

Education
Mercedes Toural, Associate Superintendent

SUBJECT: REQUEST FOR SCHOOL BOARD APPROVAL OF THE SECOND AMENDMENT TO THE CHARTER SCHOOL CONTRACTUAL AGREEMENT WITH PINECREST ACADEMY, INC. ON BEHALF OF THE PINECREST PREPARATORY ACADEMY

As per Section 228.056(10)(c), Florida Statutes, a charter school contractual agreement may be modified during its initial term or any renewal term upon the recommendation of the Sponsor and the approval of both parties to the agreement.

The original charter school contractual agreement was approved by The School Board of Miami-Dade County, Florida, on May 17, 2000, for a five-year term through the 2004-2005 school year.

The Pinecrest Preparatory Academy is located at 14301 SW 42 Street, Miami, Florida 33175, and serves a maximum of 300 students in grades kindergarten through four. It will add grades five through eight in subsequent years.

Pinecrest Academy, Inc. has requested a second amendment which allows the enrollment cap to be increased from 400 to 650 students for school years 2002-2003 and 2003-2004.

The Charter School Contract Review Committee met on May 29, 2002, and by a majority vote made a recommendation for approval of the second amendment to the Charter School Contractual Agreement.

The Pinecrest Preparatory Academy is open to any student in grades kindergarten through eight residing in Miami-Dade County. District schools in close proximity to the charter school include:

School	Student Population	Percentage Utilization (Permanent Capacity)	Percentage Utilization (Permanent and Relocatable Capacity)	Number of Relocatables
E. K. Beckham Elem.	973	124	124	0
Bent Tree Elem.	725	107	96	9
Royal Green Elem.	860	126	122	1

School	Student Population	Percentage Utilization (Permanent Capacity)	Percentage Utilization (Permanent and Relocatable Capacity)	Number of Relocatables
Jane S. Roberts (K-8)	1,420	127	120	4
H. D. McMillan Middle	1,761	129	101	14

Source: M-DCPS Report T0500P08-R1 dated April 27, 2002

The Board of Directors for The Pinecrest Preparatory Academy is: Mr. Scott Leeds, J.D., Chair; Ms. Millie Fresen, Member; Dr. Ruth Jacoby, Member; Ms. Miriam Roman, Member; and Mr. Ignacio Zulueta, Member.

A copy of the second amendment to the Charter School Contractual Agreement will be placed on file and will be available for inspection in the School Board Members' office, in the Office of Board Recording Secretary, and in the Citizen Information Center.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, approve the second amendment to the Charter School Contractual Agreement with Pinecrest Academy, Inc. on behalf of The Pinecrest Preparatory Academy to increase the enrollment cap from 400 to 650 students for school years 2002-2003 and from 500 to 650 students for school year 2003-2004.

MB:dcr

SECOND AMENDMENT TO CHARTER SCHOOL CONTRACT

THIS SECOND AMENDMENT TO THE CHARTER SCHOOL CONTRACT (“AMENDMENT”) entered into as of the 11th day of July 2002, by and between THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA (“SPONSOR”) and PINECREST ACADEMY, INC., a non-profit organization organized under the laws of the State of Florida, on behalf of PINECREST PREPARATORY ACADEMY (“SCHOOL”).

RECITALS

A. The Sponsor and School entered into that certain Charter School Contract dated as of May 18, 2000 and Amended on February 15th, 2001 (the “Charter School Contract”), whereby the Sponsor agreed to permit the School to operate a charter school pursuant to Florida Statutes.

B. The Sponsor and School now desire to amend the Contract to provide for the terms and conditions set forth hereinbelow.

NOW, THEREFORE, in consideration of the mutual benefits to be derived therefrom and of the respective mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. The Charter School Contract is hereby amended to correct the name of the contracting party for the School to reflect that the Contract is made and entered into between The School Board of Miami-Dade County, Florida as the *Sponsor*, and Pinecrest Academy, Inc., a non-profit organization organized under the laws of the State of Florida, on behalf of Pinecrest Preparatory Academy as the *School*.

2. Part III. A. of the Contract is hereby amended, and substituted in its place and stead is the following:

PART III. STUDENTS

A. DEFINITION OF STUDENTS

(1) The parties agree that the grade levels and student enrollment at the School will be approved based on the school district overcrowding needs, as determined by the Sponsor's policies. Additionally, the School shall be open to any student residing in Miami-Dade County.

