

Agenda Item Number:

Board Meeting Date: January 24, 2007

Contact Person: Joe Moore, Chief Operating Officer, PX-48510

AGREEMENT BETWEEN THE SCHOOL BOARD OF PALM BEACH COUNTY

AND

Alcalde & Fay, Ltd.

THIS AGREEMENT is entered into this 24th day of January 2007 by and between the SCHOOL BOARD OF PALM BEACH COUNTY, hereinafter referred to as "Board" and Alcalde & Fay, Ltd., hereinafter referred to as "Consultant".

WHEREAS, the Board desires to enter into this Agreement with the Consultant, providing, among other things, for Consultant's services to the Board; and

WHEREAS, the Consultant desires to enter into this Agreement with respect to his/her (hereinafter his) services to the Board, upon the terms and conditions hereinafter set forth.

WHEREAS, consultant is specially trained and possesses the necessary skills, experience, education and competency, and licenses or credentials to perform the required services.

NOW, THEREFORE, Board and Consultant agree as follows:

1. TERM

The term of this Agreement shall commence on March 1, 2007 and shall end on February 28, 2010.

2. RESPONSIBILITIES OF CONSULTANT

A. Consultant shall perform the following services:

- (1) Advising and informing the District concerning federal legislation
- (2) Working with the District to obtain funding for its special projects

B. Time, date, and location of services:

Continuous throughout effective dates of the contract in Washington, D.C.

Financial Impact

The financial impact is \$74,400.00 per 12-month period. (For a total of \$223,200.00 for 3 Year Contract).

The source of funds is Chief Operating Office Budget.

Fund Source:

DEPT
9 0 2 2

FUND
1 0 0 0

FUNC
7 2 0 0

ACCOUNT
5 3 1 0 1 0

PROJECT
9 0 2 2

BUDG MGR
9 0 2 2

LOCAL CODE
0 0 0 0

3. CONSULTANT BACKGROUND INFORMATION

Education: See Appendix A

Position and Address: _____

Target Group/School/Department: _____

Approximate Number to be Served: _____

4. EVALUATION/FOLLOW-UP METHOD

Evaluation of Consultant shall be provided by Joe Moore, Chief Operating Officer, of the District at regular intervals and in accordance with the attached evaluation tool, Exhibit "A".

5. COMPLIANCE WITH POLICIES AND LAWS

Consultant shall comply with all current School Board of Palm Beach County's Policies. The School Board's policies are located at <http://www.palmbeach.k12.fl.us/> or www.SchoolBoardPolicies.com and are incorporated herein. It shall be Consultant's responsibility to comply with all School Board Policies as they may be modified from time to time during the term of this Agreement. Consultant shall abide by all applicable federal, state and local laws.

6. COMPENSATION

A. The School Board shall pay the Consultant the maximum sum of \$74,400.00 per year, for a maximum of NA hours, which is based upon the following rate schedule.

Daily Rate: NA Half Day Rate: NA Hourly Rate: NA Flat Rate: \$ 74,400.00.

I grant permission for any or all parts of this presentation to be videotaped. Yes No

B. CONSULTANT'S compensation for the services provided hereunder shall not exceed (\$223,200.00 for the three year period March 1, 2007 to February 28, 2010). CONSULTANT shall submit a monthly invoice of \$6,200.00 to the School Board at the first of each month inclusive of CONSULTANT'S travel and out-of-pocket expenses.

C. No payment shall be made unless and until the Board verifies that all services for which payment is requested have been fully and satisfactorily performed. Consultant shall submit to Board any documentation necessary to substantiate the full and satisfactory performance of the services for which payment is requested. The administrator who will verify the services have been performed and approve the invoice is: the Chief Officer of Administration, Gerald A. Williams.

7. CONFIDENTIALITY OF STUDENT RECORDS

Consultant is subject to all School District obligations relating to compliance with student records confidentiality laws. By signing this Agreement, Consultant acknowledges and agrees to comply with the Family Educational Rights and Privacy Act (FERPA) and all State and Federal Laws relating to the confidentiality of student records.

