plan (August 20, 2003) and in the District's Capital Budget.
- [] The following project(s) have not been appropriated in the Adopted District Educational Facilities Plan (August 20, 2003) and in the District's Capital Budget.

Department Name

Capital Systems, Reporting
 and Control

Department Head Name

Alexander Baum, Director

Department Head Signature



ATTACHMENT H**PETITION FOR DECLARATORY STATEMENT
Before The Florida Building Commission**

Petitioner's Name: _____

Address: _____

Telephone: _____ Facsimile: _____

Petitioner's Attorney or

Qualified Representative, if any: _____

Address: _____

Telephone: _____ Facsimile: _____

Petitioner seeks a declaratory statement regarding which of the following:

_____ New technologies, techniques and materials which have been
tested where necessary and found to meet the objectives of the Florida Building Code._____ The interpretation, enforcement, administration, or modification of the Florida Building Code
by the School Board of Broward County.

_____ Relating, generally, to part VII of ch. 553, titled "Florida Building Code."

_____ The School Board of Broward County's interpretation and enforcement of the
specific provisions of the Florida Building Code or relating to the conformity
of new technologies, techniques and materials to the objectives of the Florida Building Code.

_____ Other: _____

Please provide the statutory provision(s), agency rule(s), or agency order(s) on which the declaratory
statement is sought._____

_____Please provide a description of how the statutes, rules, or orders may substantially affect the petitioner in
the petitioner's particular set of circumstances._____

Signature _____

Date _____

Mail this Petition and any attachments to:
Clerk of the Commission, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Florida Statute § 120.565 & Florida Administrative Code, Rule 28-165.002

ATTACHMENT I

Attorney Opinion

- 1) **How does Fla. Stat. 1013.37(3) impact the means by which the School Board and its Chief Building Official shall resolve A/E design and engineering code compliance interpretations, disputes or disagreements? The following section is from the Florida Building Commission's website, which seems to drill down and further explain the review procedure, as it states:**

- a. **Interpretations**

Interpretations of the Florida Building Code will be made by the local government plans examiner during the plan review process and by the local government building inspector during the construction process. Any disagreement regarding the interpretation will be resolved first by the building official then by the local board of appeal (if one exists) and finally, by the Florida Building Commission.

Answer:

Florida Statute § 1013.37 (3) states that any decisions made by Broward County School Board's Chief Building Official (CBO) must be submitted in writing to the Florida Building Commission (Commission), who in cooperation with the Commissioner of Education, shall address all questions, disputes or interpretations involving the provisions of the Florida Building Code (FBC) governing the construction of public educational and ancillary facilities. The review procedure cited above, which appears on the Commission's website may, at first glance seem to provide an alternate process for review by submitting any disagreement: (1.) first to the building official, (2.) then to the local board of appeals and then (3.) to the Commission.

While this may be a process by which local governments (i.e. counties and municipalities) can resolve their disputes, it does not seem to be a process the school board is presently authorized to use under Florida law.

Discussion

The Florida Constitution provides for the creation of Counties (Article VIII- Local Government, Section 1) and Municipalities (Article VIII- Local Government, Section 2) and School Districts (Article IX- Education, Section 4). According to Florida's Constitution, counties and municipalities may enact ordinances in furtherance of their governmental objectives so long as they are not inconsistent with general or special laws. School boards also have the power to enact policies and rules, but only to the extent allowed by Florida law.

Florida Statutes § 1013.37 (3) details the review process that each school board must follow when addressing questions, disputes or interpretations involving the FBC. At first glance, the reference to "local board of appeal (if one exists)" could be construed to imply that The Board can form a local board of appeal if it desires. However, The Board can only do so if it has been granted the requisite legal authority by the legislature.

As applied to local governments, there is not question that they have been granted the requisite authority to create local boards of appeal. In fact, many counties and municipalities in Florida, including Broward County, have already created and currently maintain a local Board of Rules and Appeals (BRA). Broward County's BRA was created (after voter approval) by Chapter 71-575, Laws of Florida, Special Acts of 1971, as amended by Chapter 72-482 and 72-485, Laws of Florida, Special Acts of 1972; Chapter 73-427, Laws of Florida, Special Acts of 1973; Chapters 74-435, 74-437, and 74-448, Laws of Florida, Special Acts of 1974; and 98-287, as amended by Chapter 2000-141, Laws of Florida.

