MEMORANDUM

MIAMI-DADE COUNTY

Date: June 30, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

Agenda Item No. 9(A)(2)

From: George M. Burgess
County Manager

Subject: Amendment No. 3 to a Professional Service Agreement to Provide Architectural and Engineering Construction Management Services - Project No: A05-CUA-01; Contract No: A05-CUA-01R, to Arquitectonica International Corporation

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Recommendation

The attached Amendment No. 3 to the Professional Service Agreement (PSA) between Arquitectonica International Corporation and Miami-Dade County has been prepared by the Department of Cultural Affairs and is recommended for approval.

AMENDMENT 3

Scope

PROJECT NAME: South Miami-Dade Cultural Arts Center

PROJECT NO: A05-CUA-01

CONTRACT NO: A05-CUA-01R

PROJECT DESCRIPTION: Architectural and Engineering services related to the construction of a new 71,000 sq. ft. cultural arts center featuring a state of the art 966 seat theater and construction of the adjacent activities building, a 7,500 sq. ft. building housing rehearsal, classroom and small-scale performance spaces.

PROJECT LOCATION: 10900 SW 211 Street, Cutler Bay, FL

PRIMARY COMMISSION DISTRICT: District 8 Katy Sorenson

APPROVAL PATH: Board of County Commissioners

OCI A&E PROJECT A05-CUA-01R

USING DEPARTMENT: Department of Cultural Affairs

MANAGING DEPARTMENT: Department of Cultural Affairs

Fiscal Impact / Funding Source

AMENDMENT FUNDING SOURCE:	PAC Bond Revenues, Series 1997, interest earnings and financing proceeds, Safe Neighborhood Parks (SNP) proceeds, GOB funds, Florida Cultural Facilities State Grants
PTP FUNDING:	No
GOB FUNDING:	Yes
AMENDMENT DESCRIPTION:	This Amendment provides continuing professional services due to the project's extended construction period by increasing the funding by $1,008,820.00 and extending the Agreement by 540 days, or 18 months. This amount and time provides: enhanced levels of existing architectural and engineering construction administration services set forth in the PSA (including additional A/E personnel and hours) based on the need to address remedial plans for Contractor deficiencies in major building components (e.g., rejected curtainwall, metal panels and stucco) and to provide ongoing construction administration services for the extended duration; takes into account additional testing and inspection services necessary due to these numerous deficiencies; extends specialty consultant services for the review of schedule updates and time related claims analysis; and augments funds for the reimbursable services and contingency accounts.
MONETARY JUSTIFICATION:	The PSA Amendment provides increases for the following services: • $285,000 for Threshold and Special Inspection Services; • $441,200 for Architectural, Engineering, and specialty consultant services; • $100,000 for schedule and time related claims review services; • $82,620 for contingency; and • $100,000 for reimbursable services The funds recommended for augmenting the PSA are available from increased interest earnings on capital funds budgeted for the South Miami-Dade Cultural Arts Center and from Convention Development Tax (CDT) revenues dedicated to the project. A complete capital project expenditure and revenue budget is attached to this memorandum (Exhibit A).
TIME JUSTIFICATION:	An increase of 540 days is needed due to the Contractor's delay in completing the project. The Contractor's current schedule update projects a substantial completion date of March 3, 2010. This schedule, however, does not incorporate potential delays to the project based on remedial and/or replacement work that is necessary to correct deficiencies in the installation of systems which have been rejected by the Department. The A/E team's involvement in the project also is needed and services are included in this Amendment for project close-out and commissioning beyond the substantial completion date.

	Original Contract Values	Previous Adjustments To Values	This Amendment Values	Current Totals	Total Paid	Balance After Amendment
BASE:	$570,000.00	$135,000.00	$826,200.00	$1,531,200.00	$597,607.72	$933,592.28
CONTINGENCY:	$57,000.00	$13,500.00	$82,620.00	$153,120.00	$48,416.00	$104,704.00
DEDICATED:	$143,000.00	($63,450.00)	$100,000.00	$179,550.00	$27,259.65	$151,900.18
TOTALS:	$770,000.00	$85,050.00	$1,008,820.00	$1,863,870.00	$673,673.54	$1,190,196.46

	Original Contract Duration	Previous Adjustments To Duration	This Amendment Duration	Current Totals
BASE DURATION:	1095	254	540	1889
CONTINGENCY:	109	25	0	134
TOTAL DURATION:	1204	279	540	2023

INITIATING FACTOR(S) FOR AMENDMENT

Reason		Cost	Duration
Unforeseen / Unforeseeable extended construction duration	Change	$1,008,820.00	540
		$1,008,820.00	540

Track Record / Monitor

PERFORMANCE RECORD: According to the Capital Improvements Information system the Architect has two evaluations in the system with an average score of 3.2 points out of a possible 4.0 points.

