

Office of School Board Attorney
Luis M. Garcia, Interim School Board Attorney

SUBJECT: PROPOSED SETTLEMENT AGREEMENT
THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA V.
MUNILLA MAGNUM CONSTRUCTION MANAGEMENT
CORPORATION D/B/A MCM, ET AL, CIRCUIT COURT CASE NO. 04-
17641-CA-25 (REGARDING JOSE' DE DIEGO MIDDLE SCHOOL,
MDCPS PROJECT NO. A-0690)

Magnum Construction Management Corp. now known as Munilla Construction Management, LLC. (MCM) was the design/builder for the School Board in connection with the construction of José de Diego Middle School, Project A-0690. The School Board sued MCM and its surety alleging breaches of contract and warranty in the performance of MCM's obligations under the contract based upon the report issued by the School Board's forensic consultant in this matter (primarily related to water intrusion). Although MCM asserted several defenses in the lawsuit, the parties agreed to engage in informal discovery and negotiation rather than formal litigation processes. This effort led to a proposed settlement of all claims except those related to the HVAC system. The Board approved that partial settlement on April 18, 2007 and the terms of that settlement agreement have been fully and satisfactorily completed. MCM strongly denied all liability as to the HVAC system, but is willing to resolve the claims as set forth herein. Conditioned upon Board approval, the current settlement will resolve the remaining issues regarding the HVAC system.

Approval of the settlement will result in (1) the donation by MCM of \$75,000 to be earmarked for improvements to the auditorium at South Miami Middle School; (2) dismissal of all claims; and (3) releases by each party to the other except that the School Board retains the right to look to MCM for any third party claims that might be filed against the School Board with respect to defective work by MCM. This settlement is recommended as being in the best interests of the Board, and administration is in agreement with the proposed settlement. A copy of the Settlement Agreement will be provided to the Board under separate cover.

RECOMMENDED: That The School Board of Miami-Dade County, Florida authorize the Superintendent to enter into the Settlement Agreement with Munilla Construction Management, LLC. As described herein (and more specifically in the Settlement Agreement) for the settlement of all claims asserted in the case known as The School Board of Miami-Dade County, Florida v. Magnum Construction Management Corp. et al., Miami-Dade County Circuit Court Case No. 04-17641 CA 25 except for any third party claims that might be filed against the School Board relating to MCM's work on the project at the subject school.