

Memorandum



Date: October 20, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

Agenda Item No. 8(C)(1)

From: Carlos A. Gimenez
Mayor 

Subject: First Amendment to the Professional Services Agreement for the Design Services for the Westchester Cultural Arts Center, CUA Project No. A13-CUA-01 GOB ESP

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the first amendment (Amendment) to the Professional Services Agreement (PSA), 2015, Design Services for the Westchester Cultural Arts Center (also known as the Westchester Community Arts Center or WCAC) with Zyscovich Inc. for the additional professional services necessitated by the project as specified in the Amendment, which does the following:

- Extends the contract completion date by 882 calendar days to align the PSA contract term with that of the construction contract for a new revised contract completion date of 12/08/2022;
- Increases the contract value by two hundred and fifty thousand dollars (\$250,000.00), from eight hundred eighty thousand dollars (\$880,000.00) to one million one hundred and thirty thousand dollars (\$1,130,000.00), to fund additional services and reimbursements funds specified under the PSA; and
- Modifies the sustainability certification requirements.

Delegation of Authority:

This project is part of the Economic Stimulus Plan (ESP), as approved by the Board through Resolution No. R-69-12. As such, this Amendment is being expedited under the County Mayor's delegated authority pursuant to Section 2-8.2.7 of the Code and does not require Committee review.

Scope

PROJECT NAME: Construction of the Westchester Cultural Arts Center

PROJECT NO.: A13-CUA-01 GOB ESP

PROJECT DESCRIPTION: The scope of work includes construction of the Westchester Cultural Arts Center, a new 11,867 square feet multi-purpose facility being built to the west of the main entrance to Tropical Park. Designed by architectural firm Zyscovich Inc., the facility will provide cultural and recreational programming and educational activities. The multi-purpose room has been designed as a flexible space to accommodate a wide range of performing arts, recreational and community activities, along with a complement of front-of-house and back-of-house support spaces and the entrance lobby to the facility which will also serve as an art gallery for rotating exhibitions. The black box will have a

tension wire grid for the flexible multi-purpose space that will provide greater programming capabilities. The facility will be owned by Miami-Dade County and it is anticipated that it will be operated by a non-profit organization, which shall be selected during the construction of the WCAC. The new facility incorporates accessible design standards to accommodate users of all abilities and is designed with sustainable measures to attain Green Globes accreditation.

PROJECT LOCATION: Tropical Park
7900 SW 40th Street, Miami, Florida 33155

PRIMARY COMMISSION DISTRICT: District 10, Javier D. Souto

APPROVAL PATH: Board of County Commissioners – ESP expedite

USING DEPARTMENT: Department of Cultural Affairs

MANAGING DEPARTMENT: Department of Cultural Affairs

FISCAL IMPACT / FUNDING SOURCES: The work resulting from this Amendment will be funded through Building Better Communities General Obligations Bond Program (BBC-GOB) proceeds – Project Number 286. This Amendment will not increase the overall budgeted project amount of \$10,800,000.00 for the design and construction of the Westchester Cultural Arts Center established through a significant modification approved by the BCC on 02/19/2020 under Resolution No. R-185-20.

Track Record/Monitor

CONTRACT MANAGER NAME/PHONE/EMAIL L. Carolina Alfonso (305) 375-3671 carana@miamidade.gov

PROJECT MANAGER NAME/PHONE/EMAIL: L. Carolina Alfonso (305) 375-3671 carana@miamidade.gov

Background

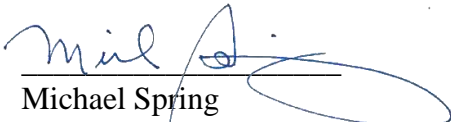
On November 2, 2004, Miami-Dade County voters approved a variety of capital improvement projects through the “Building Better Communities” General Obligation Bond Program. This project A13-CUA-01 (BBC-GOB number 286) is one of the capital improvements projects eligible to be funded by the BBC-GOB Program.

The development of this facility will serve the citizens of the West area of Miami-Dade County with a variety of cultural, educational, recreational, and community activities. District 10 Commissioner Javier D. Souto has been a champion of the project since its inception, advocated for its inclusion in the BBC - GOB program approved by Miami-Dade County voters in 2004, and continues to emphasize the importance of building this multi-purpose center to benefit the community and add to the quality of life of the citizens of Miami-Dade County.

The architectural, engineering, and specialty consultant team led by Zyscovich, Inc., the top-ranked firm in the architectural and engineering competitive selection process completed in 2015, has produced an imaginative solution for the facility.

