

# District School Board of Pasco County

20430 Gator Lane • Land O' Lakes, Florida 34638 • 813/ 794-2221

Heather Fiorentino, Superintendent


[www.pasco.k12.fl.us](http://www.pasco.k12.fl.us)

Department of Purchasing  
Kendra Goodman, CPPB, Purchasing Agent  
813/ 794-2221 Fax: 813/ 794-2111  
727/ 774-2221 TDD: 813/ 794-2484  
352/ 524-2221 e-mail: [kgoodman@pasco.k12.fl.us](mailto:kgoodman@pasco.k12.fl.us)

December 1, 2009

## MEMORANDUM

**TO:** Honorable School Board Members

**FROM:** Kendra Goodman, CPPB, Purchasing Agent 

**SUBJECT:** Approval of Purchase Order # 5347 to McClain, Alfonso, Meeker & Dunn, P.A.  
Attorney Services to the School Board

On November 17, 2009, the Board approved the third year of a three (3)-year contract with McClain, Alfonso, Meeker & Dunn, P.A. (contract attached as reference) for provision of attorney services for the term November 21, 2009 – November 20, 2010.

We are requesting approval of the above-referenced purchase order in the amount of \$107,030.74 for payment purposes. The PO is being funded through general funds. The contract and purchase order are authorized under Florida Administrative Rule 6A-1.012(11)(a).

Please contact me at your earliest convenience if you have any questions or concerns.

KDG/az  
Attachments

DATE/TIME: NOVEMBER 23, 2009 11:00:00

**DISTRICT SCHOOL BOARD OF PASCO COUNTY**  
**PURCHASING DEPARTMENT**  
 20430 GATOR LANE LAND O' LAKES, FL 34638  
 PHONE: 813.794.2221 FAX: 813.794.2111

**PURCHASE ORDER NUMBER**  
 5347

PAGE 1 OF 1

**INVOICE IN TRIPLICATE**

INCLUDING THIS PURCHASE ORDER NUMBER TO:

District School Board of Pasco County  
 Accounts Payable  
 7227 Land O Lakes Blvd  
 Land O Lakes FL 34638  
 Telephone 813/794-2290

**A TAXPAYER IDENTIFICATION NUMBER CERTIFICATION FORM WITH THE VENDOR'S CURRENT EMPLOYER IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER MUST BE ON FILE WITH THE PURCHASING DEPARTMENT OR THE PAYMENT WILL NOT BE ISSUED.**

Reasonable cost changes may be permitted, provided they are not on a blanket purchase order, bid, quote or contracted item, but must not exceed 5% of the total order without prior approval in writing from the Purchasing Department. We reserve the right to retain any and all shipped merchandise and to deny payment for any charges that are contrary to an awarded contract of this or another governmental agency, or that are beyond the aforementioned 5%.

**VENDOR**

MCCLAIN & ALFONSO PA  
 PO BOX 4  
 DADE CITY FL 33526

**SHIP TO F.O.B. DESTINATION**

School Brd Members & Attorneys  
 7227 Land O' Lakes Boulevard  
 Land O' Lakes FL 34638

DATE PRINTED	ORDERED BY/DEPARTMENT	CLASS ITEM NO.	FEDERAL EMPLOYER ID NO.	SALES TAX EXEMPTION NO.
11/16/09	Board Members	96105	59-6000792	85-8013921275C-1

EQ	DESCRIPTION	PCSB ITEM	QTY	UNIT	UNIT PRICE	EXTENDED AMOUNT
01	Legal services per contract originally Board approved 11/21/07, renewed 11/18/08 Hourly rate \$50; law firm hourly rate \$150		1	EACH	44,445.3400	44,445.34
02	Retainers, board meetings, etc. excpt. litigation plus group insurance, plus reimbursement/ payment; per approved contract rates on an "as needed" basis; \$5215.45 per month		1	EACH	62,585.4000	62,585.40
	* * * ITEM TOTAL * * *					107,030.74
	* * * NOTES * * *					
	Bidding process waived per Florida Administrative Rule 6A-1.012(11)(a); contract term 11/20/09 - 11/19/10					
	*PASCO SCHOOL BOARD USE ONLY*					
	110.9001.0110.0310.7100.0000					107,030.74
	* * ACCT TOTAL * *					107,030.74
	REQ NBR: 9040 00961 VNR NBR: V0000008122					

