

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

SUBJECT: RATIFICATION OF SUBSTITUTION OF OUTSIDE LEGAL COUNSEL IN THE CASE OF SKANSKA USA BUILDING, INC. v. SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, CIRCUIT COURT CASE NO. 09-60587 CA 30 [ASSOCIATED WITH SCHOOL BOARD PROJECT NO. 00176800 - MIAMI SENIOR HIGH SCHOOL]

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

At the November 17, 2009, meeting, the School Board approved Agenda Item G-2 ("Authorization to Retain Outside Counsel. . .") authorizing the School Board Attorney to retain outside legal counsel to represent the Board in three construction lawsuits filed by Skanska USA Building, Inc. ("Skanska"). The item recommended, among others things, that the law firm of Vezina, Lawrence & Piscitelli, P.A., serve as outside counsel for two of the lawsuits and Mr. Peter Berlowe, Esq., and his law firm, Assouline & Berlowe, P.A., for the third lawsuit.

Following the Board's approval, contract negotiations with Mr. Berlowe were unsuccessful, and Case No. 09-83110-CA-15 was reassigned to Vezina, Lawrence & Piscitelli, P.A. in order to protect the Board's interest in this matter. In addition, the fourth companion case filed on November 19, 2009 by the same party regarding the same Capital Construction projects, Skanska, Case No. 09-69567-CA-15, was also assigned to the same aforementioned law firm to minimize costs and protect the Board's interests. This item requests that the Board ratify this substitution and assignment of outside counsel. The Office of School Facilities was involved in the selection of substitute outside counsel and agrees with this recommendation.

This item also recommends that the Board authorize the School Board Attorney, pursuant to the Florida Rules of Civil Procedure, to make an offer of judgment in an amount not to exceed twenty-five thousand dollars (\$25,000) in the case of *Skanska USA Building, Inc. v. School Board of Miami-Dade County*, Florida, Circuit Court Case No. 09-60587-CA-30. This offer of judgment would be served by the outside counsel retained to represent the Board in this case.

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

1. Ratify the retention of the firm of Vezina, Lawrence & Piscitelli, P.A. to represent the School Board in the matter of *Skanska USA Building, Inc. v. School Board of Miami-Dade County*, Florida, Circuit Court Case No. 09-83110-CA-15 and 09-69567-CA-15. Shareholders from the firm of Vezina, Lawrence & Piscitelli will be compensated at the discounted rate of \$295.00 per hour; associates will be compensated at \$225.00 per hour, and paralegals from the firm will be paid an hourly fee of \$100.00; and
2. Authorize the School Board Attorney to make an offer of judgment in an amount not to exceed twenty-five thousand dollars (\$25,000) in the case of *Skanska USA Building, Inc. v. School Board of Miami-Dade County*, Florida, Circuit Court Case No. 09-60587 CA 30.