

Office of School Board Attorney
JulieAnn Rico, Board Attorney

**SUBJECT: PROJECT NO. A-0733 – LAMAR LOUISE CURRY MIDDLE SCHOOL
RECOMMENDATION FOR PRE-SUIT SETTLEMENT OF CLAIM BY
DESIGN-BUILDER, SBR JOINT VENTURE.**

On August 22, 2001, the School Board and SBR Joint Venture ("SBR") entered into a Design Build Lump Sum Contract for the design and construction of Lamar Louise Curry Middle School, State School "VV-1" (the "Project"). The contract sum was \$14,686,000.00, with two accepted additive alternates of \$11,500.00 and \$33,000.00. Mateu Carreno Rizo & Partners was the Design Criteria Professional ("DCP") for the Project.

On August 16, 2004, SBR submitted a claim for additional time and money due to alleged impacts of changes to the Project arising out of the application of the Florida Building Code rather than State Requirements for Educational Facilities ("SREF") 99 on which SBR based its bid. The claim sought \$1,358,055.36 and 30 days of additional contract time, including an acknowledgment of credits due to the School Board of \$2,486.48 and a pending contract time extension of 15 days (in addition to the 30 days set forth in the claim). To avoid litigation, the parties agreed to pre-suit settlement negotiations. The claim was assigned to outside counsel, Tew Cardenas, LLP, for review and analysis. After analyzing SBR's claim, outside counsel presented its recommendation to administrative staff, who met with representatives from SBR to negotiate a proposed settlement. After many meetings and further analysis of information provided by SBR in response to Staff's requests from administrative staff, a proposed settlement was reached. Revised

The total net increase to the contract value upon approval of the proposed settlement will be \$362,865.00. Specifically the settlement will include a waiver of all claims for time extension by SBR and all claims for liquidated damages by the School Board. As a result of the settlement, the School Board will provide for payment to SBR in the net amount of \$362,865.00. Revised

This settlement will not provide for any release of SBR from any of its contractual obligations.

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REVISED**

In accordance with the proposed settlement, SBR's claim has been reduced by 73% from \$1,358,055.36 to \$362,865.00. The 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 the negotiations. The Board's outside counsel and administration agree with the recommendation that this Settlement be approved. A copy of the proposed settlement will be submitted to the Board under separate cover. Revised

RECOMMENDED: That the School Board of Miami-Dade County, Florida, approve the proposed settlement agreement with respect to the claims filed by SBR Joint Venture on School Board Project, No. A-0733 (construction of Lamar Louise Curry Middle School), and pay SBR Joint Venture \$362,865.00 in full and as final settlement of these claims. Revised