


THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
OFFICE OF THE GENERAL COUNSEL

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BARBARA J. MYRICK
GENERAL COUNSEL

MEMORANDUM

TO: Nora Rupert, Chair
All School Board Members
Robert W. Runcie, Superintendent of Schools

FROM: Barbara J. Myrick, General Counsel 

DATE: May 4, 2018

SUBJECT: **Revision to HH-2, Settlement Agreement between The School Board of Broward County, Florida, Burke Construction Group, Inc., T.Y. Lin International and Pierce Goodwin Alexander & Linville, Inc., for the May 8, 2018 School Board Operational Meeting**

Attached is a revision for HH-2, Settlement Agreement between The School Board of Broward County, Florida, Burke Construction Group, Inc., T.Y. Lin International and Pierce Goodwin Alexander & Linville, Inc., for the May 8, 2018 School Board Operational Meeting.

This item has been revised in order to include an executed Certificate of Occupancy (Form OEF 110B) and an executed Certificate of Final Inspection (Form OEF 209).

BJM/TCC:jcf
Enclosure

REVISED

HH-2 Settlement Agreement between The School Board of Broward County, Florida, Burke Construction Group, Inc., T.Y. Lin International and Pierce Goodwin Alexander & Linville, Inc.
05/08/18 SBOM

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~~ attached to the Agenda Request form as Exhibits four and five. This agenda item ~~will be~~ has been revised in order to include same.

Return completed form as needed to:
 Office of Educational Facilities
 326 West Gaines Street, Room 1054
 Tallahassee, Florida 32399-0400
 (850) 245-0494
 Fax (850) 245-9236 or (850) 245-9304

FLORIDA DEPARTMENT OF EDUCATION
 Office of Educational Facilities
CERTIFICATE OF OCCUPANCY

OEF USE ONLY

INSTRUCTIONS: Submit one copy of the completed form for each project over \$300,000.
 Reproduce this form in sufficient quantity for your use.

RE: The School Board of Broward County, Florida
Sheridan Technical Center
Cosmetology Lab Remodeling
P000197

School District Florida College)
 School Name Campus)
 Description of Project
 EFIS Number (if applicable)

In accordance with Section 1013.37(2)(c), Florida Statutes, and upon recommendation of the project architect/engineer and the certified inspector, as stated below, the subject project is ready for occupancy.

Signature: Superintendent President Designee Date: _____

Intended Occupancy Date: August 15, 2013

PROJECT ARCHITECT/ENGINEER AND CERTIFIED INSPECTOR I have inspected the subject project and, to the best of my knowledge and ability, I have determined that the safety systems* and the facility are in compliance with statutes, rules, and codes affecting the health and safety of its occupants; and that no asbestos-containing materials were specified for use in this building, nor to the best of my knowledge were asbestos containing materials used in the construction of this project.

Architect or Engineer of Record:

n/a	n/a
High Performance Green Building Standard Used [S. 255.2575(2), F.S.]	Rating Achieved
Charles K. Deeb	36069
Name (Type or Print)	License #
	Expiration Date

Signature: *Charles K. Deeb*
 Architect Engineer

Building Official:

Robert F. Hamberger	BU1112	11/30/2019
Name (Type or Print)	License #	Expiration Date

Signature: *Robert F. Hamberger* 5/14/12

Contractor:

Burke Construction Group, Inc.	CGCA38309	8/31/2018
Name (Type or Print)	License #	Expiration Date

Threshold Inspector (if applicable):

n/a	n/a	n/a
Name (Type or Print)	License #	Expiration Date

Project Information

As-built lowest floor elevation (for new construction) _____

Code/Edition 2007 Occupancy Type(s) E Construction Type(s) IV Occupant Lo

Automatic Sprinkler System Required Y N District/Florida College Permit Number 200907100PR0201

Special Permit Stipulations

*Safety systems include, but are not limited to: exiting; safety; rescue; fire rating; fire protection; means of egress; master valves; eye wash and dousing shower in science labs; emergency disconnects in shops; fume and dust collection systems; heat and smoke detectors, stage protection including curtain operation, smoke vent, sprinklers, etc.; kitchen hood; fire sprinklers; smoke venting; illumination of means of egress; emergency lighting; emergency power; exit lights; fire alarm systems with required incidental functions; fire extinguishers; fuel fired heaters; electrical illumination; electrical system required ventilation; toilet facilities; kitchen hot water supply; water supply; and sewage disposal as they apply to this project.

