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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: October 4, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

Agenda Item No. 8(A)(1)(B)

Resolution No. R-761-11

Subject: Fifth Amendment to the Design Services Agreement with M.C. Harry and Associates, Inc., Project No. MIA-740A, increasing the contract by $400,000

RECOMMENDATION

It is recommended that the Board approve the attached Fifth Amendment between M.C. Harry and Associates, Inc., and Miami-Dade County. This amendment provides funding to extend construction administration, oversight and worksite services for the C-D Federal Inspection Services (FIS) Station project which is adversely impacted by the delay of the turnover of the Baggage Handling System (BHS), increasing the contract by $400,000 for the purposes described in this memorandum.

MODIFICATION NO: Fifth Amendment

SCOPE

PROJECT NAME: C-D Federal Inspection Services Station

PROJECT NO.: MIA-740A

CONTRACT NO.: MIA-740A-1

PROJECT DESCRIPTION: This project is part of the North Terminal Development (NTD) Program and consists of the finish-out of the 403,373-square-foot Federal Inspection Service (FIS) facility including (1) the third-level Immigration and Naturalization Services (INS) offices and immigration hall, and United States Public Health (USPH); (2) the second-level United States Customs Services (USCS) inspection stations and offices, international bag claim, baggage recheck, United States Department of Agriculture (USDA) inspections areas, laboratory, quarantine and offices, and United States Fish and Wildlife Department (FWD); and (3) the ramp-level USCS and USDA office space, dog kennels, meeters and greeters lobby, and parking. Work will also involve the design and construction of a passenger ramp from the concourse to the lower level. This project will be constructed within the new C-D Infill shell structure and will involve some remodeling within the existing terminal building.

PROJECT LOCATION: Miami International Airport (MIA)

PRIMARY COMMISSION DISTRICT: This project is located within Commissioner Rebeca Sosa's District 6. However, the impact of this item is countywide in nature as Miami International Airport is a regional asset.

APPROVAL PATH: Board of County Commissioners

USING DEPARTMENT: Aviation Department

MANAGING DEPARTMENT: Aviation Department

FISCAL IMPACT/FUNDING SOURCE

AMENDMENT DESCRIPTION/ FISCAL IMPACT: Increase agreement amount by $400,000

MODIFICATION FUNDING SOURCE: CIP Construction Funds Project No.:MIA-740A, Contract No. MIA-740A-1

PTP FUNDING: No

GOB FUNDING: No

BACKGROUND AND JUSTIFICATION

The purpose of this amendment is to fund the additional services account for the following needs:

BHS Mitigation Plan: As was reported to the Board on June 9, 2011 via memorandum, the completion of the Baggage Handling System (BHS) Phases 1 and 2 has been delayed due to technical issues surrounding the transition of American Airlines to the new system. This delay is having a detrimental effect on multiple NTD projects and contractors, one of which is the C-D FIS project. Movement on this project is tied to assumption by American Airlines of the BHS system, as the new FIS area will be constructed in the area of the current baggage shed. Until American Airlines assumes the new BHS, the old baggage shed cannot be demolished.

This amendment provides additional funding for the extension of construction administration, oversight and worksite services to ensure completion of the project.

This agreement was assigned to Miami-Dade County pursuant to the Fourth Amendment to the Lease, Construction and Financing Agreement between American Airlines, Inc., and Miami-Dade County, approved by the Board on June 21, 2005, by Resolution No. R-735-05.

ORIGINAL AGREEMENT AMOUNT: As Assigned to the County $5,437,290

PREVIOUS COUNTY MODIFICATIONS: First Amendment for $1,970,000 (R-244-06) to increase the construction duration from 90 to 112 weeks, update contract documents, and fund additional services;

Second Amendment for $1,084,824 to address requests from Customs & Border Protection (CBP) and

Transportation Security Administration (TSA) and to increase the construction duration from 112 to 168 weeks;

Third Amendment for $750,000 to address additional requests from CBP and TSA, impacts of BHS delays, and extended Construction Administration (CA) from 168 to 194 weeks; and the

Fourth Amendment for $374,000 for additional scope related to BHS Mitigation Plan, Physical Security System required by CBP, mechanical, electrical, and plumbing "work arounds," and additional CA and Work-Site (WS) services due to delays in the BHS (2nd, 3rd and 4th amendments were approved via the provisions of Ordinance No. 08-87 and Implementing Order No. 3-48).

