

Office of School Board Attorney  
Walter J. Harvey, School Board Attorney

**SUBJECT: REQUEST APPROVAL OF PRE-LITIGATION SETTLEMENT BETWEEN TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, PINO-FONTICIELLA CONSTRUCTION CORP., AND THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA [ASSOCIATED WITH SCHOOL BOARD PROJECT A-0712 (REBID) DESIGN-BUILD ADDITION AT PALM SPRINGS MIDDLE SCHOOL (S/S "BB-1")]**

This item is presented for your consideration of a proposed settlement to resolve issues which led to threatened litigation against the design-build firm, Pino-Fonticiella Construction Corp. ("PFC") and its surety, Travelers Casualty and Surety Company of America (the "surety"), related to water intrusion and defective design and construction on an addition at State School BB1 at Palm Springs Middle School (S/S "BB-1").

On or about January 12, 2000, the Board awarded Project A-0712 (Rebid), a design-build project for an addition at Palm Springs Middle School. Substantial completion was achieved on or about January 7, 2003. Subsequent to final completion, certain defects in the construction were identified and demand was made upon the design-build firm and its surety. To avoid litigation, PFC and its surety have agreed to perform substantial repair work including exterior stucco and window repairs, repainting of the entire building exterior, and repairs to damaged interior finishes.

PFC will pay to the School Board the sum of \$200,000.00 within ten (10) days of the approval of the settlement by the School Board. PFC will continue its attempts to get contribution from certain of the subcontractors and insurance carriers at its sole expense. To the extent that these efforts are successful, PFC will pay to the School Board one-half of the gross amount of such recovery up to a maximum payment of an additional \$50,000.00. Upon payment of the Settlement Funds, the parties will execute mutual releases except for the possible recovery of additional funds as stipulated in the Agreement.

Based upon a full examination of the relevant facts and law applicable to this matter, it is our opinion that settlement of the disputed claims would be in the best interests of the School Board. Administration is in agreement with this recommendation and the

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proposed settlement. A copy of the proposed settlement agreement will be provided to the School Board under separate cover.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida approve the proposed settlement according to the terms set forth herein and authorize the Superintendent to enter into a Settlement Agreement with Pino-Fonticiella Construction, Corp.. and Travelers Casualty and Surety Company of America (associated with School Board Project A-0712 (Rebid), wherein the School Board shall be paid the sum of Two Hundred Thousand (\$200,000.00), plus be entitled to additional recovery not to exceed Fifty Thousand Dollars (\$50,000.00), as set forth in the Settlement Agreement.