

Office of School Board Attorney
JulieAnn Rico, Board Attorney

SUBJECT: REQUEST APPROVAL OF SETTLEMENT AGREEMENT IN THE CASE OF THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA v. SBR JOINT VENTURE, et al, CIRCUIT COURT CASE NO. 04-25609-CA 24 (ASSOCIATED WITH SCHOOL BOARD PROJECT A-0574 - STATE SCHOOL "EEE" - FELIX VARELA SENIOR HIGH SCHOOL)

This is a settlement of a lawsuit filed by the School Board against SBR Joint Venture ("SBR") relating to the construction of State School EEE, now known as Felix Varela Senior High School.

On February 18, 1998, School Board awarded a Lease Purchase Agreement to SBR whereby SBR, as Lease-Purchase Development Firm, agreed to design and construct the Felix Varela Senior High School (State School "EEE") located at 15255 S.W. 96th Street, Miami-Dade County, Florida (School Board Project No. A0574).

Certain issues regarding deficiencies in the design and construction arose which resulted in the School Board filing a lawsuit on December 3, 2004, against SBR, its architect, and certain of the design sub-consultants, along with certain of the subcontractors, in the State Circuit Court for the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. The parties have now agreed--pending the approval of the School Board--on a proposed Settlement Agreement that resolves all of the issues between the parties.

The general terms of the settlement are as follows:

SBR Joint Venture, with contribution from its architect and other parties, will pay to the School Board the sum of \$1,081,900.00, within forty-five (45) days of the School Board's approval of this settlement.

The original electrical subcontractor will complete the re-labeling of the electrical panel in the gymnasium and cafeteria, which work has already commenced. Upon the completion of the panel re-labeling, that subcontractor and SBR will provide the School Board with accurate as-built drawings, which reflect the panel re-labeling. SBR and its subcontractor further agree to warrant the panel re-labeling and the as-builts for a period of one year.

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In addition, SBR and its HVAC subcontractor will have the chillers for the HVAC system commissioned under a specific control sequence of operations agreed to by the parties and will perform such other work as agreed to by the parties relating to the HVAC system for the Project. Accordingly, the School Board will issue a purchase order to that subcontractor for labor and equipment necessary to install and retrofit the computer controls as part of the commissioning of the chillers. The School Board will pay for the cost of this labor and equipment for which School Board is being reimbursed in the amount of \$22,125.00 (in part from the settlement funds).

Once the commissioning is successfully completed, SBR and its HVAC subcontractor will provide to the School Board a one (1) year limited warranty on the chiller's operation, running from the date this work is completed.

Upon payment of the Settlement proceeds and completion of the work set forth herein, the parties will execute mutual releases excepting only third party claims, and the lawsuit will be voluntarily dismissed with prejudice. Approval of this Settlement Agreement is recommended as being in the best interests of the School Board.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida approve the Settlement Agreement, as more fully specified herein, in the case known as *The School Board of Miami-Dade County, Florida v. SBR Joint Venture, et al.*, Circuit Case No. 04-25609 CA-24.; as part of the Settlement, SBR Joint Venture will pay to the School Board the sum of \$1,081,900.00 within forty-five (45) days of the School Board's approval of this settlement and the School Board will authorize the issuance of a Purchase Order and the payment of \$22,125.00 for labor and equipment necessary to install and retrofit the computer controls as part of the commissioning of the chillers (payment to be paid in part from the settlement funds).