However, we have not found any enabling legislation that would grant school boards the same or similar authority to create local boards of appeal.

ATTACHMENT I

- 2) Pursuant to Florida Building Code 2001 (FBC '01) 103.1 – 103.6 reserved: Powers and Duties of the Building Official, does the Chief Building Official have legal authority and/or responsibility to develop and implement a Board of Rules and Appeals to act as a body responsible for the second appellate level mentioned above?

Answer:

For the reasons set forth above, the CBO does not appear to presently have the legal authority to develop and implement a Board of Rules and Appeals. For the reasons set forth below, it could be construed that the CBO may be legally precluded from doing so.

Discussion:

Florida Statute §1013.37 (5) prohibits the enactment of any special act or general law of local application which proposes to amend, alter or contravene any provisions of the State Building Code adopted under the authority of *§1013.37*. The creation of a Board of Rules and Appeals by The Board as a second appellate level of review could be construed as contrary to the legislative mandate in *§1013.37 (5)*. As such, it could be construed that the creation of a BRA by The Board constitutes a legally impermissible infringement upon FBC's jurisdiction.

In addition, *Section 11(a) (21), Art. III of the Florida Constitution* specifically prohibits the enactment of any special law pertaining to the "State Uniform Building Code for Public Educational Facilities Construction".

Therefore, it seems unlikely that the CBO would have the legal authority to develop and implement a BRA under Florida law as it presently applies.

- 3) Are there any limitations pursuant to the Fla. Sta. or FBC 2001 that would prohibit the CBO of the School Board of Broward County from utilizing an existing Board of Rules and Appeals, if one exists locally?

Answer:

Yes, there are limitations that would likely prohibit utilizing an existing BRA.

Discussion:

From a jurisdictional standpoint, any existing BRA's decisions would likely be void as a matter of law because the BRA has not been granted the authority to serve in any capacity on behalf of The Board. Without the requisite jurisdictional authority, the existing BRA would have no power to act on behalf of The Board.

- 4) Can a member of the Commission, acting as a lone representative, render final code decisions where a current CBO is the "Authority having Jurisdiction"? At the third level appellate level of the "Interpretations" paragraph above, does an appeal to the Commission render a sub-group from the Commission to resolve interpretation disagreement?

Answer to Part I of the question:

Probably not. The Commission's jurisdiction should usually apply only after: (1.) the CBO has rendered a decision and (2.) the decision has been appealed in writing to the Commission (Petition for Declaratory Statement).

ATTACHMENT I

Once filed, the petition will be assigned to the appropriate committee, or to the full commission for discussion and action. We have found no legal authority for a single board member, acting alone, to render a final decision on behalf of the Commission prior to the CBO rendering a decision.

The final action on the petition before the Commission must be taken within 90 days of receipt. A declaratory statement is final agency action by the Commission. That means a declaratory statement is appealable to the district court, not further challenged in administrative hearings

Answer to Part 2 of the question:

Upon receipt of the Petition for Declaratory Statement, the Commission may assign it to one committee or to the full commission for discussion and action. According to procedures published by the Commission, a committee can make recommendations but the final decision should go to the full commission for a vote.

- 5) Does a CBO have legal grounds to defer his/her “Authority having Jurisdiction” (to render a final code interpretation decision) when attempting to settle a dispute on whether a design concept meets the intent of applicable code? When the CBO has not yet rendered an official decision?**

Answer:

According to *Fla. Stat. §1013.37 (3)*, probably not. *Fla. Stat. §1013.37* states that the Commission will have jurisdiction to review objections to decisions rendered by the CBO. Therefore, according to that statute, the CBO must have rendered a decision before it goes to the Commission for review.

- 6) Can an existing CBO overturn a documented approval of a previous CBO where an A/E design concept has been deemed compliant with the intent of FBC 2001?**

Answer:

The answer to this question must be addressed on a case by case basis. Under some circumstances, such action may be legally permissible. Under other circumstances it may not. In deciding the legality of such action, a Court will consider a number of factors in determining whether such action is legally permissible.