AMOUNT OF RECOMMENDED MODIFICATION: $400,000

ADJUSTED AGREEMENT AMOUNT: $10,016,114

PERCENT CHANGE THIS MODIFICATION: 4.16%

TOTAL PERCENT INCREASE ALL MODIFICATION FROM ASSIGNED AMOUNT: 84.21%

INITIATING FACTOR(S) FOR AMENDMENT:

- ☐ Regulatory Change
- ☐ Other Agency Request Change
- ☐ Design Errors Change
- ☐ Design Omissions Change
- ☐ County Requested Change
- ☒ Unforeseen/Unforeseeable Change
- ☐ Other

TRACK RECORD/MONITOR

FIRM: M.C. Harry and Associates, Inc.

COMPANY PRINCIPAL(S) James W. Piersol, President and Director
Thomas M. Carlson, Secretary and Director
David Frye, Vice-President

COMPANY QUALIFIER(S): James W. Piersol

COMPANY EMAIL ADDRESS: jpiersol@mcharry.com

COMPANY ADDRESS: 2780 SW Douglas Road, No. 302

	Miami, Florida 33133
YEARS IN BUSINESS IN FLORIDA:	28
PREVIOUS EXPERIENCE WITH COUNTY (PAST FIVE YEARS):	See attached A&E Firm History Report from the Department of Small Business Development (SBD)
CONSULTANT PERFORMANCE:	The contractor's performance on this existing contract is satisfactory. No information is available in the CIIS database for Architect/Engineer. M.C. Harry had a 4 rating, which is satisfactory, for a Judicial Administration project.
CONTRACT MEASURES:	Not applicable - BBE, HBE, WBE and subsequent CBE programs were not in effect at the time of award. However, the original agreement provides for the design professional to voluntarily consider utilizing B/H/WBE firms. To date, B/H/WBE firms have been paid as follows: BBE $375,100 or 4.29%, HBE $1,417,866 or 16.23%, and WBE $240,226 or 2.75%, of $8,734,604 which is what M.C. Harry has been paid and received as of March 31, 2011.
COMPLIANCE DATA:	There have been no violations listed against this firm on this or any other County projects.
DELEGATIONS OF AUTHORITY:	The Aviation Director or designee has the authority to expend the contingency accounts, extend the contract completion time to complete any unfinished work, reduce the scope of the project, or terminate/cancel the agreement.
CONTRACT and PROJECT MANAGER:	Juan Carlos Arteaga (305)869-5694
NAME/PHONE/EMAIL:	JCArteaga@miami-airport.com
SBD REVIEW:	Yes
LEGAL SUFFICENCY:	Yes

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: October 4, 2011

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

SUBJECT: Agenda Item No. 8(A)(1)(B)

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**

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

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

✓ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

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Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(B)
10-4-11

RESOLUTION NO. R-761-11

RESOLUTION APPROVING FIFTH AMENDMENT TO THE DESIGN SERVICES AGREEMENT BETWEEN M.C. HARRY AND ASSOCIATES, INC., AND MIAMI-DADE COUNTY, PROJECT MIA-740A, INCREASING THE CONTRACT AMOUNT $400,000.00

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 hereby authorizes the County Mayor or Mayor's designee to execute the attached Fifth Amendment between M.C. Harry and Associates, Inc., and Miami-Dade County, in substantially the form attached hereto, which provides for an increase in amount of the Agreement of $400,000.00, and authorizes the County Manager or Mayor's designee to enforce the terms of such Fifth Amendment.