Due to the project taking longer than anticipated, all the extensions allowed in the original PSA (PSA No. 2015) have been exercised. In particular, this project experienced delays during the construction contractor procurement stage. The project was advertised, and construction bids were received in 2018; however, all the bids received were rejected due to budget shortfalls. Zyscovich was tasked with rescoping the work in order to adhere to the allocated budget before re-advertising the project for construction bids. Since then, the County has successfully selected a construction contractor, TGSV Enterprises, and construction has commenced.

This Amendment will allow the County to increase the PSA contract amount and extend the term of the PSA to December 8, 2022 in order to successfully complete the project. The increased fees will cover additional professional services that have been identified as necessary for the project, such as special inspections as required by the Authority Having Jurisdiction (AHJ), scheduling consultant, additional design services to address the site conditions immediately to the east of the building structure of the Westchester Cultural Arts Center to convert the area to an east park, additional construction administration services, and for the selection of the Furniture, Fixtures, and Equipment including specialized theater equipment, and replenishment of the reimbursable funds. This Amendment also modifies the required sustainability requirements to allow the project to be certified by green globes in lieu of LEED silver.


Michael Spring
Senior Advisor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: October 20, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(C)(1)

Please note any items checked.

- "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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(C)(1)
10-20-20

RESOLUTION NO. _____

RESOLUTION APPROVING FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT (PSA) BETWEEN MIAMI-DADE COUNTY AND ZYCOVICH INC. FOR THE DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES OF THE WESTCHESTER CULTURAL ARTS CENTER PROJECT NO. A-13-CUA-01 GOB ESP, WHICH WILL INCREASE THE TOTAL AMOUNT PAYABLE BY \$250,000.00, TO BE FUNDED WITH BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM FUNDS, AND EXTEND THE TERM BY 882 CALENDAR DAYS FOR ADDITIONAL PROFESSIONAL SERVICES NECESSITATED BY THE PROJECT; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO EXECUTE THE FIRST AMENDMENT TO THE PSA, TO EXERCISE ANY AND ALL RIGHTS CONTAINED THEREIN, AND TO ENFORCE ALL TERMS AND CONDITIONS THEREOF

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board approves the first amendment (“Amendment”) to the Professional Services Agreement (“PSA”), in substantially the form attached hereto and made a part hereof, between Miami-Dade County and Zyscovich Inc. for additional professional services necessitated for the Westchester Cultural Arts Center Project No. A-13-CUA-01 GOB ESP, which will increase the total amount payable under the PSA by \$250,000.00, to be funded from Building Better Communities General Obligation Bond Program funds, and extend the term of the PSA by an additional 882 calendar days.

Section 2. This Board authorizes the County Mayor or the County Mayor’s designee to execute the Amendment, to exercise any and all rights, including termination or cancellation provisions, contained therein and to enforce all terms and conditions thereof.

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:

- | | |
|--------------------------------|----------------------|
| Audrey M. Edmonson, Chairwoman | |
| Rebeca Sosa, Vice Chairwoman | |
| Esteban L. Bovo, Jr. | Daniella Levine Cava |
| Jose “Pepe” Diaz | Sally A. Heyman |
| Eileen Higgins | Barbara J. Jordan |
| Joe A. Martinez | Jean Monestime |
| Dennis C. Moss | Sen. Javier D. Souto |
| Xavier L. Suarez | |

The Chairperson thereupon declared this resolution duly passed and adopted this 20th day of October, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the 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.

Monica Rizo Perez

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

This First Amendment (“**Amendment**”) to Professional Service Agreement (PSA) dated as of _____, 2020, is by and between Miami-Dade County, a political subdivision of the State of Florida, through the Cultural Affairs Department, having its principal office and place of business at 111 N.W. 1st St., Suite 625, Miami, Florida 33128 (hereinafter called “**County**”) and Zyscovich, Inc., a Florida Corporation, having its principal office and place at 100 N Biscayne Boulevard, 27th Floor, Miami, Florida 33132 (hereinafter “**Consultant**”).

WITNESSETH:

WHEREAS, the County entered into a certain PSA Agreement (“**Agreement**”), dated July 10, 2015 relating to that certain project referred to as the Westchester Cultural Arts Center (“**Project**”) located at Tropical Park, 7900 SW 40th St, Miami, FL 33155; and

WHEREAS, the parties hereto desire to amend the Agreement to provide for certain additional services and to modify the sustainability certification requirements, and reimbursable accounts replenishment, as described in this Amendment; and

WHEREAS, the parties wish to also amend the Agreement timeline to reflect the actual construction commencement of the Project, the updated construction administration timeframe and warranty period as described in detail in this Amendment; and

WHEREAS, the parties hereto are desirous of amending the Agreement to accomplish the foregoing and in certain other respects in accordance with the terms and provisions herein.

