

Office of School Facilities
Jaime G. Torrens, Temporary Chief Facilities Officer

SUBJECT: TERMINATION OF AGREEMENT WITH CUESTA CONSTRUCTION CORP AS CONSTRUCTION MANAGEMENT AT-RISK FIRM FOR DEFERRED MAINTENANCE PACKAGE #21, RENOVATIONS, MAINTENANCE AND REPAIRS AT LAKEVIEW ELEMENTARY SCHOOL, PROJECT NO. 00260200; MADISON MIDDLE SCHOOL, PROJECT NO. 00260500 AND HIALEAH ELEMENTARY SCHOOL, PROJECT NO. 00263100

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

**LINK TO
STRATEGIC PLAN: IMPROVE CONSTRUCTION SERVICES**

Cuesta Construction Corp (Cuesta) was commissioned by the Board on October 11, 2006 as a Construction Manager at-Risk (CM at-Risk) firm to perform pre-construction services for Deferred Maintenance Package #21 Renovations, Maintenance and Repairs at Lakeview Elementary School, Project No. 00260200; Madison Middle School, Project No. 00260500 and Hialeah Elementary School, Project No. 00263100.

During the pre-construction phase of the project, Cuesta and its Surety indicated that the Performance Bond for the construction phase would not be available when required. Shortly thereafter, the District issued a Notice of Default for Cuesta's anticipatory breach, which Cuesta disputed. In order to resolve all disputes, avoid potential litigation and minimize further delay, it is recommended that the contract be terminated for convenience, rather than for cause, as being in the best interest of the Board. As part of a Termination for Convenience, MDCPS and Cuesta have agreed to the following conditions, pending approval by the Board:

1. Cuesta agrees to forgo payment for any and all services it may have performed to date in connection with the project.
2. Cuesta agrees that it shall not seek to obtain any contracts to perform services or work for MDCPS for a period of two years from the date of approval of the termination for convenience by the Board.
3. Upon termination of the contract, Cuesta and the Board agree to release each other from any and all claims and liability that arise out of or otherwise relate to the contracts.

Staff will prepare a recommendation for a CM at-Risk replacement firm at a future date for Board approval.

Principal

The Principal/Owner designated to be directly responsible to the Board for Cuesta Construction Corp is Michael M. Cuesta. This firm is located at 14147 N.W. 107th Avenue, Miami, Florida 33172.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, terminate the Construction Management at-Risk Agreement with Cuesta Construction Corp for Deferred Maintenance Package #21, Renovations, Maintenance and Repairs at Lakeview Elementary School, Project No. 00260200; Madison Middle School, Project No. 00260500 and Hialeah Elementary School, Project No. 00263100 for convenience pursuant to the conditions stipulated in the body of the agenda item.

NAD:CC:cc