The foregoing resolution was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Jean Monestime** and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	absent		
Audrey M. Edmonson, Vice Chairwoman	aye		
Bruno A. Barreiro	absent	Lynda Bell	aye
Esteban L. Bovo, Jr.	aye	Jose "Pepe" Diaz	aye
Sally A. Heyman	aye	Barbara J. Jordan	aye
Jean Monestime	aye	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	aye
Xavier L. Suarez	aye		

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The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of October, 2011. 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. Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

David M. Murray

FIFTH COUNTY AMENDMENT
TO THE DESIGN SERVICES AGREEMENT
WITH M.C. HARRY AND ASSOCIATES, INC.
FOR THE DESIGN AND CONSTRUCTION PHASE SERVICES
FOR THE C-D FEDERAL INSPECTION SERVICES STATION
FOR THE MIAMI-DADE AVIATION DEPARTMENT

THIS FIFTH COUNTY AMENDMENT, entered into this _____ day of _____, 2011 by and between Miami-Dade County, a political subdivision of the State of Florida, hereinafter referred to as the "County" and M.C. Harry and Associates, Inc., hereinafter referred to as the "Design Professional or DP".

WITNESSETH:

WHEREAS, on August 29, 2001, American Airlines, Inc. ("American") and the Design Professional entered into a design services agreement ("Agreement") for the design and construction phase services for the C-D Federal Inspection Services Station, Project No. MIA-740A, Contract No. MIA-740-R-1; and

WHEREAS, the Board of County Commissioners ("Board") accepted American's assignment of this Agreement pursuant to the Fourth Amendment to the Lease, Construction, and Financing Agreement between American Airlines and Miami-Dade County by Resolution No. R-735-05, passed and adopted June 21, 2005; and

WHEREAS, on March 7, 2006 the Board by its adoption of Resolution R-244-06 approved the First County Amendment increasing the funds available for design and construction phase services for changes in the scope of the work and for unforeseen project scope changes and design changes during the construction of the project for differing site and other unforeseen conditions; and

WHEREAS, the County approved the Second County Amendment that increased the funds available for construction phase services and additional services for updated plans and for upcoming anticipated changes from the US Customs and Border Protection (CBP) and Transportation Security Administration (TSA) agencies; and, for other design changes during the construction of the project including but not limited to changes due to differing site and other unforeseen conditions; and

WHEREAS, the County approved the Third County Amendment increasing the funds available to address schedule impacts caused by the delays in the Baggage Handling System (BHS); and

WHEREAS, the County approved the Fourth County Amendment increasing the funds available for additional scope related to BHS Mitigation Plan; Physical Security System required by CBP; mechanical, electrical, and plumbing field related "work-arounds" and additional Construction Administration (CA) and Work-Site (WS) Services due to delays in the BHS; and

WHEREAS, the County is desirous of increasing the funds available to address additional CBP requirements, extended construction phase services, and needed changes due to further schedule impacts caused by the delays in the baggage handling system.

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NOW, THEREFORE, in consideration of the premises contained herein, the parties hereto agree as follows:

A. In Article 10, entitled "Scope of Additional Services", add the following paragraphs:

   1) Construction Administration (CA) and Work-Site (WS) Services: As a result of additional delays to the BHS due to the transition of American Airlines to the new system there are various areas that are part of current FIS-740 contract documents that cannot be completed by the NTD overall completion date, these areas include ground floor AA office areas and parts of the re-check area located at concourse level, along with various other small rooms. These remaining in-complete areas will require extended CA and WS services to the revised NTD completion date.

B. Exhibit FF, Item 4, entitled "Additional Services", modify the following section (underscored indicate modifications):

   Pursuant to Article 10 an allowance for Additional Services is hereby established in the Not to Exceed Amount of <u>$1,936,180</u>.

C. Exhibit FF, Item 4, entitled "Compensation Summary":

   (1) Change Additional Services from $1,536,180 to $1,936,180.

   (2) Change Maximum Compensation (Maximum Fee including Basic Services, Reimbursables, Work Site Services, Dedicated Services, and Additional Services) from $9,616,114 to $10,016,114.

D. Modify Agreement Terms and Conditions

   In the event the Board of County Commissioners does not ratify the Mayor's, or his authorized designee's, approval of this amendment, the County shall terminate the amendment by sending written notice to the Contractor. The termination date shall be effective the date notice is received. Such notice may be by electronic means (e.g., email). If electronic means are used, the electronic notice shall be followed by hard copy. The County shall pay for all services or work completed and approved prior to receipt by the Contractor of the notice of termination. Payment for completed and approved work shall be in accordance with its contract with the County, but the County shall not be responsible for payment of profits on such work.

