

Office of School Board Attorney
Johnny Brown, Board Attorney

**SUBJECT: SETTLEMENT AGREEMENT
N&J CONSTRUCTION CORP., H.E.R. ARCHITECTS, INC., FRAGA
ENGINEERS and THE SCHOOL BOARD OF MIAMI-DADE COUNTY,
FLORIDA – Eleventh Judicial Circuit Case No. 98-26982 CA 05**

On November 28, 1996, the Board awarded a contract for the renovation and addition project at Carol City Elementary to N&J Construction Corp. Subsequently, on October 7, 1998, the Board terminated the contractor for failure to timely complete the school, jeopardizing the welfare of the children and for faulty construction. The Surety company responded and completed the construction project. N&J filed suit against the Board for wrongful termination claiming that its failure to complete the school on a timely basis was due to deficient design and administration of the contract. N&J claims the termination caused the complete destruction of its business and is seeking approximately \$20 million dollars in damages. The School Board responded with Affirmative Defenses, and filed suit against both the architect, H.E.R. Architects, Inc., and the mechanical, electrical and plumbing engineer, Fraga Engineers for breach of the contract pertaining to the alleged failure of design and administration.

The Court referred this matter to mediation and after more than two (2) days of negotiations a Settlement Agreement was reached conditioned upon Board approval. This settlement proposal calls for a total payment to the contractor of \$1.45 million dollars. The School Board's contribution to that proposed settlement is \$690,000 and the contribution of the design team (architect and engineer jointly) is \$760,000.

This settlement is recommended as being in the best interest of the Board given the consideration of the full range of information which was developed throughout this litigation and provided to the Board in an Attorney-Client session and by memorandum delivered under separate cover. The Board's outside Counsel, School Board Attorney, and administrative staff are in agreement with this recommendation.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, approve the Settlement Agreement and authorize the payment of \$690,000 in the case of N&J Construction Corp., H.E.R. Architects, Inc., Fraga Engineers and The School Board of Miami-Dade County, Florida, Eleventh Judicial Circuit Case No. 98-26982 CA 05.