SECTION III

FULL TEXT OF ADMINISTRATIVE RESPONSES AND FOLLOW-UP RESPONSES FROM THE OFFICE OF THE CHIEF AUDITOR

The School Board Of Broward County, Florida

The Building Department

Lee Martin, Chief Building Official

February 7, 2005

TO: Patrick O. Reilly
Chief Auditor

VIA: Donnie Carter
Deputy Superintendent for Operations

FROM: Lee Martin, Chief Building Official

**SUBJECT: DRAFT AUDIT OF THE MIRAMAR HIGH SCHOOL 24 CLASSROOM
ADDITION**

The following comments are respectfully submitted pursuant to our meeting of Friday, February 4, 2005 when we discussed the change in plans from an attached addition to this school to a detached, freestanding addition:

Observations

1. The Chief Building Official must render final design and permit decisions prior to any appellate activity

Agree. In 2003, the Building Department and the current Chief Building Official met the requirements of the Florida Building Code (FBC) by rejecting the Phase III 100% plans, as well as the Rolf Jensen performance-based fire safety report that had been approved by the previous Chief Building Official in 2002. When the plans and the report were disapproved for permit, the architect contacted Mr. Jon Hamrick of the Florida Department of Education Office of Educational Facilities (OEF), and arranged for Mr. Hamrick to attend an on-site meeting scheduled for October 29, 2003. Mr. Hamrick subsequently attended a meeting at Miramar High School with Mr. Garretson, the architect, staff of the school, and others in attendance. The current Chief Building Official arrived at the meeting after it had adjourned, as stated in the audit.

At that meeting, the decision was made to avoid the four-hour firewall and other code issues by changing the design to a freestanding rather than an attached addition. The Building Department has no involvement or authority with respect to design issues on capital projects, and had no input into the decision to change the design of the addition. Plans for a freestanding addition were subsequently submitted to the Building Department, and are currently in the process of review.

Rock Island Elementary Annex
2301 NW 26th Street, Ft. Lauderdale, FL 33311
Phone: 754-321-4800 Fax: 754-321-3389

2. Define the current appeals process to be consistent with the Florida Building Commission for School Boards and incorporate into A/E and construction contracts