E. In all other respects, the Agreement shall remain in full force and effect in accordance with the terms and conditions specified herein.

F. This Fifth County Amendment shall become effective as of the date first written above.

IN WITNESS WHEREOF, the parties hereto have caused this Fifth County Amendment to Agreement to be executed by their respective and duly authorized officers, as of the day and year first above written.

ATTEST:

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

MIAMI-DADE COUNTY, FLORIDA
a political subdivision of the State of Florida

BY ITS BOARD OF COUNTY COMMISSIONERS

_____
County Mayor

(MIAMI-DADE COUNTY SEAL)

ATTEST:

By:_____
James Piersol, Secretary-Treasurer

M.C. Harry and Associates, Inc.
a Florida Corporation.

_____
Thomas Carlson, President

(CORPORATE SEAL)

Approved for Form and Legal Sufficiency

By:_____
Assistant County Attorney

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MIAMI DADE COUNTY
Department of Small Business Development
A&E Firm History Report
From: 06/08/2006 **To:** 06/08/2011

DEPARTMENT OF BUSINESS DEVELOPMENT

FIRM NAME: M.C. HARRY AND ASSOCIATES, INC.
2780 SW Douglas Rd, Suite 302
Miami, FL 33133

PRIMES

PROJECT #	CONTRACT	DEPT.	MEASURES	AWARD DATE	AWARD AMOUNT
EDP-PD-SR-GOB-EQUINE207 SPECIALIZED EQUINE FACILITY	1	PD	NO MEASURE	01/16/2009	$100,000.00
					$100,000.00
EDP-PR-SR-200200-04-001 CCM COMMUNITY AND AQUATIC CENTER	1	PR	NO MEASURE	11/17/2010	$36,780.00
					$36,780.00
EDP-VZ-S-GOB-290-M010 GLASS ROOF CANOPY	1	VZ	NO MEASURE	05/12/2011	$419,377.00
					$419,377.00

Total Award Amount	**$556,157.00**
Total Change Orders Approved by BCC	**$0.00**

* Indicates closed or expired contracts
Disclaimer: Payments shown may not reflect current information

DBDR0212_E

Wednesday, June 8, 2011

Ver: 1

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item:	**8A1B**
File Number:	**111401**
Committee(s) of Reference:	**Board of County Commissioners**
Date of Analysis:	**September 20, 2011**

Summary
This resolution authorizes the County Mayor or Mayor's designee to execute a Fifth Amendment between M.C. Harry and Associates, Inc., and Miami-Dade County, providing for an increase in an amount of $400,000.00. *This amendment provides funding to extend construction administration, oversight and worksite services for the C-D Federal Inspection Services (FIS) Station project which is adversely impacted by the delay of the turnover of the Baggage Handling System (BHS).*

MIA-NTD Baggage Handling System Status
A memo, dated June 7, 2011, from the Miami-Dade Aviation Department to the County Manager, provides a status of the NTD Program. Approximately 92 percent of the entire NTD Program has already been completed and is open to the public. The remaining eight percent of the NTD Program is contingent upon the completion of the BHS. The BHS is a complex baggage sortation system that delivers passenger luggage from ticket counters to baggage carousels directly adjacent to individual airplane departure gates.

Pursuant to the memo, the BHS has passed the required TSA tests; however, there have been significant challenges. Programming issues have surfaced with the operation of the graphics system and sortation controllers, and the MDAD is working with its *contracting partners* to correct these failures which were experienced when the system went fully operational on April 1, 2011.

