

MEMORANDUM

June 16, 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: **APPROVAL OF PRE-LITIGATION SETTLEMENT AGREEMENT TRAVELERS CASUALTY, PINO-FONTICIELLA AND SCHOOL BOARD (PALM SPRINGS MIDDLE - S/S BB-1)**
(Associated with Agenda Item G-2, Board Meeting of June 17, 2009)

The attached Agenda Item G-2 is being withdrawn from the June 17, 2009 Agenda because the necessary settlement documents will not be complete for the scheduled Board meeting.

AMC:pyc
M1399

Attachment

cc: School Board Attorney
Superintendent's Cabinet

)

)

)

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

SUBJECT: REQUEST APPROVAL OF PRE-LITIGATION SETTLEMENT BETWEEN TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, PINO-FONTICIELLA CONSTRUCTION CORP., AND THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA [ASSOCIATED WITH SCHOOL BOARD PROJECT A-0712 (REBID) DESIGN-BUILD ADDITION AT PALM SPRINGS MIDDLE SCHOOL (S/S "BB-1")]

This item is presented for your consideration of a proposed settlement to resolve issues which led to threatened litigation against the design-build firm, Pino-Fonticiella Construction Corp. ("PFC") and its surety, Travelers Casualty and Surety Company of America (the "surety"), related to water intrusion and defective design and construction on an addition at State School BB1 at Palm Springs Middle School (S/S "BB-1").

On or about January 12, 2000, the Board awarded Project A-0712 (Rebid), a design-build project for an addition at Palm Springs Middle School. Substantial completion was achieved on or about January 7, 2003. Subsequent to final completion, certain defects in the construction were identified and demand was made upon the design-build firm and its surety. To avoid litigation, PFC and its surety have agreed to perform substantial repair work including exterior stucco and window repairs, repainting of the entire building exterior, and repairs to damaged interior finishes. The School Board staff has estimated the value of this work as being in excess of \$300,000. The remedial work, when completed, will also provide an additional six year warranty equivalent to that received for a major paint project.

In consideration of remedial work and the extended warranty, the agreement also provides a monetary contribution toward the work by the School Board in an amount that will not exceed

**G-2
WITHDRAWN
(June 16, 2009)**

\$70,000. The School Board will also share the cost of certain independent inspection and testing, which will approximately cost under \$10,000.

Based upon a full examination of the relevant facts and law applicable to this matter, it is our opinion that settlement of the disputed claims would be in the best interests of the School Board. Administration is in agreement with this recommendation and the proposed settlement. A copy of the proposed settlement agreement will be provided to the School Board under separate cover.

RECOMMENDED: That The School Board of Miami-Dade County, Florida approve the settlement according to the terms set forth above and authorize the Superintendent to enter into a Settlement Agreement with Pino-Fonticiella Construction Corp. and its surety, Travelers Casualty and Surety Company of America, and authorize payment of no more than \$70,000 as its contribution, and, authorize the hiring and the additional payment for the School Board's share of the required independent inspection and testing services which is not to exceed \$10,000.