FLORIDA DEPARTMENT OF EDUCATION
Office of Educational Facilities

CERTIFICATE OF FINAL INSPECTION

TO: Office of Educational Facilities (OEF) 325 West Gaines Street, Room 1054 Tallahassee, Florida 32399-0400 (850) 245-0494 Fax (850) 245-9236 or (850) 245-9304	OEF USE ONLY
INSTRUCTIONS: Submit for OEF files one copy of the completed form for all projects with construction costs exceeding \$300,000. Mark the appropriate term within the parentheses. Reproduce this form in sufficient quantity for your use. Section 1013.37(2)(c), F.S.	

RE: P000197 OEF Assigned Project Number

The School Board of Broward County, Florida School District Florida College)

Sheridan Technical Center School Name Campus)

0181 School College) Code Number

Cosmetology Lab Remodeling Description of Project

SECTION A: BOARD'S ACCEPTANCE

Upon the recommendation of our Project (Architect Engineer) as certified in Section B below, in accordance with Chapter 1013, F.S., THE BOARD ACCEPTED the above-referenced project on _____

Name (Type or Print) Robert W. Runcie

Signature: _____ Date: _____

Superintendent President)

SECTION B: (ARCHITECT ENGINEER) CERTIFICATION

As PROJECT (ARCHITECT ENGINEER), I have inspected this project and, in my considered professional opinion, the work required by the contract for this project has been completed in accordance with approved contract documents; Chapter 1013, Florida Statutes; Rule 6A-2.0010, FAC; Chapter 553, F.S.; and the Florida Building Code.

Signature: *Chin K. Lin* Date: 5/1/18

Firm Name: T.Y. Lin International

Address: 500 W. Cypress Creek Road, Suite 330 Fort Lauderdale FL 33309

Street/P.O. Box City State Zip

SECTION C: Building Official Other (Specify) Certification

I have inspected the project, and in my considered opinion, it is complete and in accordance with applicable statutes, rules, and codes.

Name (Type or Print) ROBERT F. HAMBERGER

Signature: *[Signature]* Date: 5/4/18

Building Official Certified Inspector

SECTION D: FACILITY INFORMATION

1. TYPE OF PROJECT: <input type="checkbox"/> New Plant <input type="checkbox"/> Addition <input checked="" type="checkbox"/> Remodeling <input type="checkbox"/> Renovation <input type="checkbox"/>	2. CORRECTED "SPACE INVENTORY REPORT" (land, building, room) HAS BEEN FILED WITH THE OEF: <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A If "No," explain: _____
3. SOURCE OF FUNDS: <input type="checkbox"/> Local <input type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/>	4. ADJUSTED FINAL CONTRACT AMOUNT: \$ _____
	5. PROJECT GROSS SQUARE FOOTAGE: _____ SQ. FT.
	6. COST PER GROSS SQUARE FOOT: \$ _____
	7. COST PER STUDENT STATION: \$ _____

CERTIFICATE OF FINAL INSPECTION (CFI)

8. BUILDING CONTRACT DATE: _____ COMPLETION DATE: _____

9. CHANGE ORDERS - List of each Change Order and amount (excluding Direct Purchase amounts):

C.O. No. <u>1.2</u>	\$ <u>64.949</u>	C.O. No. <u>1.2</u>	\$ <u>64.949</u>
C.O. No. <u>1.2</u>	\$ <u>64.949</u>	C.O. No. <u>1.2</u>	\$ <u>64.949</u>
C.O. No. <u>1.2</u>	\$ <u>64.949</u>	C.O. No. <u>1.2</u>	\$ <u>64.949</u>
C.O. No. <u>1.2</u>	\$ <u>64.949</u>	C.O. No. <u>1.2</u>	\$ <u>64.949</u>

10. Date of Occupancy: 8/15/13

11. Additional Information: