

ATTACHMENT #2

From: Vivian Leiva
To: owensmi@palmbeach.k12.fl.us
CC: Andrew Hertel
Date: 4/21/08 11:14 AM
Subject: RE: Request for a new Financial Assistance Agreement for Landscaping at West Boca Community High Sch

Dear Mr. Owens,

Thank you for your e-mail to Commissioner Aaronson. He has asked that I reply.

By way of this e-mail, Commissioner Aaronson is authorizing the renewal of the Agreement between the School Board and the County in the amount of \$100,000 for landscaping at West Boca Community High School.

Sincerely,

Vivian E. Leiva

Aide to Commissioner Aaronson

From: Burt Aaronson
Sent: Wednesday, April 16, 2008 9:07 AM
To: vleiva@pbcgov.com
Subject: Fwd: Request for a new Financial Assistance Agreement for Landscaping at West Boca Community High School

>>> "Michael C. Owens(Planning 9242)" <owensmi@palmbeach.k12.fl.us> 4/15/08 4:48 PM >>>

Commissioner Aaronson:

The School District of Palm Beach County is hereby requesting a new \$100,000 Financial Assistance Agreement for the landscaping project for West Boca Raton Community High School. The project was assigned to our Minor Projects Section of the School District's Department of Program Management. Due to the increased workload for compliance with the Class Size Reduction Initiative required by the State, work on the landscaping project has not advanced.

Staff has since engaged the services of a landscape architect and preliminary design has begun.

ATTACHMENT #2

FINANCIAL ASSISTANCE AGREEMENT FOR THE SCHOOL BOARD OF PALM BEACH COUNTY - (WEST BOCA RATON COMMUNITY HIGH SCHOOL BUFFER LANDSCAPING)

THIS AGREEMENT is made and entered into this _____ day of _____, 2008, by and between the SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, hereinafter "BOARD", and PALM BEACH COUNTY, a political subdivision of the State of Florida, hereinafter "COUNTY".

WITNESSETH:

WHEREAS, BOARD wishes to install buffer landscaping for its West Boca Raton Community High School, on school property, along the school's perimeter (within 25 feet of, and visible from) the COUNTY's Glades Road from approximately 1300 feet west of Boca Falls Drive to approximately 4600 feet west of Boca Falls Drive, hereinafter "IMPROVEMENTS"; and

WHEREAS, COUNTY believes that these efforts by BOARD serve a public purpose in the enhancement of the appearance of the right of way and wishes to support BOARD's efforts to install the IMPROVEMENTS by providing reimbursement funding from Board of County Commissioners Reserve for Board 5, in an amount not to exceed ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00); and

WHEREAS, after installation, BOARD will be responsible for the perpetual maintenance of the IMPROVEMENTS.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements herein contained, the parties agree as follows:

- 1. The above recitals are true, correct and are incorporated herein.**
- 2. COUNTY agrees to reimburse BOARD for the cost of the initial installation of the IMPROVEMENTS, not to exceed a maximum amount of ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00).**
- 3. COUNTY agrees to reimburse BOARD the amount established in paragraph 2 for costs (materials and labor) associated with the installation of the IMPROVEMENTS, upon BOARD's submission of acceptable documentation needed to substantiate their costs for the IMPROVEMENTS. COUNTY will use its best efforts to provide said funds to BOARD on a reimbursement basis within forty-five (45) days of receipt of all information required in Paragraph 6, below.**
- 4. COUNTY's obligation is limited to its payment obligation and COUNTY shall have no obligation to any other person or entity.**
- 5. BOARD agrees to assume all responsibility for design, bidding, contract preparation, and contract administration for the installation of the IMPROVEMENTS, including payment(s) to contractor(s), pursuant to all applicable governmental laws and regulations and will comply with all applicable governmental landscaping codes and permitting requirements in the selection and installation of the IMPROVEMENTS.**

1 **BOARD** agrees to install the **IMPROVEMENTS** substantially in accordance with the
2 **plans, specifications and costs** as approved by **COUNTY**. **BOARD** also agrees to
3 **assume financial responsibility** for the completion of any portions of the
4 **IMPROVEMENTS** that are not fully-funded by the amount set forth in Paragraph 2,
5 **above**. Otherwise, **COUNTY** will have the final determination of the eligibility for
6 **reimbursement of any changes**. Substantial variations from the approved plans shall
7 **require prior written approval** from **COUNTY Engineer's Office**. The final drawings
8 **must be signed and sealed** by a Florida Registered Landscape Architect.