PRIME CONSULTANT: Arquitectonica International Corporation

COMPANY Laurinda Spear, Bernardo Fort-Brescia

COMPANY Laurinda Spear, Bernardo Fort-Brescia

COMPANY EMAIL www.arquitectonica.com

COMPANY STREET 801 Brickell Avenue, Suite 1100

COMPANY CITY- Miami, FL

YEARS IN BUSINESS AT TIME OF AWARD: 29

PREVIOUS EXPERIENCE WITH COUNTY IN THE LAST FIVE YEARS AT TIME According to the Firm History Report provided by the Department of Small Business Development, the contractor has been awarded two contracts in the last five years with a total value of $3,406,971.50 and change orders of ($88,450.00) approved by the BCC.

SUBCONSULTANTS: Martinez Engineering Group, Inc. (Structural Engineering and Threshold Inspection Services); Basulto & Associates, Inc. (Mechanical, Electrical, Plumbing Engineers); A.D.A. Engineering, Inc. (Civil Engineer), Curtis & Rogers Design Studio, Inc. (Landscape Architect); IBA Consultants, Inc. (Testing and Specialty Inspection Services); Rolf Jensen & Associates, Inc. (Life Safety Consultant); Wagner-Hohns-Inglis, Inc. (Scheduling Consultant)

REVIEW COMMITTEE ASSIGNED CONTRACT MEASURES:

TYPE	GOAL	ESTIMATED VALUE	ACHIEVED
CBE	10.00%	$62,700.00	$176,500.00

CONTRACT MANAGER NAME /	Lisa D Andrea	(305) 375-5736	DANDREA@miamidade.gov
PROJECT MANAGER NAME / PHONE / EMAIL:	Lisa D Andrea	(305) 375-5736	DANDREA@miamidade.gov

Background

The Board of County Commissioners authorized the award of the construction contract for the South Miami-Dade Cultural Arts Center to The Tower Group, Inc. (TTG) through resolution R-880-05 in July 2005. The Department issued a Notice to Proceed to the Contractor on December 29, 2005 for the 22-month construction project including the scheduled substantial completion for August 29, 2007. Due to unforeseen site conditions, the Contractor had to implement dewatering measures different from those originally planned, including the addition of sheet piling and a tremie slab. Mainly as a result of the additional dewatering and waterproofing measures implemented, several contract extensions have been granted to the Contractor. The current contractual substantial completion date is February 26, 2008.

TTG began the installation of the curtain wall system and the exterior metal panel cladding system in early 2008. Deficiencies in the installation of these systems were noted by the A/E team and specialty inspector, IBA Consultants. Due to the Contractor's non-responsiveness in addressing the deficiencies, failed test results, and substantial deviations in the installation from the products' Notice of Acceptance (NOA), the Department formally rejected the installation of these items.

In November 2008, TTG partially replaced and supplemented its on-site management team for the project. The new team has been working closely with the Department to address all outstanding deficiencies and has also conducted their own evaluation of project elements that need to be reviewed and tested for compliance with the Contract Documents and all applicable codes. TTG has contracted a new curtain wall manufacturer to provide the dismantling of the system partially installed on site and to fabricate and install a new curtain wall system and they are working with the metal panel sub-contractor to correct or replace the metal panel cladding.

TTG's April 2009 final schedule update projects a substantial completion of January 8, 2010, which is 682 calendar days beyond the current contractual substantial completion date. This update does not include any potential impact due to the remedial/replacement work necessary for the exterior metal panel installation, some of which may be concurrent with the curtain wall removal and re-installation. TTG's April schedule update includes the Contractor's opinion that based on the curtain wall Time Impact Analysis, the substantial completion date may be forecasted as late as March 3, 2010. The Department continues to assess delay damages each month against the 10% retainage being held for the project. Over $1.5 million has been assessed up to the end of April 2009.

This contract amendment will provide for the continuation of A/E and specialty consultant services due to the extended construction duration, including review of the General Contractor's remedial proposals for work that has been rejected; additional testing and inspection services due to remedial and/or replacement of building envelope systems; extended scheduling review services and time related claims analysis; and additional funds for contingency and reimbursable services which may only be accessed by the Consultant when authorized by the Department through the issuance of a Work Order.

