

SUMMARY EXPLANATION AND BACKGROUND

This Settlement Agreement is the result of extensive efforts to resolve differences regarding claims asserted by and between four (4) parties, Burke Construction Group, Inc. ("BURKE"), The School Board of Broward County, Florida (the "SBBC"), T.Y. Lin International ("**TYLI**") and Pierce Goodwin Alexander & Linville, Inc. ("PGAL"), for additional costs and delays associated with the design and construction of renovations of the Cosmetology Building at Sheridan Technical Center, Project No. P.000197 (hereinafter, the "**Project**").

On or about November 4, 2003, TYLI and the SBBC entered into a Professional Services Agreement (hereinafter "**PSA**") for provision of design and construction administration services on the Project, and on or about July 12, 2007, TYLI and PGAL entered into an agreement whereby PGAL, would provide architectural services as a subconsultant. Then on or about February 22, 2012, the SBBC and BURKE entered into the Agreement to construct the Project.

During and after construction of the Project, BURKE submitted claims seeking additional costs and time associated with work performed and delays encountered. Such claims were denied. Thereafter, BURKE filed a complaint against the SBBC for recovery of its Damages. In response, the SBBC asserted various defenses and sued TYLI for indemnity. TYLI, in turn, sued its subconsultant, PGAL. The matter is currently styled BURKE CONSTRUCTION GROUP, INC. v. THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA v. TY LIN INTERNATIONAL v. PIERCE GOODWIN ALEXANDER & LINVILLE, INC., Case No. 13-027283, pending in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida (the "**Lawsuit**").

Resolution and Recommendation

To settle the Lawsuit, BURKE has agreed to accept a sum (inclusive of the *undisputed contract balance* of \$160,000) totaling \$500,000 (the "**Settlement Sum**"), within thirty (30) calendar days of the Effective Date of this Agreement. The Settlement Sum is composed of a \$200,000 contribution from TYLI and PGAL, and a \$300,000 contribution from the SBBC.

This item resolves and settles the dispute between the SBBC, BURKE, TYLI and PGAL, and authorizes Final Acceptance of the Project, but does not release, waive, compromise or discharge any liability or responsibility of BURKE or any of its successors, affiliates or assigns for Latent Defects associated with the Project.

Cadre counsel, this Office and District staff recommend approval of the Settlement Agreement and approval of the Final Acceptance of the Project as a fair, reasonable and cost-effective resolution of the dispute between the parties. In conjunction therewith, staff also recommends approval of the Final Acceptance of the Project.

The Project has been occupied and utilized by District staff for five years. An executed Certificate of Occupancy (Form OEF 110B) and an executed Certificate of Final Inspection (Form OEF 209) are forthcoming and are to be received by Friday, May 4, 2018. This agenda item will be revised in order to include same.