9 **6. BOARD** will obtain or provide all labor and materials necessary for the
10 **design and installation of the IMPROVEMENTS**. **COUNTY** shall have the final
11 **determination of eligibility for reimbursement**. **BOARD** shall furnish the Manager,
12 **Streetscape Section, of COUNTY's Department of Engineering and Public Works** with
13 **a request for payment supported by the following:**

- 14 **a. A statement from a Florida Registered Landscape Architect that the**
15 **IMPROVEMENTS have been inspected and were installed substantially**
16 **in accordance with the approved plans for the IMPROVEMENTS, and;**
17 **b. A Contract Payment Request Form and a Contractual Services**
18 **Purchases Schedule Form, attached hereto and incorporated herein as**
19 **Exhibit "A" (pages 1 and 2) which are required for each and every**
20 **reimbursement requested by BOARD**. Said information shall list each
21 **invoice paid by BOARD** and shall include the vendor invoice number,
22 **invoice date, and the amount paid by BOARD**. **BOARD** shall attach a
23 **copy of each vendor invoice paid by BOARD** along with a copy of the
24 **respective advice or check** and shall make reference thereof to the
25 **applicable item listed on the Contractual Services Purchases Schedule**
26 **Form**. Further, the Program Administrator and the Chief Financial
27 **Officer of BOARD, or his designee shall also certify that each vendor**
28 **invoice listed on the Contractual Services Purchases Schedule Form**
29 **was paid by BOARD as indicated.**

30 **7. BOARD** shall maintain adequate records to justify all charges,
31 **expenses, and costs incurred in performing the IMPROVEMENTS** for at least three
32 **(3) years after the completion of the IMPROVEMENTS**. **COUNTY** shall have access to
33 **all books, records and documents as required in this Section for the purpose of**
34 **inspection or audit during normal business hours.**

1 **8. BOARD agrees to be responsible for the perpetual maintenance of the**
2 **IMPROVEMENTS following its installation and shall be solely responsible for**
3 **obtaining and complying with all necessary permits, approvals, and authorizations**
4 **from any federal, state, regional, or COUNTY agency which are required for the**
5 **subsequent maintenance of the IMPROVEMENTS.**

6 **9. All installation of the IMPROVEMENTS shall be completed and final**
7 **invoices submitted to COUNTY no later than September 30, 2009, and COUNTY shall**
8 **have no obligation to BOARD or any other entity or person for any cost incurred**
9 **thereafter unless the time for completion is extended by modification of this**
10 **Agreement as provided herein.**

11 **10. The BOARD acknowledges that the County's sole responsibility under**
12 **this Agreement is to provide funding for the BOARD's project in accordance with the**
13 **terms and conditions of this Agreement. The BOARD recognizes its liability for**
14 **certain tortious acts of its agents, officers, employees and invitees to the extent and**
15 **limits provided in Section 768.28, Florida Statutes. To the extent permitted by law,**
16 **the BOARD shall indemnify, defend and hold the COUNTY harmless against any**
17 **actions, claims and damages arising out of the BOARD's negligence in connection**
18 **with the use of the funds provided under this Agreement. The foregoing**
19 **indemnification shall not constitute a waiver of sovereign immunity beyond the limits**
20 **set forth in Section 768.28, Florida Statutes, nor shall the same be construed to**
21 **constitute an agreement by the BOARD to indemnify the COUNTY for the COUNTY's**
22 **sole negligence, or willful or intentional acts. The foregoing indemnification shall**
23 **survive termination of this Agreement.**

24 **11. BOARD shall, at all times during the term of this Agreement (the**
25 **installation and existence of the IMPROVEMENTS, maintain in force its status as a**
26 **self-insured school board.**