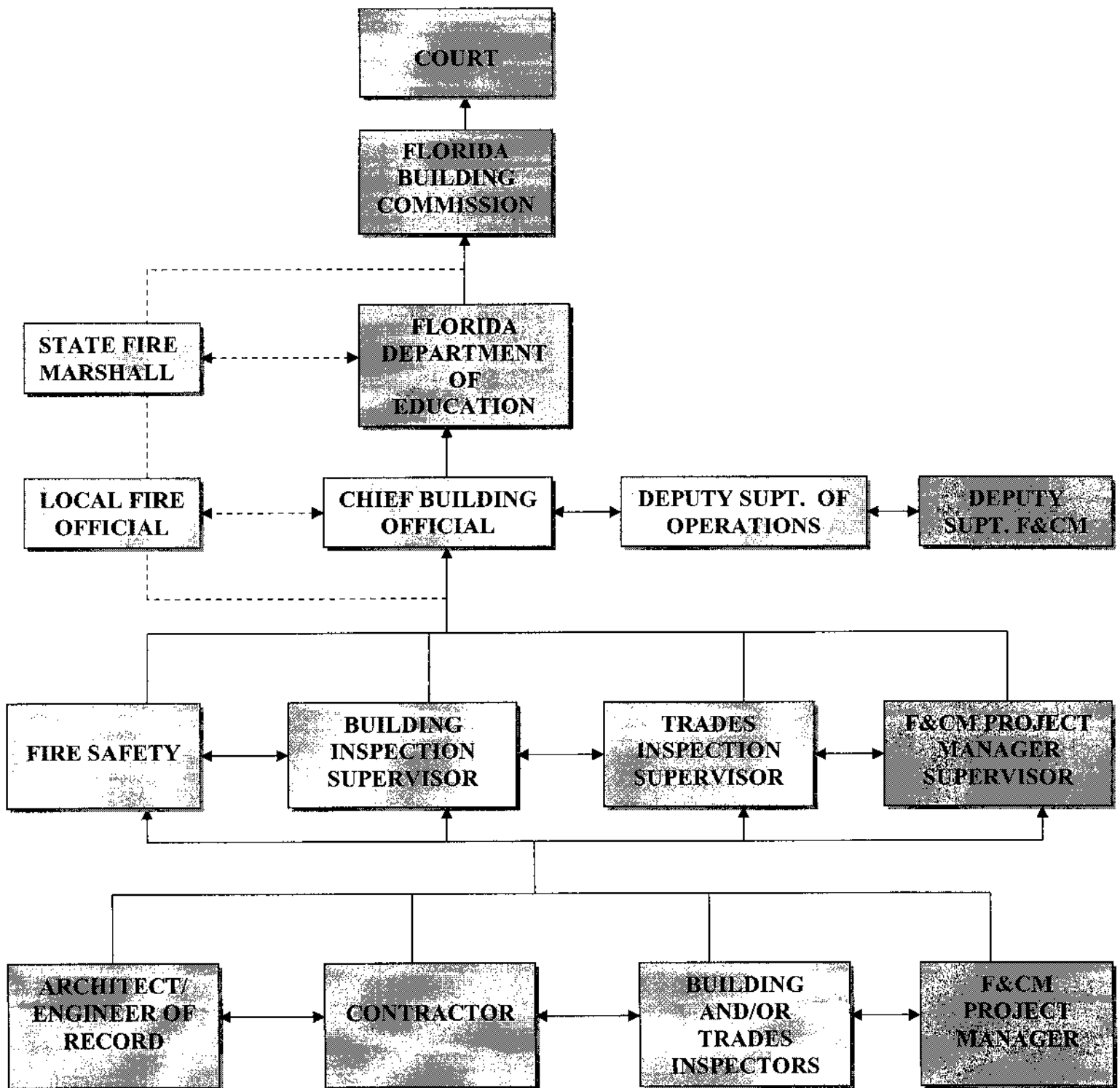
Agree. In political jurisdictions other than school districts throughout the state, anyone wishing to appeal the decision of a local building official may go to a countywide Board of Rules and Appeals where a hearing is conducted and the decision of the building official is either upheld or reversed. Appeals of local boards of rules and appeals go next to the Florida Building Commission, and then to court. School districts, immune by state statute from local ordinances or code amendments, have traditionally relied upon the Florida Department of Education to resolve such differences of opinion in lieu of going to a local board. The School Board of Broward County has been told specifically by the OEF that the Department of Education is the board of appeals on school projects.

At various points in time, alternatives to this customary practice have been suggested. One alternative suggested to resolve construction disputes was to form a tri-county school district Board of Rules and Appeals. Another was to seek permission from DOE to take construction-related disputes to the local board of rules and appeals. DOE has indicated that neither alternative was permitted under Florida statute. A search of the statutes for some justification of the current or proposed alternative methods of dispute resolution was inconclusive. The rule of the Florida Building Commission generally is that no matter can come before it without having first been heard by a local board of rules and appeals. It will, however, issue declaratory statements. The Office of the School Board Attorney has issued a written opinion consistent with the audit citation from F.S. Sec. 1013.03 that the DOE is authorized to provide building code interpretations, but that opinion was limited to a single specific question not related to the appeals process.

The dispute resolution process, as understood by most school districts across the state, is attached in the form of a flow chart as an appendix to this report. If the process, as shown and practiced, is contrary to state statute, then the correct process will need to be determined and followed. If building official decisions are appealed via the declaratory statement route, two things immediately come to mind:

- a. the Florida Building Commission will most likely refer educational issues to DOE for input, and
- b. the declaratory statement process takes a minimum of three months from application to response

Informal opinions regarding interpretation of the Florida Building Code can also be obtained through the Building Officials Association of Florida.



