

Office of School Board Attorney
Johnny Brown, Board Attorney

SUBJECT: PROPOSED SETTLEMENT AGREEMENTS - VRV CONSTRUCTION CORP. v. THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA CASE NO. 04-8847 CA 13 (JOC00-AL) AND CASE NO. 04-8848 CA 11 (JOC09-AD/JOC99-AD), CIRCUIT COURT, MIAMI-DADE COUNTY, FLORIDA

Project JOC00-AL:

VRV Construction (VRV) was a Job Order Contract (JOC) contractor for the School Board in connection with various projects and JOCs. VRV sued the School Board for non-payment of retainage on JOC00-AL plus interest, costs, and attorney fees, alleging breach of contract. VRV maintained that it had completed all work on all of the following projects, and that it had been paid in full on all projects except for retainage: Meadowlane Elementary (3A178-J01AL), Hialeah-Miami Lakes Senior (JC089-J25AL), Miami Senior (JC223-J29AL), Mast Academy (JC228-J31AL), and Miami Southridge Senior (JC234-J35AL). At mediation, VRV claimed it was due \$32,689.41 in retainage, \$13,729.56 in interest, and \$663.70 in costs, for a total of \$47,082.67. Although the parties were not able to come to an agreement at mediation, thereafter the parties were able to reach a tentative settlement of all the claims conditioned upon Board approval.

Approval of the settlement will result in (1) the release of \$25,202.53 to VRV held in retainage by the School Board, and (2) the retaining of \$7,179.08 by the School Board from the retainage, for incomplete punch list work, credits, and damages for deficient work. VRV and the School Board agree to dismiss with prejudice all claims against each other related to JOC00-AL.

This settlement is recommended as being in the best interest of the Board given the consideration of the full range of information which was developed through this litigation. The Board's outside counsel and administrative staff agree with this recommendation. A copy of the Settlement Agreement will be provided to the Board under separate cover.

Projects JOC98-AD/JOC99-AD:

VRV Construction (VRV) was a Job Order Contract (JOC) contractor for the School Board in connection with various projects and JOCs. VRV sued the School Board for non-payment of retainage on JOC98-AD/JOC99-AD plus interest, costs, and attorney fees, alleging breach of contract. VRV maintained that it had completed all work on all of the following projects, and that it had been paid in full on all projects except for retainage: Miami Edison Middle (A0317-J22AD),

Gloria Floyd Elementary (A0467-J32AD), Gloria Floyd Elementary (A0467-J37AD), Miami Southridge Senior (JC152-J31AD), Miami Northwestern Senior (A0354A-J28AD), and South Miami Middle (JC132-J09AD). At mediation, VRV claimed it was due \$97,073.67 in retainage, \$40,770.94 in interest, and \$684.35 in costs, for a total of \$138,528.96. Although the parties were not able to come to an agreement at mediation, thereafter the parties were able to reach a tentative settlement of all the claims conditioned upon Board approval.

Approval of the settlement will result in (1) the release of \$72,130.55 to VRV held in retainage by the School Board, and (2) the retaining of \$24,943.06 by the School Board from the retainage, for incomplete punch list work, credits, and damages for deficient work. VRV and the School Board agree to dismiss with prejudice all claims against each other related to JOC98-AD/JOC99-AD.

This settlement is recommended as being in the best interest of the Board given the consideration of the full range of information which was developed through this litigation. The Board's outside counsel and administrative staff agree with this recommendation. A copy of the Settlement Agreement will be provided to the Board under separate cover.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, authorize the Superintendent to enter into the Settlement Agreements with VRV Construction Corp. for the settlement of all claims in the cases of VRV Construction Corp. v. The School Board of Miami-Dade County, Florida, Case No. 04-8847 CA 13, Circuit Court, Miami-Dade County, Florida; and VRV Construction Corp. v. The School Board of Miami-Dade County, Florida, Case No. 04-8848 CA 11, Circuit Court, Miami-Dade County, Florida.

JB/sh