INFORMATION ON REVERSE

1 - VENDOR COPY

*Kendra Brodman*  
 PURCHASING AGENT/S/

## AGREEMENT FOR LEGAL SERVICES

**THIS AGREEMENT** made as of the 20<sup>th</sup> day of November, 2007 by and between **THE DISTRICT SCHOOL BOARD OF PASCO COUNTY, FLORIDA** (hereinafter the "School Board") and **McCLAIN, ALFONSO, MEEKER & DUNN, P.A.**, a Legal Professional Association (hereinafter "Law Firm");

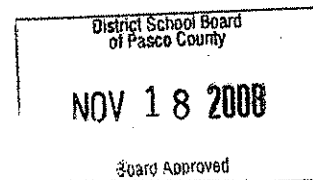
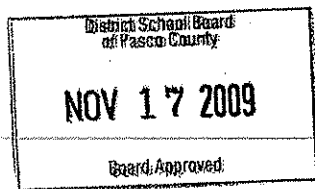
### WITNESSETH

**WHEREAS** the School Board and the Law Firm desire to enter into an Agreement whereby the Law Firm shall provide legal services, advice and counsel to the School Board and both parties desire to set forth the provisions of their agreement in writing.

**NOW, THEREFORE**, for and in consideration of the mutual covenants, promises and agreements herein contained, and other good and valuable consideration the receipt and the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. The Law Firm shall provide legal services, advice and legal counsel to the School Board during the term of this Agreement, of the nature and type described herein and on the attached Exhibit A.
2. Conflicts of Interest: The School Board shall be given most favored client status by the Law Firm during the term of this Agreement. If any other representation of the Law Firm presents a potential conflict of interest with the Law firm's representation of the School Board, the Law Firm shall avoid such other representation and cause the other client to secure other legal representation.
3. Compensation:
  - A. **RETAINER**: The School Board shall compensate the Law Firm on a retainer basis plus expenses (see Exhibit B) for the types of the legal work of the Law Firm (the Retainer Services) described below and in Exhibit A:
    - 1) Attend board meetings
    - 2) Attend special board meetings
    - 3) All communications with school board members
    - 4) All communications with the Superintendent
    - 5) General and routine legal services (see Exhibit A)

The School Board will pay the Law Firm \$62,585.40 per year (payable at the rate of \$5,215.45 per month) for the first year of the Retainer Services. The annual retainer fee for subsequent renewal periods may be adjusted with School Board approval on the annual date of reorganization.



B. **HOURLY:** The School Board shall compensate the Law Firm at the hourly rate of \$ 150.00 per hour, plus expenses (see Exhibit B) for legal work outside and beyond the scope of legal services to be provided under the Retainer Services. The hourly rate specified herein shall apply to the efforts of all experienced attorneys in the Law Firm as a "blended hourly rate". Law clerks and legal assistants will be compensated at \$50.00 per hour.

Legal work in the hourly category shall include:

- 1) Litigation in State and Federal Courts
- 2) Litigation in arbitration proceedings
- 3) Litigation in administrative hearings, including due process hearings
- 4) Employee grievance proceedings
- 5) Real estate acquisitions, easements and closings
- 6) Attendance at collective bargaining sessions, if requested
- 7) Workers Compensation proceedings, if requested
- 8) Out-of-county lobbying
- 9) Borrowing Instruments, C.O.P.'s, Bonds Issues

C. An ongoing matter will cease to be a retainer matter and will become an hourly matter when one of the following events occurs:

1) A notice of claim or civil process is filed with the State, Department of Insurance or a civil action is filed with the County, State or Federal Clerk of the Court, commenced or served in a lawsuit, arbitration, grievance, above the Level II, due process or administrative proceeding;

2) When the Law Firm is instructed by the Superintendent or School Board to initiate a lawsuit, arbitration, grievance, due process or administrative proceeding;

3) A situation occurs, that does not fit within the above two categories, that justifies a change to an hourly billing. The Law Firm will request in writing that the matter become an hourly matter and set forth the justification and expected cost (non-binding) or its request, which will be considered by the School Board. Granting the Law Firm's request will not be unreasonably withheld.

