

Office of School Board Attorney  
JulieAnn Rico, Board Attorney

**SUBJECT: PROPOSED SETTLEMENT AGREEMENTS**  
**THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA v. JAMES P. MORAN, INC., JOHN J. MCGRAW AND CYNTHIA GILI-MCGRAW D/B/A GILI-MCGRAW ARCHITECTS, ET AL., CIRCUIT COURT CASE NO. 05-21773-CA-23 (REGARDING PRIMARY LEARNING CENTER "X" AT PALM SPRINGS NORTH ELEMENTARY SCHOOL, MDCPS PROJECT NO. AO695)**

James P. Moran, Inc. ("Moran") was the construction manager for the School Board in connection with the construction of Primary Learning Center "X" at Palm Springs North Elementary School, Project AO695 (the "Project"). John J. McGraw and Cynthia Gili-McGraw d/b/a Gili-McGraw Architects ("Gili-McGraw") was the design architect for the Project. The School Board sued Moran in the above-referenced case, as well as its surety, alleging breaches of contract and warranty for defective construction, based on the report issued by the School Board's forensic consultant in this matter, URS Corporation, (primarily related to water intrusion). The School Board also sued Gili-McGraw alleging design and contract administration errors, based on that same URS report. Although Moran and Gili-McGraw asserted that they had several defenses to the lawsuit, the parties agreed to engage in discovery and informal negotiation rather than formal litigation processes in an effort to resolve the dispute cost effectively. This effort has led to a proposed settlement of all claims against both Moran and Gili-McGraw. Accordingly, we are proposing settlement agreements with both Moran and Gili-McGraw.

Approval of the settlement agreement with Moran will result in: (1) Payment by Moran of the sum of \$25,000 in five (5) equal monthly installments commencing upon approval by the Board of the settlement; and (2) Assignment of Moran's contractual rights on the Project against its window subcontractor Superior Window Corporation.

Pursuant to the terms of the settlement, the School Board will give Moran a limited release that will release Moran from all claims raised in this case regarding this school, except claims arising from latent defects not presently discoverable by reasonable inspection. The School Board also retains the right to look to Moran for any third party claims that might be filed against the School Board with respect to latent construction defects.

**G-3**

Approval of the settlement agreement with Gili-McGraw will result in payment by Gili-McGraw to the Board of the sum of \$5,000.

Pursuant to the terms of the settlement, the School Board will give Gili-McGraw a limited release that will release Gili-McGraw from all claims raised in this case regarding this school, except claims arising from latent defects not presently discoverable by reasonable inspection. The School Board also retains the right to look to Gili-McGraw for any third party claims that might be filed against the School Board with respect to latent construction defects.

Both of these settlements are recommended as being in the best interests of the Board, and administration is in agreement with the proposed settlements. A copy of the Settlement Agreements will be provided to the Board under separate cover.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida:

- 1) authorize the Superintendent to enter into the Settlement Agreement with James P. Moran, Inc. regarding The School Board of Miami-Dade County, Florida v. James P. Moran, Inc. et al., Miami-Dade County Circuit Court Case No. 05-21773 CA 23 as described herein (and more specifically in the Settlement Agreement) for the settlement of all claims, except any claims related to latent construction defects not presently discoverable by reasonable inspection and any third party claims relating to those latent construction defects that might be filed against the School Board arising from the project known as Primary Learning Center "X" at the Palm Springs North Elementary School; and
- 2) authorize the Superintendent to enter into the Settlement Agreement with John J. McGraw and Cynthia Gili-McGraw d/b/a Gili-McGraw Architects regarding The School Board of Miami-Dade County, Florida v. James P. Moran, Inc. et al., Miami-Dade County Circuit Court Case No. 05-21773 CA 23 as described herein (and more specifically in the Settlement Agreement) for the settlement of all claims, except any claims related to latent construction defects not presently discoverable by reasonable inspection and any third party claims relating to those latent construction defects that might be filed against the School Board arising from the project known as Primary Learning Center "X" at the Palm Springs North Elementary School.