**DECISION MATRIX FOR
CAPITAL PROJECT DISPUTE RESOLUTION**

3. Strengthen procedures for applicable SBBC personnel to ensure accountability for knowledge of appeals process

Agree. Upon confirmation from DOE, the Florida Building Commission or the School Board Attorney that the declaratory statement process is the proper legal route to take when appealing decisions of the local building official in a school district, the Building Department will immediately modify its documents and disseminate them to concerned parties.

LEM/ik

FOLLOW-UP RESPONSE FROM THE OFFICE OF THE CHIEF AUDITOR
(Chief Building Official)

1. The Chief Building Official must render final design and permit decisions prior to any appellate activity

Responses did not include the corrective action planned, time frame for completion, and the individual responsible for the implementation.

Based upon management's response that they agree with the recommendation, it is expected that the Chief Building Official (CBO) will act in a manner consistent with the published procedures of the Florida Building Commission, as prescribed by Florida Statutes regarding Florida Building Code 2001. Entry number 33, of Attachment A of the Miramar High School 24 Classroom Addition review, clearly states that the project fell under the jurisdiction of the Florida Building Code 2001. The Office of the Chief Auditor disagrees with several comments of the Chief Building Official's response. First, documentation supports that the CBO deferred "Authority having Jurisdiction" to the DOE representative, Jon Hamrick. Secondly, Mr. Hamrick confirmed in an e-mail to the Office of the Chief Auditor that he was in attendance at the October 29, 2003 meeting at the request of the CBO, not the architect. Lastly, the comment that the Building Department has no involvement in the decision to change the design of the 24 Classroom Addition is not acceptable, based on the documented fact that the CBO deferred "Authority having Jurisdiction" to Mr. Hamrick of the DOE.

FOLLOW-UP RESPONSE FROM THE OFFICE OF THE CHIEF AUDITOR
(Chief Building Official)

Responses did not include the corrective action planned, time frame for completion, and the individual responsible for the implementation.

2. Define the current appeals process to be consistent with the Florida Building Commission for School Boards and incorporate into A/E and construction contracts

Based upon management's response that they agree with the recommendation, it is expected that SBBC will include language to describe the proper appellate process in our A/E and construction contracts. The appeals process of other municipalities and counties is not applicable for School Boards pursuant to Florida Statutes, as cited in the audit. Also, it is not the recommendation of the Office of the Chief Auditor that a School Board Policy is drafted as a response to the recommendation. The recommendation is that the proper appeals process, as published by the Florida Building Commission, as prescribed by the Florida Statutes regarding Florida Building Code 2001 for School Boards is included in A/E and construction contracts. Finally, the Appeals matrix is not substantiated with documentation that it is in compliance with the appeals process, as published by the Florida Building Commission, as prescribed by the Florida Statutes regarding Florida Building Code 2001 for School Boards. Moreover, it does not clearly

represent how decisions are made, what the criterion is to base decisions in the process, nor does it clearly depict a clear path for appeals by School Boards.

FOLLOW-UP RESPONSE FROM THE OFFICE OF THE CHIEF AUDITOR
(Chief Building Official)

3. Strengthen procedures for applicable SBBC personnel to ensure accountability for knowledge of appeals process.

Responses did not include the corrective action planned, time frame for completion, and the individual responsible for the implementation.

It is our opinion that the proper appeals process, as published by the Florida Building Commission, as prescribed by the Florida Statutes regarding Florida Building Code 2001 for School Boards is clearly established for implementation and accountability by all SBBC staff responsible for any job related functions that may require knowledge or use of such a process in all A/E and construction related projects.

The School Board Of Broward County, Florida
Facilities & Construction Management
Michael C. Garretson
Deputy Superintendent

February 9, 2005

TO: Patrick Reilly
Executive Director

FROM: Michael Garretson
Deputy Superintendent

SIGNATURE ON FILE

SUBJECT: **DRAFT AUDIT OF THE MIRAMAR HIGH SCHOOL 24 CLASSROOM ADDITION**

The following comments are respectfully submitted in response to the above mentioned audit of the Miramar High School 24 Classroom Addition.

2. Define the current appeals process to be consistent with the Florida Building Commission for School Boards and incorporate into A/E and construction contracts.