8. BACKGROUND CHECKS/FINGERPRINTING

~~The School District shall screen applicants and shall be governed by Fl. Stat. § 1012.32(2)(a) [§ 231.02(2)(a)]. Consultant agrees to submit to a background check and fingerprinting by the School District's Police Department at the sole cost of the Consultant. Consultant shall not begin providing services contemplated by this Agreement until clearance by the School District. School Board shall not be liable for rejection of Consultant on the basis of these compliance obligations. Consultant agrees that neither Consultant, nor any employee, agent or representative of Consultant who has been convicted or who is currently under investigation for a crime against children in accordance with § 435.04, Florida Statutes will enter onto any school site. No direct contact with students.~~

9. INDEPENDENT CONTRACTOR

Consultant is, for all purposes arising under this Agreement, an independent contractor. Consultant and its officers, agents or employees may not, under any circumstances, hold themselves out to anyone as being officers, agents or employees of the Board. No officer, agent or employee of Consultant or Board shall be deemed an officer, agent or employee of the other party. Neither Consultant nor Board, nor any officer, agent or employee thereof, shall be entitled to any benefits to which employees of the other party are entitled, including, but not limited to, overtime, retirement benefits, workers compensation benefits, injury leave, or other leave benefits.

10. OWNERSHIP

- A. All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and another materials produced by Consultant under this Agreement shall be the sole and exclusive property of Board. No such materials produced, either in whole or in part, under this Agreement shall be subject to private use, copyright or patent right by Consultant in the United States or in any other country without the express written consent of Board.
- B. Board shall have unrestricted authority to publish, disclose, distribute and otherwise use, copyright or patent any such materials produced by Consultant under this Agreement.

11. INDEMNIFICATION/HOLD HARMLESS

Consultant shall, in addition to any other obligation to indemnify the Palm Beach County School Board and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the School District, their agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of, or claimed to have resulted in whole or in part from any actual or alleged act or omission of Consultant, or anyone directly or indirectly employed by them, or of anyone for whose acts any of them may be liable in the performance of the work; or violation of law, statute, ordinance, governmental administration order, rule or regulation in the performance of the work; claims or actions made by Consultant or other party performing the work. The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for Consultant under workers' compensation acts; disability benefit acts, other employee benefit acts or any statutory bar. Any cost or expenses, including attorney's fees, incurred by the Palm Beach County School District to enforce this agreement shall be borne by Consultant. Consultant recognizes the broad nature of this indemnification and hold harmless article, and voluntarily makes this covenant for good and valuable consideration provided by the School Board in support of this indemnification in accordance with the laws of the State of Florida. This article will survive the termination of this Agreement.

12. TRAVEL

Travel is not allowable for this contract. ~~Estimated travel expense is not to exceed \$500.00. The Consultant agrees to submit all necessary documentation and proof of expenses in accordance with F.S. § 112.061 and School Board Policy #6.01. The Consultant further agrees that reimbursement for travel must be submitted on travel reimbursement forms with the rates determined by F.S. § 112.061 and School Board Policy 6.01 and must be authorized by the appropriate administrator(s).~~

13. AMENDMENT

This Agreement may be amended only with the mutual consent of the parties. All amendments must be in writing and must be approved by the School Board

14. ASSIGNMENT

Neither Consultant nor Board may assign or transfer any interest in this Agreement without the prior written consent of the other party.

15. GOVERNING LAW AND VENUE

This Agreement shall be construed in accordance with the laws of the State of Florida. Any dispute with respect to this agreement is subject to the laws of Florida, venue in Palm Beach County, Florida. The prevailing party shall be entitled to attorney's fees and costs incurred as a result of any action or proceeding under this agreement.