27 **12. As provided in F.S. 287.132-133, by entering into this Agreement or**
28 **performing any work in furtherance hereof, BOARD certifies that its affiliates,**
29 **suppliers, sub-contractors, and consultants who perform work hereunder, have not**
30 **been placed on the convicted vendor list maintained by the State of Florida**
31 **Department of Management Services within 36 months immediately preceding the**
32 **date hereof. This notice is required by F.S. 287.133(3)(a).**

33 **13. BOARD shall require each contractor engaged by BOARD for work**
34 **associated with this Agreement to maintain:**

35 **a. Workers' Compensation coverage in accordance with**
36 **Florida Statutes, and;**

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b. Commercial General Liability coverage, including vehicle coverage, in combined single limits of not less than ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00). COUNTY shall be included in the coverage as an additional insured.

c. A payment and performance bond for the total amount of the improvements in accordance with Florida Statute 255.05.

14. In the event of termination, BOARD shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of the contract by BOARD, and COUNTY may withhold any payment to BOARD for the purpose of set-off until such time as the exact amount of damages due COUNTY is determined.

15. BOARD's termination of this AGREEMENT shall result all obligations of COUNTY for funding contemplated herein to be canceled.

16. COUNTY and BOARD agree that no person shall, on the grounds of race, color, national origin, sexual orientation, religion or creed, sex, age, or handicap be discriminated against in performance of the Agreement.

17. COUNTY may, at COUNTY's discretion and for the duration of the IMPROVEMENTS, install signs within the public property or easement, notifying the public that the IMPROVEMENTS were funded with COUNTY dollars.

18. In the event that any section, paragraph, sentence, clause, or provision hereof is held invalid by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

19. All notices required to be given under this Agreement shall be in writing, and deemed sufficient to each party when sent by United States Mail, postage prepaid, to the following:

AS TO COUNTY

Manager, Streetscape Section
Palm Beach County Department of
Engineering and Public Works
Post Office Box 21229
West Palm Beach, Florida 33416-1229

AS TO SCHOOL

Chief of Facilities Management,
Palm Beach County School Board
3300 Forest Hill Boulevard
West Palm Beach, FL 33406

WITH COPY TO

**Principal, West Boca Raton Community High School
12811 Glades Road
Boca Raton, FL 33428**

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5 **20. This Agreement shall be construed and governed by the laws of the**
6 **State of Florida. Any and all legal action necessary to enforce this Agreement shall**
7 **be held in Palm Beach County. No remedy herein conferred upon any party is**
8 **intended to be exclusive of any other remedy, and each and every other remedy shall**
9 **be cumulative and shall be in addition to every other remedy given hereunder or now**
10 **or hereafter existing at law or in equity or by statute or otherwise. No single or**
11 **partial exercise by any party of any right, power, or remedy shall preclude any other**
12 **or further exercise thereof.**

13 **21. Any costs or expenses (including reasonable attorney's fees)**
14 **associated with the enforcement of the terms and conditions of this Agreement shall**
15 **be borne by the respective parties; provided, however, that this clause pertains only**
16 **to the parties to the Agreement.**

17 **22. Except as expressly permitted herein to the contrary, no modification,**
18 **amendment, or alteration in the terms or conditions contained herein shall be**
19 **effective unless contained in a written document executed with the same formality**
20 **and equality of dignity herewith.**

21 **23. Each party agrees to abide by all laws, orders, rules and regulations and**
22 **BOARD will comply with all applicable governmental landscaping codes in the**
23 **maintenance and replacement of the IMPROVEMENTS.**

24 **24. The parties to this Agreement shall not be deemed to assume any**
25 **liability for the negligent or wrongful acts, or omissions of the other party (or**
26 **parties). Nothing contained herein shall be construed as a waiver by any of the**
27 **parties, of the liability limits established in Section 768.28, Florida Statutes.**

28 **25. BOARD shall promptly notify COUNTY of any lawsuit-related complaint,**
29 **or cause of action threatened or commenced against it which arises out of or**
30 **relates, in any manner, to the performance of this Agreement.**

31 **26. The parties expressly covenant and agree that in the event any of the**
32 **parties is in default of its obligations under this Agreement, the parties not in default**
33 **shall provide to the defaulting party thirty (30) days written notice before exercising**
34 **any of their rights.**

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37 **27. This Agreement is made solely and specifically among and for the**
38 **benefit of the parties hereto, and their respective successors and assigns subject to**

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the express provisions hereof relating to successors and assigns, and no other person shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.