ADMINISTRATIVE RESPONSE:

We agree with the audit recommendation. A Board Policy for a building code appeals process is beneficial to all stakeholders. Consistent and timely code decisions will enhance expedient resolution of the many issues causing delayed project occupancy. This Policy will result in a cost savings to the District by minimizing contractor delay claims and portables required for temporary housing during the construction process. Additionally, the Policy will allow the District to better meet the demands of county growth and The Class Size Reduction program.

This initiative is in compliance with the "Strategic Plan 2010", Goals III and IV. The Facilities and Construction Management Division endorses this recommendation and will cooperate fully to implement the Policy and procedure in an expedient manner.

3. Strengthen procedures for applicable SBBC personnel to ensure accountability for knowledge of appeals process

ADMINISTRATIVE RESPONSE:

We agree with the audit recommendation. Upon Board approval of an appeals Policy, The Facilities and Construction Management Division will begin immediate training of the appropriate staff. This training will be an on-going process so that all new staff will become familiar with the Policy and procedures and will refresh the knowledge of existing staff. We will seek collaboration with the other involved departments so the procedure remains effective and efficient.

1700 SW 14th Court – Ft. Lauderdale, FL 33312
Phone: 754-321-1517 Fax: 754-321-1681

4. The school district should pursue partial fee reimbursement from Zyscovich, Inc. pursuant to articles 2.1.4.5 and 2.1.10 of the PSA

ADMINISTRATIVE RESPONSE:

We agree with the audit recommendation. The appropriate project documents will be assembled for review and recommendation by the District's legal counsel regarding possible reimbursement from the consultant. The Facilities and Construction Management staff will take immediate action on counsels' findings and directive.

5. Improve policies and procedures to ensure that all project documents are included in each master project file

ADMINISTRATIVE RESPONSE:

We agree with the audit recommendation. We do not believe that any additional policy changes are required however; departmental procedures will be strengthened and implemented to assure that all project files are complete and maintained to protect the best interest of the District. Changes recommended are:

- *All incoming fax documents will be received at a central location. A master file copy will be made and logged- in before disbursement to staff.*
- *Training of all staff will be implemented regarding the importance of accurate and complete project files to defend the District when disputes arise.*
- *A Project File Checklist currently exists however; departmental staff will review its effectiveness for possible improvements.*

Additional filing space will be provided to maintain the department's active and current files in one central location.

FOLLOW-UP RESPONSE FROM THE OFFICE OF THE CHIEF AUDITOR
(Facilities and Construction Management)

2. Define the current appeals process to be consistent with the Florida Building Commission for School Boards and incorporate into A/E and construction contracts

Based upon management's response that they agree with the recommendation, it is expected that SBBC will include language to describe the proper appellate process in our A/E and construction contracts. It is not the recommendation of the Office of the Chief Auditor that a School Board Policy is drafted as a response to this recommendation. The recommendation is that the proper appeals process, as published by the Florida Building Commission, as prescribed by the Florida Statutes regarding Florida Building Code 2001 for School Boards is included in A/E and construction contracts. Any reference to policies pursuant to department changes should be addressed in departmental policies and procedures manual.

SECTION IV

APPENDIX

Abbreviations

- A&E – Architect / Engineer
- ATP – Authorization to Proceed
- BOAF – Building Officials Association of Florida
- CBO – Chief Building Official
- CD – Construction Documents
- CRC – Consultant’s Review Committee
- DOE – Department of Education
- DRC – Design Review Committee
- DSS – Design & Support Services
- F&CM - Facilities and Construction Management
- FBC ‘01 - Florida Building Code 2001
- FLCC – Fixed Limit Construction Costs
- HVAC – Heating Ventilation and Air Conditioning
- IAQ – Indoor Air Quality
- PSA – Professional Services Agreement
- POC – Education Program Oversight Committee
- RFQ – Request for Qualifications
- RJA – Rolf Jensen Associates
- SBBC – School Board of Broward County
- TAC – Technical Advisory Committee
- UBCI – Uniform Building Code Inspector
- ZI – Zyscovich Inc.

SECTION V
REVISED MANAGEMENT RESPONSES
PENDING