

Office of School Board Attorney
JulieAnn Rico, Board Attorney

SUBJECT: PROPOSED SETTLEMENT AGREEMENT

ONE CROW, INC. vs. THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, CASE NO. 07-00624-CA-11; ASSOCIATED WITH SCHOOL BOARD PROJECT NO. SK-0049 (REBID) [SHADOWLAWN (PROJECT NO. SK-0049 (REBID) SHADOWLAWN ELEMENTARY SCHOOL NEW MUSIC SUITE, NEW PARKING AREA AND SAFETY-TO-LIFE IMPROVEMENTS

One Crow, Inc. was the contractor for Project No. SK-0049 (REBID), the construction of a new music suite, new parking facilities and safety-to-life improvements at ShadowLawn Elementary School that was awarded on May 19, 2004. Shortly after the award, the contractor encountered unforeseen subsurface soil conditions requiring additional work for the soil preparation. The Board and the contractor could not reach agreement as to the scope and value of the additional work. As a result, the contract was terminated for convenience by the School Board at the meeting of May 18, 2005.

One Crow presented a claim for extended general conditions, termination expenses and loss of business in the amount of \$230,129.20. Of this, \$13,817.90, consisting of retainage and a previously approved change order was released, but attempts to negotiate the remainder of the claims were unsuccessful. One Crow filed suit on January 9, 2007 seeking the balance of the same damages as set forth in the claim. Court ordered mediation was unsuccessful. Subsequently, One Crow, through its attorney, reopened discussions with in-house counsel. As a result of the negotiations, the parties have agreed to a proposed settlement of the case which requires the School Board to pay \$25,000.00 as full and final settlement of this case. The amount agreed to represents the reasonable termination expenses as provided for in the contract.

Approval of the settlement proposal will result in the payment to One Crow, Inc. in the amount of \$25,000, and dismissal, with prejudice, of the lawsuit in this matter.

The settlement is recommended as being in the best interest of the Board and will obviate the need for any further litigation of this matter. The Board's administrative staff agrees with this recommendation. A copy of the confirmation of acceptance by One Crow of the terms of the settlement will be provided to the Board under separate cover.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, approve the settlement reached with One Crow, Inc. in the case of One Crow, Inc. vs. The School Board of Miami-Dade County, Florida, Case No. 07-00624-CA 11) and authorize payment to One Crow in the amount of \$25,000.00 for termination expenses and as full and final settlement of this case.