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BUDGET APPROVAL FUNDS AVAILABLE:	**OSBM DIRECTOR**	5/28/09 **DATE**
APPROVED AS TO LEGAL SUFFICIENCY:	DBM **COUNTY ATTORNEY**	6-1-2009 **DATE**
CAPITAL IMPROVEMENTS CONCURRENCE:	**OCI DIRECTOR**	6/1/09 **DATE**
	ASSISTANT COUNTY MANAGER	6/2/09 **DATE**
CLERK DATE	**DATE**	

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: June 30, 2009

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 9(A)(2)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Mayor's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 9(A)(2)
6-30-09

RESOLUTION NO. _____

RESOLUTION AUTHORIZING AMENDMENT NUMBER 3 (THREE) TO THE PROFESSIONAL SERVICE AGREEMENT WITH ARQUITECTONICA INTERNATIONAL CORPORATION IN THE AMOUNT OF $1,008,820 TO PROVIDE AN INCREASE IN THE TOTAL MAXIMUM COMPENSATION LIMIT FOR THE PROVISION OF ARCHITECTURAL AND ENGINEERING SERVICES FOR THE SOUTH MIAMI-DADE CULTURAL ARTS CENTER AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves Amendment No. 3 (Three) to the Professional Service Agreement between Miami-Dade County and Arquitectonica International Corporation for the purpose of providing an increase of $1,008,820 to the maximum aggregate sum of all payments to Arquitectonica International Corporation for basic and reimbursable services for the provision of architectural and engineering services, in substantially the form attached hereto and made a part hereof, and authorizes the County Mayor or County Mayor's designee to execute such contract amendment on behalf of Miami-Dade County, Florida.

The foregoing resolution was offered by Commissioner ,

who moved its adoption. The motion was seconded by Commissioner

and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 30th day of June, 2009. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. DBM

Deborah Bovarnick Mastin

MIAMI-DADE COUNTY, FLORIDA

DEPARTMENT OF CULTURAL AFFAIRS

AMENDMENT TO ORIGINAL PROFESSIONAL SERVICE AGREEMENT

AMENDMENT NO: 3 **CONTRACT NO:** A05-CUA-01R **DATE:** 5/12/2009

PROJECT TITLE: South Miami-Dade Cultural Arts Center

TO CONSULTANT: Arquitectonica International Corporation 801 Brickell Avenue, Suite 1100 Miami, FL

This document amends **Article 7-Compensation for Services** of the PROFESSIONAL SERVICE AGREEMENT (PSA) with Arquitectonica, International Corp. dated July 6, 2006. All other provisions of the PSA, Amendment Number 1, and Amendment Number 2 remain in full effect for the implementation of the work as described in this Amendment, unless otherwise modified by this Amendment.

Description of work authorized:

This Amendment provides continuing professional services due to the project's extended construction period by increasing the funding by $1,008,820.00 and extending the Agreement by 540 days, or 18 months. This amount and time provides: enhanced levels of existing architectural and engineering construction administration services set forth in the PSA (including additional A/E personnel and hours) based on the need to address remedial plans for Contractor deficiencies in major building components (e.g., rejected curtainwall, metal panels and stucco) and to provide ongoing construction administration services for the extended duration; takes into account additional testing and inspection services necessary due to these numerous deficiencies; extends specialty consultant services for the review of schedule updates and time related claims analysis; and augments funds for the reimbursable services and contingency accounts.

Monetary Amendment:

Scope	Current Contract Fees	Amendment #3 Revised Fees	Total Contract Fees
Scope of Services A: Threshold Inspection and Special Inspections Services	$90,000	$285,000	$375,000
Scope of Services B: Enhanced Construction Administration Services	$330,000	$441,200	$771,200
Scope of Services C: Structural On-Site Field Representation	$100,000	$0	$100,000
Scope of Services D: Enhanced Scheduling Services	$185,000	$100,000	$285,000
Contingency Account	$70,500	$82,620	$153,120
Reimbursable Services	$79,550	$100,000	$179,550
Total:	**$855,050**	**$1,008,820**	**$1,863,870**

The funds recommended for augmenting the PSA are available from increased interest earnings on capital funds budgeted for the South Miami-Dade Cultural Arts Center and from Convention Development Tax (CDT) revenues dedicated to the project.

Time Amendment:

An increase of 540 days is needed due to the Contractor's delay in completing the project. The Contractor's current schedule update projects a substantial completion date of March 3, 2010. This schedule, however, does not incorporate potential delays to the project based on remedial and/or replacement work that is necessary to correct deficiencies in the installation of systems which have been rejected by the Department. The A/E team's involvement in the project also is needed and services are included in this Amendment for project close-out and commissioning beyond the substantial completion date.