(2) The School will have an open admissions procedure, utilizing a "first come, first served" policy as required by statute, unless the number of applicants exceeds capacity. In such case, all applicants shall have an equal chance of being admitted through a random selection process conducted by the School's accounting firm in conformity with the Charter School Act. All students in the lottery will be assigned a waiting list number should student seats become available or capacity increases. Preference may be given to students residing within four miles of the School. Following is the student enrollment breakdown by year:

Year 2: 2002-2003 – Grades K-6 - up to 650 students

Year 3: 2003-2004 – Grades K-7 - up to 650 students

Year 4: 2004-2005 – Grades K-8 - up to 700 students

Year 5: 2005-2006 – Grades K-8 - up to 700 students

The aforementioned enrollment capacity will be contingent on the student capacity limit stated on the valid certificate of occupancy for the school facilities issued by the local governmental agency in whose jurisdiction the facilities are located.

In order to minimize the negative impact to district schools that are underenrolled and located in the School's targeted enrollment area, the parties agree to

limit the enrollment from such schools as follows:

Percentage of utilization of permanent and relocatable program capacity of students' home school	Maximum overall number of students to be admitted by charter school from underenrolled schools
99% to 90%	Up to 50 students
89% to 80%	Up to 40 students
79% to 70 %	Up to 30 students
69% to 60 %	Up to 20 students
Below 60 %	Up to 10 students

(3) The parties agree that the School shall achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the school district. The School shall ensure that its admissions policies shall be nonsectarian.

3. Part IV. A. (4) of the Contract is hereby amended, and substituted in its place and in is the following:

PART IV. FINANCIAL ACCOUNTABILITY

ADMINISTRATIVE MANAGEMENT

(4) The Sponsor shall calculate and submit nine (9) monthly payments to the School by the 15th of each month beginning with September 15th immediately following the opening of school. In order to provide educational materials for students when classes begin, the first payment shall include 75% of the full annual allocation of instructional materials based on membership after the first week of school. The tenth and final payment for each school year shall be submitted to the School no later than July 15th to allow the Sponsor to determine any final amounts due the Sponsor for services provided the School as well as for administrative oversight. Late payments are

subject to interest at the rate of 1% per month calculated on a daily basis until paid. The Sponsor will cooperate and assist the School, as required by Florida Statutes, to obtain capital outlay funding for which the School is eligible. Procedures for submitting and approving requests for funding under Section 228.0561, F.S., Charter Schools Capital Outlay Funding are hereby incorporated into this Contract as Appendix L. Monthly payments shall not be paid for students in excess of the facilities' valid capacity.

4. Part IV. A. (8) of the Contract is hereby amended, and substituted in its place and in is the following:

PART IV. FINANCIAL ACCOUNTABILITY

A. ADMINISTRATIVE MANAGEMENT

(8) The School shall provide the Sponsor with annual financial reports as of June 30 of each year, which shall include a complete set of financial statements and notes thereto prepared in accordance with Generally Accepted Accounting Principles for inclusion into the Sponsor's financial statements annually, formatted by revenue source and expenditures, detailed by function and object. Additionally, the financial statements must be presented in the new format as required by Governmental Accounting Standards Board (GASB) Statement 34, applicable for state and local governments and their component units which became effective for periods beginning after June 15, 2001. The following timeline must be adhered to for submitting the School's financial reports:

UNAUDITED STATEMENTS

NO LATER THAN AUGUST 1ST OF EACH YEAR

AUDITED STATEMENTS

NO LATER THAN SEPTEMBER 20TH OF EACH YEAR

An annual audited financial audit, requested and paid for by the School, shall be performed by a qualified Certified Public Accountant. The audit shall be performed in accordance with Generally Accepted Auditing Standards; Government Auditing Standards, issued by the Comptroller General of the United States; and the Rules of the Auditor General, State of Florida, incorporated into this Contract as Appendix M and in accordance with the requirements specified in Appendix M-1, a copy of which is attached and incorporated into this Contract. The School further agrees to provide the Sponsor with a copy of such audit and the corresponding responses to such findings, which shall be bound together in one complete report. Funding for any subsequent year of Contract extension, if approved by the School Board, shall be contingent upon the receipt and subsequent approval of the audit by the Sponsor and/or its representatives, and such funding shall be adjusted as necessary to reflect audit results. The Sponsor reserves the right to perform additional audits at its expense as part of the Sponsor's financial responsibilities as it deems necessary. Additionally, a cumulative listing of all property, purchased with public funds (i.e., FEFP, grant, and any other public-generated funds) shall be submitted yearly along with the annual audited financial statements. These lists will include: (1) date of purchase; (2) item purchased; (3) cost of item; and (4) item location.

