

Office of School Board Attorney
JulieAnn Rico, Board Attorney

SUBJECT: REQUEST APPROVAL OF SETTLEMENT AGREEMENT IN THE CASE OF GREAT AMERICAN INSURANCE COMPANY v. THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, CASE NO. 08-21070 CA 22 (ASSOCIATED WITH SCHOOL BOARD PROJECT NO. A0774 [REBID] DESIGN BUILD ADDITION OF A NEW AUDITORIUM, WILLIAM H. TURNER TECHNICAL ARTS SENIOR HIGH SCHOOL)

This is a settlement of a lawsuit filed by Great American Insurance Company ("GAIC") against the School Board with respect to a design/build project for the addition of a new auditorium at William H. Turner Technical Arts Senior High School, which was filed on April 17, 2008.

GAIC was the surety on the project for the original design/builder, General Contractors & Construction Management, Inc. ("GCCM"). GCCM was terminated for default at the School Board meeting of January 17, 2007. GAIC took over the project and completed it through the forces of another contractor. GAIC filed suit to recover the unpaid contract balance of approximately \$615,863.00 and asserted other claims on its own behalf in excess of \$1,350,000.00. The School Board asserted a right to liquidated damages in the amount of \$1,162,091.00.

Pursuant to the Court's order, on September 23, 2008, a mediation was held between the parties. At said mediation, the parties tentatively agreed on a settlement, which is presented hereby for the Board's consideration and approval.

At the time of the mediation, the only remaining items for final completion on the project were some administrative documentation and minor punch list items, the total value of which is reasonably estimated to be less than \$15,000.00. At all times throughout this litigation, the School Board was represented by the School Board Attorney's office. No legal fees were expended in the defense against the claims of GAIC and the prosecution of the School Board's claims.

The terms of the settlement are:

- The School Board will pay GAIC the sum of \$440,000 and the School Board will retain the remainder of the contract balance of approximately \$175,000. GAIC will assign the contract of the architect

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of record, Locus Architecture, Inc. to the School Board to assist in the completion of the administrative documentation. No funds in addition to the contract balances will be expended.

- The parties will execute complete releases, except that GAIC and its completion contractor will remain liable for any third party claims arising from latent defects, and the parties will voluntarily dismiss the Complaint and Counterclaim respectively, each party to bear its own costs and fees.

We recommend acceptance and approval of the Settlement Agreement along with the proposed Mutual General Release, being forwarded under separate cover, as being in the best interest of the School Board.

RECOMMENDED: That The School Board of Miami-Dade County, Florida approve the Settlement Agreement in the case known as Great American Insurance Company v. The School Board of Miami-Dade County, FL, Case No. 08-21070 CA 22, (associated with School Board Project No. A0774 [Rebid] Design Build Addition of a New Auditorium, William H. Turner Technical Arts Senior High School). In accordance with the Settlement Agreement, that the School Board authorize payment to Great American Insurance Company in the amount of \$440,000.00 from the project contract balance and further authorize the Superintendent to contract with the architect of record, Locus Architecture, Inc. for the completion of the project.