NOW, THEREFORE, in consideration of the mutual agreement herein contained, County and Consultant agree as follows:

1. Defined Terms. For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Amendment otherwise defined herein.

2. Construction Contract Time. Subsection 3.7.1. of the Agreement, contained within section 3.7 of the Agreement titled “Term of Agreement” is hereby amended to add the following provision at the end of the existing subsection 3.7.1:

Following expiration of the two, 1-year extension periods, the County Mayor or Mayor’s designee has the authority to extend the term of this Agreement for an additional 882 days until December 8, 2022, or until the all of the Services contemplated by the Agreement have been completed and the Services are accepted, whichever may be later.

3. Scope of Services. A new subsection 5.2.7 shall be added under section 5.2 of the Agreement titled “Additional Services” to provide as follows:

5.2.7. Additional professional services necessitated by the Project, including but not limited to, Special Inspections as required by the Authority Having Jurisdiction

(AHJ) over the Project, scheduling consultant, additional design services to address the site conditions immediately to the east of the building structure of the Westchester Cultural Arts Center to convert the area to an east park, additional construction administration services, and for selection of the furniture, fixtures and equipment, inclusive of theater specialized equipment for the Project.

4. Contract Value.

Article 7 “Compensation for Services” is amended as follow:

Section 7.2, “Payment of Basic Services, Schedule of payments for services” is hereby replaced by the following chart:

Phase No.	Services	Amount
1A	Program Verification and Master Planning	\$ 38,861.00
1B	Schematic Design Documents	\$ 116,582.00
2	Design Development	\$ 116,582.00
3A	50% Complete Contract Documents	\$ 116,582.00
3B	90% Complete Contract Documents	\$ 155,443.00
3C	100% Complete Contract Documents	\$ 38,861.00
3D	Bid Contract Documents	\$ 23,316.00
4	Bidding and Award of Contract	\$ 15,544.00
5	Construction Administration Services	\$ 155,443.00
	Sub-total	\$ 777,215.00
6	Additional Services	\$ 297,722.00
7	Reimbursable Services	\$ 55,063.00
	Sub-total	\$ 352,785.00
	Total	\$ 1,130,000.00

Section 7.8, the first sentence of section 7.8 of this Agreement titled “Maximum payable for additional services and reimbursable expenses”, is here by amended as follow:

The aggregate sum of all payments to the Consultant for Additional Services and Reimbursable Expenses payable on this project shall not exceed **three hundred fifty two thousand, seven hundred eighty-five dollars (\$352,785.00)**.

Section 7.10, the first sentence of section 7.10 of the Agreement titled “Total Authorized Amount for this Agreement” is hereby amended as follows:

Except as otherwise provided for herein, the Total Authorized Amount for this Agreement is **one million one hundred and thirty thousand dollars (\$1,130,000.00)**.

5. Modification of Sustainability Certification Requirements. Section 8.5 of the Agreement titled “Sustainable Building Program” is amended to add a new subsection 8.5.3 to read as follows:

8.5.3 Miami-Dade County, through the Sustainability Program Manager, has granted the ability to certify this Project via green globes in lieu of LEED silver.

6. Effect of Amendment; Order of Precedence. Except as amended and modified by this Amendment, all of the terms, covenants, conditions, and agreements of the Agreement shall remain in full force and effect. In the event of any conflict between the provisions of the Agreement and the provisions of this Amendment, this Amendment shall prevail.

[Remainder of Page Intentionally Left Blank - Signature Page Follows.]

IN WITNESS WHEREOF, has caused this Amendment to be executed in its name by the County Mayor's Designee; as authorized by the Board of County Commissioners, and Consultant has caused this Amendment to be executed by its duly authorized representative, all on the day and year first herein above written.

COUNTY:

MIAMI-DADE COUNTY, a political subdivision of the State of Florida
BY ITS BOARD OF COUNTY COMMISSIONERS

By: _____

Name: _____

Title: _____

ATTEST:

[•], CLERK

By: _

Approved by the County Attorney as to form and legal sufficiency:

Assistant County Attorney



Debra J. Vanzant
Notary Public
State of Florida
Comm# HH022864
Expires 7/22/2024

NOTARY:

State of: FLORIDA

County of: MIAMI-DADE

Subscribed and sworn to before me this 23 day of SEPTEMBER, 2020.

Notary Public:

Debra J. Vanzant
My commission expires: 7/22/2024

CONSULTANT:

Zyscovich Inc.

Signature:

Name:

Title:

[Handwritten Signature]
**JOSE MURGUIDO
PARTNER**