D. At all times the Law Firm will attempt to facilitate the amicable resolution of the disputes between the School Board and others before the dispute becomes a formal legal or administrative proceeding, on terms that are acceptable to the Superintendent or the School Board. The Law Firm will pursue all appropriate methods of alternative dispute resolution, such as meditation, with the intent of avoiding formal litigation.

4. Periodic Billing: The monthly retainer will be paid to the Law Firm on the first of each month for the previous month's Retainer Services. The Law Firm shall submit its bills for hourly services to the School Board on a monthly or quarterly basis and the School Board shall pay said bills within 30 days of such billing.

5. Term of Agreement: The agreement period shall be in effect November 22, 2007 to November 21, 2008 and shall be subject to two subsequent annual renewals (beginning November 22 of each subsequent year) by the School Board on such terms and conditions as the parties may determine.

6. Procedure for Adjustment of the Retainer or the Hourly Rate: To accommodate the School Board's annual budgeting process, the retainer and the hourly rate for the legal services are not subject to modification during the fiscal year. Thereafter, if either party desires to modify said hourly rate, it shall cause the subject of modification to be placed on the agenda of the School Board no later than the final meeting in October of any calendar year, and any change in the hourly rate will become effective on the following November 22.

7. Library: The Law Firm will continue to maintain and pay for its own education law library, and will purchase any insurance and computer hardware/software that it deems necessary to support it including Lexis and Westlaw usage.

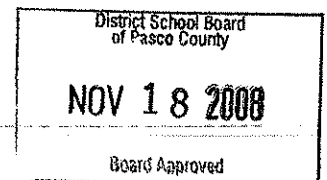
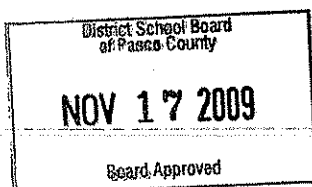
8. Specialized Legal Services: Although it is contemplated that the School Board will utilize the Law Firm for all of its legal services, if the legal needs of the School Board present a demand for unique or specialized legal skill that the Law Firm does not regularly provide to its clients, the Law Firm shall inform the School Board that such specialized legal services are required or recommended and the Law Firm shall identify and recommend that the School Board retain such other competent legal counsel at School Board expense to represent it with respect to the exceptional matter only. Any legal matter referred to other legal counsel will require approval by the School Board.

9. Conflict with Superintendent: In the event that it becomes necessary or desirable for the School Board to retain a separate attorney because of circumstances that may create a conflict of interest between the Superintendent and the School Board, the Law Firm shall represent the School Board in all such instances.

10. Insurance: The Law Firm shall maintain in full force and effect its present insurance policy of professional liability insurance with its existing coverage limits. The Law Firm may change insurers or increase the limits of coverage, at its option. The Law Firm will provide the School Board with evidence of this coverage upon request. (Exhibit C.)

11. Grievances and Suits: The Law Firm will notify the School Board of the existence of any civil actions or grievances, filed against the Law Firm in any court or with the Florida Bar respectively, concerning legal services rendered under this Agreement.

12. Ownership of Files: All files and the contents thereof, heretofore or hereafter created and maintained by the Law Firm in the performance of its duties as set out herein, shall be deemed to be the property of the Law Firm; provided, however, that nothing contained in this contract shall be deemed to preclude the Law Firm from delivering to



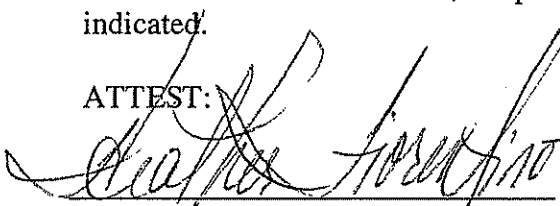
the School Board or any other person designated by the School Board, all documents possessed by the Law Firm, where such documents are classified as public records under Florida law.

13. Access to Information and Materials: In the recognition of the confidential relationship between the School Board and the Law Firm, the School Board does hereby provide to the Law Firm full and complete access to any and all information, documentation, photographs, files, reports, evaluations, drafts, letters, papers, computer print-outs, contracts, agreements, conveyances, publications, resolutions, budgets, budget materials, records, minutes, agendas, correspondence, notices, memorandums, policies, and any and all other writings or written materials in the possession, custody or control of the School Board and/or the unit of local government. The School Board does further agree to provide the Law Firm, without cost and upon request, with the original or copies thereof, of any and all of the foregoing materials, whether or not such materials are classified as "confidential" or otherwise classified to exclude the same from being a public record.