According to MDAD staff:

> *The contracting partners mentioned above are: Siemens is the system Contractor, manufacturer, fabricator, and installer of the new inline Baggage Handling System (BHS) for the North Terminal Development (NTD) Program. URS Corporation is the consulting firm acting on behalf of the owner and performing Construction Administration and Site Related Services, including inspections, payment requisitions reviews, validation of components and systems, commissioning, substantial completion and final acceptance of the NTD Baggage handling System (BHS).*
>
> *American Airlines (AA) also has their own consultants; Brock and Siemens; the County however, does not have any contractual relationship with them.*

Additionally, a plan to address these *highly technical issues* was developed, with some work to be carried out by MDAD and its contractors and other work to be carried out by American Airlines (AA) and

its contractor. AA, using their contractor, Brock Solutions, worked on the system optimization for 10 days. Upon completion, it was noted that the sort controller was not functioning correctly, experiencing so called "memory leaks" which resulted in baggage not being able to be properly sorted which would result on errors and possible bags delivered to the wrong gates. ***According to the memo written in June, the BHS was two (2) months behind the adjusted schedule.***

- Who came up with the plan to address these highly technical issues mentioned above?
  AA wanted to optimize the system by rearranging the data base (Array vs. Boolean) performed by Brock; also they introduced a system to track bags (called btracks) on the web which was executed by Cage; and there were also other optimization changes which were done by Brock assisted by Cage on behalf of AA.

Pursuant to the memo, the MDAD has requested that American Airlines allow the original contractor, Siemens to assess the BHS, including the work that Brock has performed, recommend modifications, and when completed, operate the system for a period of four (4) weeks to demonstrate the performance of the system and enable the NTD to continue towards a successful completion.

According to MDAD staff, a contingency plan addresses partial opening of the NTD FIS Facility if the Baggage Handling System cannot be re-instated successfully and the team determines that it would be better that AA implement the BHS upgrades (to the already 11 year old design) before the system goes live.

The following chart provides a plan to reinstate usage of the new BHS:

Milestone	Revised Completion Date	Action By
Test and Assess Current System Status	June 18	Siemens
Recommend Modifications	June 21	Siemens
Implement Recommended Changes	June 30	Siemens
5,000 bag Test	September 7	Siemens
Reinstate the BHS	September 9	Siemens/MDAD
Four-week Full Operation Test	September 9-October 10	Siemens/MDAD
Continued Testing of the NTD BHS	October 11-January 15	Siemens/MDAD
Begin demolition of Legacy System	January 16	MDAD/NTD

Source: MDAD

Additional Information

In response to questions posed by the Office of the Commission Auditor, the following information was provided by MDAD :

- Please provide the technical issues that caused the delays? *The majority of the delays are associated with the complex inline BHS; FIS project completion is linked to live operations of phases 1 & 2; which would allow demolition of the old legacy baggage handling system.*
- Please provide a breakdown of the $400,000, and include the need for this increase. *This amount is to cover six (6) months extended duration for Construction Administration (CA) and*

Work Site Services (WSS); of which approximately $300,000 will be used for CA, and $100,000 will be used for WSS.

- When does the commencement of the construction for the new FIS area begin? *The work at the FIS area is currently ongoing; however there is an area that cannot be properly completed unless the old legacy BHS is demolished.*
- When does staff anticipate the demolition of the old baggage shed? *The demolition of the old Baggage Shed; the remainder of concourse C; and the old legacy system is contingent upon successful live operations of phases 1 & 2 of the new inline BHS which would allow the demolition of the old system and the FIS project to progress towards final completion. The BHS is currently under review by American Airlines as they have expressed their desire to upgrade this almost 11 years old design and with the system not being operational it would be easier and quicker. To date; this issue is still under review and analysis from all stakeholders, MDAD, AA, TSA, and CBP. The NTD Program management has prepared a plan to totally "delink" the BHS from partial completion and limited opening of the FIS; the date still has not been determined as the specifics of the plan are being developed at this time.*
- Does the firm anticipate additional amendments? *No.*
- To date, what has been accomplished by this vendor, and what remains? *To date, the vendor has achieved 70% completion of the construction in the FIS project # 740A of the NTD Program.*

Additional Information Pertaining to the BHS

MDAD provided the following list of components of BHS contracts/consultants:

- Provide what is the absolute/complete total cost?

Question: When does American Airlines anticipate taking control of the operations of the new BHS?

Prepared by: Michael Amador-Gil