If the School has been granted tax-exempt status, the School will provide the Sponsor with a copy of correspondence from the Internal Revenue Service (IRS) granting tax-exempt status as a section 501(c)(3) organization. The School also will provide the Sponsor a copy of its Form 990, Return of Organization Exempt from Income Tax, and all schedules and attachments, within 15 days of filing with the IRS.

If the IRS does not require Form 990 to be filed, the School will provide the Sponsor with written confirmation from the IRS of such non-requirement. Notwithstanding anything set forth in this contract, the Sponsor does not covenant or extend to pledge its tax-exempt authority in any way for the use and benefit of the School.

5. Part IV. A. (9) of the Contract is hereby amended, and substituted in its place and stead is the following:

PART IV. FINANCIAL ACCOUNTABILITY

A. ADMINISTRATIVE MANAGEMENT

(9) The School will contract with a private agency to provide food service. Responsibilities for providing food, and related services and for meeting reporting requirements will be assumed by the School. Therefore, Appendix N to this Contract is hereby withdrawn.

6. Part IV. C. (4) of the Contract is hereby amended, and substituted in its place and in is the following:

PART IV. FINANCIAL ACCOUNTABILITY

C. FACILITIES

(4) The School shall comply with all applicable laws, ordinances, and codes of federal, state, and local governance, including Individuals with Disabilities Education Act, as they apply to this Contract. It is expressly agreed that the School shall obtain all necessary licenses, permits, use approval, facility certification, and other approvals required for use of the facility by the local government or other governmental agencies. The School further agrees that all cost for or associated with complying with local ordinances, securing licenses, permits, use approval, facility

certification, and other approvals, including but not limited to application fees, advertising costs, surveyor costs, plan review fees, permit costs and licensing costs, and any other additional charges or surcharges by the local government or other governmental agencies, shall be paid by the School. The School will show proof of the appropriate facility certification, including all certificates that are required by the applicable building codes, before the initial opening day of classes. The School agrees that at no time during the length of this contract will the enrollment capacity exceed the number of students permitted by zoning capacity, applicable laws and regulations. If the School fails to obtain all licenses, permits, use approval, facility certification, and any other approvals as required by the local government or any other governmental bodies ten (10) working days prior to the initial opening day of classes, this Contract shall terminate with no compensation due to the School, however, the application shall remain effective for the following school year.

7. Part VII. B. of the Contract is hereby amended, and substituted in its place and stead is the following:

PART VII. HUMAN RESOURCES

B. PRIVATE OR PUBLIC EMPLOYEES

The School shall be a private employer. Teachers and other staff on approved charter school leave from the Sponsor will be considered employees of the School and as such will not be covered by the contract between the United Teachers of Dade (UTD) and Miami-Dade County Public Schools.

8. All other conditions of the Contract shall remain the same and are hereby ratified and confirmed.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Charter School Contract as of the day and year first above written.

ATTEST:

PINECREST ACADEMY, INC.

By: _____
Secretary

By: _____
President

ATTEST:

THE SCHOOL BOARD OF MIAMI-DADE
COUNTY, FLORIDA

By: _____
Merrett R. Stierheim, Superintendent

By: _____
Perla Tabares Hantman, Chair

APPROVED AS TO FORM:

Attorney for the Board

Appendix L

Procedures for Submitting and Approving Requests for Funding under Section 228.0561, F.S., Charter Schools Capital Outlay Funding

Miami-Dade County Public Schools' (M-DCPS) procedures for submitting and approving requests for funding under Section 228.0561, F.S., Charter Schools Capital Outlay Funding, will be subject to the guidelines stipulated in memorandum DPBM: 01-58, dated December 6, 2000, from Mr. Wayne V. Pierson, Deputy Commissioner for Planning, Budgeting and Management, Florida Department of Education (FDOE). This attached memorandum includes:

- procedures developed by the FDOE pursuant to Section 228.0561 (4), F. S.; Charter Schools Capital Outlay Funding;
- definition of terms;
- Charter School Capital Outlay Plan form;
- sample Charter School Capital Outlay Plan form; and
- Statewide Charter School Capital Outlay Distribution for school year 2000-2001, calculated by the FDOE.