Waiver of Conflict: In the event that this Agreement is terminated, any conflicts of interest shall be deemed to be immediately waived.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates indicated.

ATTEST:



HEATHER FIORENTINO  
Superintendent

THE DISTRICT SCHOOL BOARD OF  
PASCO COUNTY, FLORIDA

BY:

  
KATHRYN STARKEY  
Chair

McCLAIN, ALFONSO, MEEKER AND  
DUNN, P.A.,

BY:

  
DENNIS ALFONSO  
Partner

District School Board  
of Pasco County

NOV 17 2009

Board Approved

District School Board  
of Pasco County

NOV 18 2008

Board Approved

## EXHIBIT A

### DESCRIPTION OF LEGAL SERVICES

1. Included in Retainer are those items listed in Section 5A of the Agreement, including without limitation:
  - A. Attend all regular and special School Board meetings, except as otherwise excused by the School Board.
  - B. When requested by the Director of ESE, attend I.E.P. meetings that are complex, involve substantial legal issues, or that have attorneys present that represent the student.
  - C. Promptly respond to written, oral and telephonic communications from School Board Members, Superintendent and staff.
  - D. Represent the School Board at public meetings or gatherings in Pasco County as requested by the School Board or Superintendent.
  - E. Attend F.S.B.A.A. and N.S.B.A.A. meetings and conferences as deemed necessary.
  - F. Prepare items for the School Board's agenda when requested by the Superintendent.
  - G. Represent the School Board orally and in writing when correspondence or communications are referred or submitted for the Law Firm's response.
  - H. Review and prepare construction contracts, service contracts, employment contracts, and other contracts, as requested or as necessary.
  - I. Review and make procedural and substantive recommendation regarding employee suspension, discipline, or termination.
  - J. Review and make procedural and substantive recommendations regarding student suspension and expulsion.
  - K. Review and update established legal procedures as necessary.

District School Board  
of Pasco County

**NOV 17 2009**

Board Approved:

L. Review and make recommendations regarding proposed School Board rules and policies.

M. Perform all other legal services as requested which are not "hourly" work.

2. Included in Hourly Rate:

A. Pre-litigation review and advice regarding liability claims.

B. Litigation in County, State and Federal Courts.

C. Litigation in arbitration proceedings.

D. Litigation in administrative hearings, including due process hearings.

E. Employee grievance proceedings.

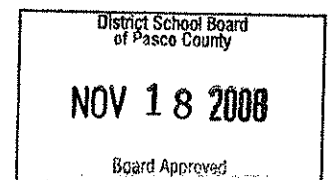
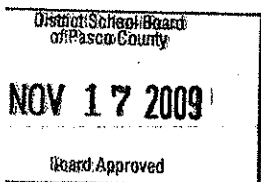
F. Real estate acquisitions, and closings.

G. Attendance at collective bargaining sessions, as requested.

H. Workers' Compensation proceedings, as requested.

I. Out-of-County appearance for the purpose of lobbying for or against proposed legislation.

J. Borrowing Instruments - Review and approval of documents and issuance of any necessary legal opinions related to tax anticipation notes, certificates or participation bond issues or other borrowing documents.





**EXHIBIT B**

**EXPENSES**

1. The School Board shall be responsible for and shall reimburse the Law Firm for the following expenditures:
  - A. Administrative fees and court costs, including but not limited to, filing fees, recording fees, court reporter and transcript fees, subpoena fees, service fees and expert witness fees.
  - B. Long distance telephone calls on School Board related business.
  - C. Out-of-County Travel Expenses - Reimbursements shall be as provided in School Board policy.
  - D. Photocopy expense for hourly matters.
  - E. Membership dues for Florida School Board Attorneys' Association.
  - F. Exceptional postage, overnight delivery services, and courier services.
  - G. L.R.P. Special Education C.D. Rom Service.
2. Non-reimbursable Expenses:
  - A. Clerical or secretarial services.
  - B. Postage.
  - C. Local fax transmission charges.
  - D. In-county travel expenses.
  - E. Photocopy expense for retainer matters.