28. The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial constraint, be construed more severely against one of the parties than the other.

29. This Agreement represents the entire understanding among the parties, and supersedes all other negotiations, representations, or agreements, either written or oral, relating to this Agreement.

30. A copy of this Agreement shall be filed with the Clerk of the Circuit Court in and for Palm Beach County, Florida.

31. This Agreement shall take affect upon execution and the effective date shall be the date of execution.

(INTENTIONALLY LEFT BLANK)

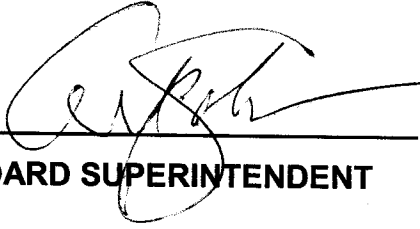
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WITNESS WHEREOF, the parties have executed this Agreement and it is effective on the date first above written.

THE SCHOOL BOARD OF PALM BEACH COUNTY


(SCHOOL BOARD SEAL)

ATTEST:

By: 
BOARD SUPERINTENDENT

By: 
CHAIRMAN

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:  9/5/08
BOARD'S ATTORNEY

PALM BEACH COUNTY

(COUNTY SEAL)

PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

ATTEST:

SHARON R. BOCK, CLERK & COMPTROLLER


By: _____
DEPUTY CLERK

By: _____
~~**ADDIE L. GREENE, CHAIRPERSON**~~

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

By: _____
ASSISTANT COUNTY ATTORNEY

BY: 

**PALM BEACH COUNTY
ENGINEERING & PUBLIC WORKS DEPARTMENT
CONTRACT PAYMENT REQUEST**

Exhibit A

(Project)

Grantee _____

Request Date _____

Billing # _____

Billing Period _____

PROJECT PAYMENT SUMMARY

Item	Project Costs This Billing	Cumulative Project Costs	Total Project Costs
Consulting Services	_____	_____	_____
Contractual Services	_____	_____	_____
Materials, Supplies, Direct Purchases	_____	_____	_____
Grantee Stock	_____	_____	_____
Equipment, Furniture	_____	_____	_____
TOTAL PROJECT COSTS	=====	=====	=====

Certification: I hereby certify that the above
are incurred for the work identified as being
completed in the attached progress reports.

Certification: I hereby certify that the documen-
tation has been maintained as required to support
the project expenses reported above and is avail-
able for audit upon request.

Administrator/Date

Financial Officer/Date

PBC USE ONLY

County Funding Participation	\$ _____
Total Project Cost	\$ _____
Total project costs to date	\$ _____
County obligation to date	\$ _____
County retainage (___%)	(\$ _____)
County funds previously disbursed	(\$ _____)
County funds due this billing	\$ _____

Reviewed and Approved by:

PBC Project Administrator/Date

Assistant County Engineer or Fiscal Manager/Date

**PALM BEACH COUNTY
ENGINEERING & PUBLIC WORKS DEPARTMENT
CONTRACTUAL SERVICES PURCHASE SCHEDULE**

(Project)

Grantee _____

Billing Date _____

Billing # _____

Billing Period _____

Contractor Name	Contractor Invoice Number and date	City Check or Voucher Number and date	Project Amount Paid this period	General Description
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
		TOTAL		_____

Certification: I hereby certify that the purchase(s) noted above were used in accomplishing the project.

Certification: I hereby certify that bid tabulations, executed contract cancelled checks, and other purchasing documentation have been maintained as required to support the costs reported above and are available for audit upon request.

Administrator/Date

Financial Officer/Date