16. TERMINATION

The Board reserves the right to terminate this contract at any time and for any reason, upon giving thirty (30) days notice to the other party. If said contract should be terminated for convenience as provided herein, the Board will be relieved of all obligations under said contract and the Board will only be required to pay that amount of the contract actually performed to the date of termination with no payment due for unperformed work or lost profits. In the event School Board determines that Consultant's services are not being performed as agreed upon, the Consultant shall be deemed to be in default and the School Board reserves the right to cancel this contract with five (5) days notice and to withhold all monies due the Consultant until such time as the Board, in its sole discretion shall determine whether to have the contract services completed by others or to cease obtaining the services. In the event that the Board determines to have the contract completed by others, Consultant shall be liable for any costs of completion in excess of that called for in this contract. In the event that the Board determines not to have the contract completed by others, Consultant shall be paid for the services that it satisfactorily performed prior to the termination but, in no event, shall Consultant be paid for any work not actually performed or for lost profits.

In the event that it is determined that a termination for cause was unjustified, the termination shall be deemed a termination for convenience and the Consultant shall be entitled to payment only for work actually performed prior to the termination and shall not be entitled to any additional sums.

17. MINORITY STATUS

The School District strongly encourages active minority/women business enterprise participation with all professional services. Consultant certifies that:

This business is minority owned and operated (minimum 51%) Yes No
If a consultant not representing a firm, I am a minority. Yes No

If either statement above was checked yes, please indicate minority group.

Black or African American Yes No
Asian Yes No
Native Hawaiian or Other Pacific Islander Yes No
Hispanic or Latino Yes No
American Indian or Alaskan Native Yes No
Disabled Yes No
White Female Yes No
Other

18. LEGAL REVIEW

The parties hereto represent that they have reviewed the Agreement and have sought legal advice concerning the legal significance and ramifications of the provisions contained herein.

19. NOTICES

Any notice permitted or required under this Agreement shall be in writing and signed by the party giving or serving the same, and shall be served either by personal delivery or certified mail to the following persons and at the following addresses:

Consultant:
Alcalde & Fay, Ltd.
2111 Wilson Boulevard
8th Floor
Arlington, VA 22201

SCHOOL BOARD OF PALM BEACH
COUNTY, FLORIDA
Purchasing Department
3326 Forest Hill Boulevard, Suite A 323
West Palm Beach, Florida 33406

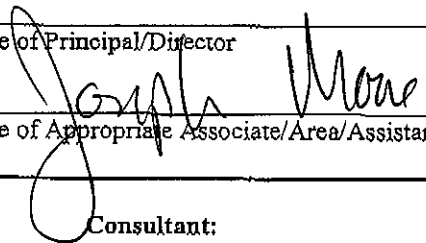
20. CONTRACT DOCUMENTS

This Agreement includes the terms and conditions set forth in this document, and set forth in the following additional documents attached hereto and incorporate herein:

- "Exhibit A" - Evaluation Tool
- "Exhibit B" - Beneficial Interest and Disclosure Affidavit

NOW, THEREFORE, the parties hereto have affixed their signatures on the day and year first above written.

This contract was recommended for approval by:

Signature of Principal/Director

 Signature of Appropriate Associate/Area/Assistant Superintendent
 12/20/06

The School Board of
Palm Beach County, Florida

By: _____
Bill Graham
Chairman

Date: _____

Attest:

By: _____
Arthur C. Johnson, Ph.D.
Superintendent

Date: _____

Witnesses: (Two are required)

Signature _____

Print Name _____

Signature _____

Print Name _____

Consultant:


ALCALDE & FAY, LTD.

By: **L.A. Skip Bafalus**
L.A. SKIP BAFALUS
Print Name

Witnesses: (Two are required)


Signature

TRACE ROLLER
Print Name


Signature
JAMES DAVENPORT
Print Name

Reviewed and Approved
as to Legal Sufficiency
Call RAU 12-13-06

EXHIBIT "A"

CONSULTANT EVALUATION

A written annual evaluation will be based on the outcome of each session of Congress.