M-DCPS will follow the process delineated below in approving capital outlay plans, and distributing capital outlay funds to charter schools sponsored by The School Board of Miami-Dade, Florida:

1. Using the State-issued form, each charter school must submit a Charter School Capital Outlay Plan to the office of the M-DCPS Chief Financial Officer for his/her review and approval. Charter School Capital Outlay Plans for school years subsequent to the 2000-2001 school year, shall be submitted to the district upon State notification to the charter school of the Charter School Capital Outlay distribution for that school year. The plan must contain information on all capital outlay projects the charter school has completed, or expects to complete, with the capital outlay funds. A charter school may include more capital projects in its plan than can be funded from the anticipated capital outlay allocation.
2. The Charter School Capital Outlay Plan must be signed by the Chairperson of the charter school's governing body. A copy of the charter school's annual budget, adopted by its board of directors, shall be submitted to M-DCPS, the sponsor, along with the Charter School Capital Outlay Plan.
3. Approval of the Charter School Capital Outlay Plan by the charter school's governing body must be documented in the official minutes of the meeting in which

the governing body approved the plan. The minutes must be certified by both the Chairperson and Secretary of the governing body and submitted to the M-DCPS Chief Financial Officer with the Charter School Capital Outlay Plan.

4. Upon receipt of a complete Charter School Capital Outlay Plan from a charter school, the M-DCPS Chief Financial Officer will convene a committee to review, and accept or reject each Charter School Capital Outlay Plan. The committee may reject a project without rejecting the entire plan. The Charter School Capital Outlay Plan Review Committee will be made up by the following M-DCPS staff members:
 - a. Chief Facilities Officer or designee
 - b. Chief Financial Officer, Chair
 - c. Chief Budget Officer or designee
 - d. Controller or designee
 - e. Administrative Director, Division of Schools of Choice or designee
5. Each charter school will be notified in writing of the Charter School Capital Outlay Plan Review Committee's decision, within 10 working days of receiving a complete plan.
6. A charter school may request a distribution of funds only after it receives written notice that its Charter School Capital Outlay Plan has been accepted by the District and such other conditions are met in accordance with Florida Statute (including allocation of funds by the Commissioner) and the written agreement with the District that permits such distribution.
7. Each request for a distribution of capital outlay funds by a charter school must be accompanied by documentation for the full amount being requested. Examples of documentation include:
 - a. Copies of fully-executed contracts, such as lease or lease purchase agreements; rental contracts; sales contracts; or construction contracts.
 - b. Copies of signed purchase orders or bills of sale.

Upon receipt of a request for distribution of funds, which includes all required documentation, funds shall be distributed pursuant to the request within 10 working days.
8. Prior to the release of any capital outlay funds, charter schools must provide the District detailed documentation for expenditures of previous capital outlay distributions, including School Infrastructure Thrift (SIT) Funds. This is necessary to determine any potential duplication of projects listed in both past and current plans.

9. M-DCPS will credit each charter school every six (6) months with interest on the undistributed daily balances of capital outlay funds, based on the actual monthly rate of return, as determined by the Florida State Board Administration Local Government investment pool.
10. M-DCPS may retain a portion of the capital outlay allocation until needed by the charter school to pay current obligations.
11. Payments to satisfy long-term contracts (such as lease or lease-purchase agreements) which require monthly payments by the charter school will be released monthly by M-DCPS, prior to the contractual due dates. Payments required by construction contracts will be released by M-DCPS in accordance with the payment schedule contained in a separate agreement between M-DCPS and the charter school, subject to the provisions of items 12-15 below.
12. Each capital outlay project undertaken by a charter school shall be in accordance with the requirements of:
 - a. Section 235.211, F. S., Educational Facilities Contracting and Construction Techniques;
 - b. Section 255.05, F. S., Bond of the Contractor Constructing Public Buildings; Forms; Action by Materialmen;
 - c. Section 287.055, F. S., Acquisition of Professional Architectural, Engineering, Landscape Architectural, or Surveying and Mapping Services; Definitions; Procedures; Contingent Fees Prohibited; Penalties.
 - d. Section 287.057, F. S., Procurement of Commodities or Contractual Services.
13. In accordance with Section 228.056 (16), F. S., Facilities, charter schools shall comply with applicable state minimum building codes pursuant to Chapter 553 or and state minimum fire protection codes pursuant to Section 633.025, F. S., as adopted by the authority in whose jurisdiction the facility is located.
14. Upon completion of each project, the charter school shall submit to the District the permanent Certificate of Occupancy issued by the authority of the appropriate jurisdiction, and an Affidavit by the Architect or Engineer of Record that the project is completed in accordance with the design documents, and an Affidavit by the Chair of the governing body of the charter school that all contracts for construction, design, testing, and other support services for the project have been paid in full along with final releases for all contracts the charter school held for construction, design, or ancillary services for the project, along with a request for payment to the charter school for the amount approved for the project. The District shall make payment to the charter school accordingly in keeping with its own procedures for making such payments.

