

MEMORANDUM

January 13, 2009

TO: The Honorable Chair and Members of The School Board of Miami-Dade County, Florida

FROM: Alberto M. Carvalho, Superintendent of Schools *AMC*

SUBJECT: **REQUEST APPROVAL OF SETTLEMENT AGREEMENT IN THE CASE KNOWN AS THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA v. SBR JOINT VENTURE, et al., CASE NO. 04-25609 CA-24 (ASSOCIATED WITH SCHOOL BOARD PROJECT A-0574 - FELIX VARELA SENIOR HIGH SCHOOL)**

The attached Agenda Item G-5 is being withdrawn from the January 14, 2009 Agenda because the necessary settlement documents will not be complete for the scheduled Board meeting.

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Attachment

cc: School Board Attorney
Superintendent's Cabinet

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

SUBJECT: REQUEST APPROVAL OF SETTLEMENT AGREEMENT IN THE CASE KNOWN AS THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA v. SBR JOINT VENTURE, et al., CASE NO. 04-25609 CA-24 (ASSOCIATED WITH SCHOOL BOARD PROJECT A-0574 - FELIX VARELA SENIOR HIGH SCHOOL)

This is a settlement of a lawsuit filed by the School Board against SBR Joint Venture, a general contractor, relating to the construction of State School EEE, now known as Felix Varela Senior High School.

On February 18, 1998, the School Board awarded a Lease Purchase Agreement to SBR Joint Venture whereby SBR, as Lease-Purchase Development Firm, agreed to design and construct Felix Varela Senior High School (State School "EEE"), located at 15255 S.W. 96th Street, Miami-Dade County, Florida (Project A0574).

Certain issues regarding deficiencies in the design and construction arose which resulted in the School Board filing a lawsuit against SBR, its architect, and certain of the design sub-consultants, along with certain of the subcontractors, in the Circuit Court of Miami-Dade County, Florida. The proposed settlement resolves all of the issues between the parties. The material terms of the settlement are as follows:

SBR Joint Venture, with contribution from its architect and the other parties, will pay to the School Board the sum of One Million Eighty-One Thousand Nine Hundred and no/100 Dollars (\$1,081,900.00), within forty-five (45) days of approval of this settlement.

The original electrical subcontractor will complete the re-labeling of the electrical panel in the gymnasium and cafeteria, which work has already commenced. Upon the completion of the panel re-labeling, the electrical subcontractor and SBR will provide the School Board with accurate as-builts which reflect the panel re-labeling. SBR and its electrical subcontractor further agree to warrant the panel re-labeling and the as-builts for a period of one year.

SBR and its HVAC subcontractor will have the chillers for the HVAC system commissioned under a specific control sequence of operations agreed to by the parties,

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and will perform such other work as agreed to by the parties relating to the HVAC system for the Project. The School Board will issue a purchase order to the HVAC subcontractor for labor and equipment necessary to install and retrofit the computer controls as part of the commissioning of the chillers. The School Board will pay for the cost of this labor and equipment for which the School Board is being reimbursed in the amount of Twenty-Two Thousand One Hundred Twenty-Five and no/100 Dollars (\$22,125.00), in part from the settlement funds.

Once the commissioning is successfully completed, SBR and its HVAC subcontractor will provide to the School Board a one (1) year limited warranty on the chiller's operation running from the date this work is completed.

Upon payment of the settlement funds and completion of the work set forth herein, the parties will execute mutual releases, excepting only third party claims, and the lawsuit will be voluntarily dismissed with prejudice. A copy of the Settlement Agreement is being provided to the Board under separate cover. The proposed settlement is being recommended as being in the best interests of the School Board. Administration is in agreement with the proposed settlement of this matter.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida approve the settlement in the case known as *The School Board of Miami-Dade County, Florida v. SBR Joint Venture, et al*, Case No. 04-25609 CA 24 (Associated with School Board Project No, A-0574 – Felix Varela Senior High School) in the manner described herein and as more fully detailed in the proposed Settlement Agreement.