

Office of School Board Attorney
Walter J. Harvey, Board Attorney

SUBJECT: REQUEST APPROVAL OF PROPOSED SETTLEMENT AGREEMENT BETWEEN THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA AND ALL PARTIES AND INSURERS INVOLVED IN THE LITIGATION RELATED TO CARIBBEAN ELEMENTARY SCHOOL, PROJECT A0551, FOR THE FOLLOWING CASES:

Case No. 06-09300 CA 08 - *The School Board of Miami-Dade County, Florida v. Act Services, Inc. and The American Insurance Company, et. al.*

Case No. 09-28070 CA 24 - *Granada Insurance Company v. The School Board of Miami-Dade County, Florida, et. al.*

Case No. 10-168169 CA 20 - *ACT Services, Inc. v. Amerisure Insurance Company, Greenwich Insurance Company, Scottsdale Insurance Company, et. al.*

This matter involves a settlement of litigation that involved multiple claims and lawsuits by numerous parties and insurers arising out of a contract for the construction of Caribbean Elementary School, Project A0551.

BACKGROUND

The contract for construction of a new school facility at Caribbean Elementary was awarded to ACT Services, Inc. (ACT), the general contractor who completed the construction of the facility. After occupancy, the facility experienced water intrusion problems mainly due to alleged defects in the construction of the exterior building envelope. Subsequently, the Board authorized investigations and formal legal actions to pursue all legal remedies against the parties responsible for the defective construction. On May 12, 2006, the Board filed a lawsuit against ACT and its bonding company, The American Insurance Company, to recover damages suffered by the Board in connection with the alleged construction defects. In turn, the defendants initiated claims and lawsuits against various subcontractors, insurance carriers and indemnitors resulting in numerous other parties being added to the litigation as well as additional lawsuits

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against the Board. On March 3, 2009, Judge Herbert Steffin awarded the School Board \$814,697 in court ordered non-binding arbitration. All attempts to resolve the matter were unsuccessful until recently when the parties agreed to enter into mediation. During the pendency of the litigation, the District performed remedial work on the facility including a major paint project, roofing repairs, and other maintenance work to prevent further water intrusion and repair damage to the facility.

PROPOSED SETTLEMENT

Formal mediation between the parties was held on January 24, 2011 at which time a proposed Settlement Agreement was entered. Within twenty (20) business days of the Board's approval of the proposed Settlement Agreement, the Board will receive payments from the various parties totaling \$800,000, after which, motions will be filed to dismiss all pending matters between the parties.

The Settlement Agreement is in the best interests of the Board considering the complexity of issues involved in this litigation. A copy of the executed proposed Settlement Agreement will be provided to the Board under separate cover prior to the Board Meeting.

RECOMMENDED: That The School Board of Miami-Dade County, Florida approve the proposed Settlement Agreement between and among the parties on the following cases relating to Caribbean Elementary School, Project A0551:

Case No. 06-09300 CA 08 - *The School Board of Miami Dade County, Florida v. Act Services, Inc. and The American Insurance Company, et. al.*

Case No. 09-28070 CA 24 - *Granada Insurance Company v. The School Board of Miami-Dade County, Florida, et. al.*

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