15. Each project involving capital outlay funding shall be subject of a separate agreement between the charter school and the District embodying at a minimum the requirements noted above. Each agreement shall also include the following language:
In the event that the charter school terminates operations, any unencumbered funds and all equipment and property purchased with public education funds shall revert to the ownership of the District as provided in Section 228.056 (10)(e) and (f), F. S., Causes for Nonrenewal or Termination.
16. In accordance with Section 228.056(10)(e) and (f), F.S., Causes for Nonrenewal or Termination, in the event a charter school is dissolved or is otherwise terminated, all district school board property and improvements, furnishings and equipment purchased with public funds shall automatically revert to the full ownership by the district school board, subject to complete satisfaction of any lawful liens or encumbrances. Accordingly, the Charter School hereby agrees that the Sponsor shall have the right of first refusal to acquire any and all real property and improvements contained thereon utilized for the charter school in the event the charter school is dissolved or is otherwise terminated. The district shall, within its sole discretion, have the right but not the obligation to acquire real property and improvements owned by the charter school. In keeping with the requirement of the charter school legislation, the Sponsor may not assume the debt from any contract of the charter school. The Sponsor shall have the right to exercise this right of first refusal to acquire the property and improvements at any time after the charter school is dissolved or otherwise terminated, and the charter school shall cooperate and assist in the orderly transfer of title to any such property and improvements, subject to the complete satisfaction of any lawful liens or encumbrances.

Appendix M

RULES OF THE
AUDITOR GENERAL



CHAPTER 10.850

CHARTER SCHOOL AUDITS

EFFECTIVE 06-30-01

Appendix M-1

AUDIT COMPLETION CHECKLIST FOR CHARTER SCHOOLS AND OTHER ORGANIZATIONS MIAMI-DADE COUNTY PUBLIC SCHOOLS

The following information should be included in the yearly audit by the organizations submitting their annual external audit. For charter schools, the Auditor General of the State of Florida has issued rules that must be complied with (Chapter 10.850). Please share this checklist with your external auditor.

- _____ 1. The name and address of the school.
- _____ 2. The name of the principal running the school.
- _____ 3. Current list of the Board of Directors of the school.
- _____ 4. If the school is operated by a management company:
 - _____ a. Name of the company
 - _____ b. Address
 - _____ c. List of principal officials
 - _____ d. Contractual arrangement with the company, such as length of contract, terms, total fees paid for the year, etc. (This information should be included in the footnotes to the financial statements).
- _____ 5. The financial statements must include comparative totals for the prior year.
- _____ 6. The financial statements must comply with GASB 34 requirements, if applicable.
- _____ 7. In the footnotes of the financial statements, the following should be disclosed:
 - _____ a. Total school enrollment and grade configuration. If separate facilities are in operation, disclose name, address, and the enrollment and grade configuration at each facility.
 - _____ b. Full disclosure of related party transactions, which should include the related party's name and address, and disclosure of the transaction, particularly if it is a loan that needs to be repaid (principal and interest paid and unpaid). If the debt is in arrears, disclosure of arrangements made to satisfy the debt.
 - _____ c. Full disclosure of any other debts in arrears, particularly as they relate to the payment of withholding/social security taxes. Arrangements made to pay the debt(s).
 - _____ d. For charter schools, full disclosure in the notes or as a separate schedule in the audit of the tangible personal property purchased with public funds. (It is a current contractual requirement for charter schools; however, we recommend that it be part of the audit).
 - _____ e. If there is a deficit cash position or significant losses shown in the financial statements, full disclosure as to how the school plans to keep operating. The issue is whether sufficient resources would be available to maintain the school open. This issue may be addressed in the Management Letter.
 - _____ f. Any disclosure of events subsequent to the balance sheet date that the auditor believes are important to the readers of the financial statements (e.g., significant contractual arrangements and financing or refinancing of debt, payment of past due taxes, etc.).
- _____ 8. If the audit is not submitted within the contractually required deadline, the Management Letter must comment on it with the appropriate response from the organization as to how it is going to be remedied in future audit submittals.
- _____ 9. If there are Management Letter findings, each finding must include a response by the organization. If there were prior audit findings, the current audit must include the status of action taken, i.e., whether the recommendation was fully implemented and, if not, when (date) it will be fully implemented. Note that quarterly reports may be required on a case-by-case basis depending on the severity or lack of resolution of the issues noted in the Management Letter.
- _____ 10. Please enter the following information about the Certified Public Accountant issuing the audit report:
CPA's Name _____
CPA's Address _____
License No. _____ Status _____
Expiration Date _____

In reference to this checklist, please refer any questions to the Office of Management and Compliance Audits, attention Mr. Norberto Ferradaz, CPA (305) 995-1318.

Please forward a copy of the completed checklist with your audit.