SUMMARY OF CONTRACT AMOUNT / TIME

ORIGINAL CONTRACT AMOUNT	$770,000.00
COST OF CHANGES PREVIOUSLY ORDERED	$85,050.00
ADJUSTED CONTRACT AMOUNT PRIOR TO THIS CHANGE	$855,050.00
COST OF CHANGES WITH THIS DOCUMENT	$1,008,820.00
ADJUSTED CONTRACT AMOUNT INCLUDING THIS CHANGE	$1,863,870.00
PERCENT INCREASE WITH THIS CHANGE	118%
TOTAL PERCENT INCREASE TO DATE	142%
TIME: ORIGINAL CONTRACT / PREVIOUS CHANGES / THIS CHANGE	1095 / 254 / 540
CONTINGENCY TIME: ORIGINAL CONTRACT / PREVIOUS CHANGES / THIS CHANGE	109 / 25 / 0
ADJUSTED DURATION INCLUDING THIS CHANGE	2023

AMENDMENT NO: 3 **CONTRACT NO:** A05-CUA-01R **DATE:** 5/20/2009

PROJECT TITLE: South Miami-Dade Cultural Arts Center

TO CONSULTANT: Arquitectonica International Corporation 801 Brickell Avenue, Suite 1100 Miami, FL

TO BE FILLED OUT BY DEPARTMENT OF CULTURAL AFFAIRS

FUNDS BUDGET CODE FAMIS PROJECT # 368023

CERTIFIED BY DEPARTMENT'S FINANCE DIVISION: _____ Date: 5/20/09

Accepted By:

Organization	Name	Title	Date
Arquitectonica International Corporation		Consultant	21 MAY 09

	Title	Name	Date
Reviewed By:	Construction Projects Manager		5/20/09
Approved By:	Director		5/20/09
Approved By:	Director, SBD		5/21/09
Approved By:	Director, OSBM 5/26/09		5/26/09
Approved By:	County Attorney		5/26/2009
Approved By:	County Manager		
Attested By:	Clerk of the Board		

South Miami-Dade Cultural Arts Center

Project Budget

Exhibit A

EXPENSES		Project Budget	
Capital Costs			
The Tower Group, Inc. bid - Phase I Theater Building	34,569,000		
The Tower Group Inc. bid - Add Alternate Phase II Activity Building	3,669,000		
Sub-Total:		38,238,000	
Bid negotiation/Cost savings measures		(2,000,000)	
Revised bid amount/ Construction Cost:		**36,238,000**	
Owner Controlled Contingency (5%)	1,811,900		
Change Order No.1 - Owner Controlled Contingency (5%)	1,811,900		
Change Order No.1 - Allowance account for orchestra shell	500,000		
Sub-Total:		**40,361,800**	
Independent Private Sector Inspector General (.75% of construction)	271,785		
Office of the Inspector General (.25% of construction)	90,595		
Change Order No. 1 - Office of the Inspector General (.25% of construction)	10,310		
Total Construction Contract:		**40,734,490**	
Planning and Design		**4,593,856**	
Includes Architectural and Engineering Services and Specialty Consultant Services (Theater Consultant, Acoustics and Sound and Communications Consultant, Threshold Inspection Services, Specialty Inspection Services, Scheduling Consultant, etc.)			
Owner Development Costs		**1,377,131**	
Includes Site Development Costs, Utility Fees, Project Management Costs, Financial Fees, etc.			
Public Art Allowance		**665,749**	
(1 1/2% of construction cost, contingency, Planning and Design, and Owner Development Cost) Note: Does not include Change Order No.1			
TOTAL PROJECT COSTS			**47,371,226**
REVENUES			
CDT - PAC Bond Revenues Series 1997	15,850,869		
Budgeted Interest Earnings	1,949,131		
Additional Interest Earnings	7,768,710		
CDT Bond Revenues (R-1408-00) (May 17, 2005 BCC item #7D)	10,055,016		
Safe Neighborhood Parks Bond Issue (Amount of grant reduced $2500 for Parks Administrative fees.)	247,500		
State of Florida Cultural Facilities Grant 2002-2003	500,000		
State of Florida Cultural Facilities Grant 2005-2006	500,000		
State of Florida Cultural Facilities Grant 2006-2007	500,000		
Building Better Communities General Obligation Bond Program (2007 Allocation)	10,000,000		
Liquidated Damages Assessed Against Construction Contract Retainage to be captured at end of project	0		
TOTAL PROJECT REVENUES			**$47,371,226**

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