

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

**SUBJECT: REQUEST APPROVAL OF PROPOSED SETTLEMENT AGREEMENT:  
THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA v. HADP  
ARCHITECTURE, INC., f/k/a HARPER PARTNERS, INC., CASE NO.  
06-16583 CA 22 (ASSOCIATED WITH NEW ELEMENTARY SCHOOL  
#17 (STATE SCHOOL D-1) DR. CARLOS D. FINLAY ELEMENTARY  
SCHOOL) PROJECT AO358**

This matter involves a settlement of litigation arising out of a contract for professional architectural and engineering services at Dr. Carlos J. Finlay Elementary School, Project A0358, a new elementary school.

## **BACKGROUND**

On August 18, 2006, the School Board filed the above-referenced lawsuit against HADP Architecture, Inc. ("HADP"), alleging HADP's failure to properly perform its contractual obligations under an agreement entered into between HADP and the School Board on October 11, 1995. The lawsuit sought recovery from the architect/engineer ("A/E") of additional costs the School Board paid for change orders on the project due to errors and omissions in the construction documents prepared by the A/E and due to the A/E's improper administration of the construction contract.

On June 2, 2005, the office of School Facilities put HADP on notice of the School Board's intent to recover these additional costs from the A/e and withheld any further payments to the A/E.

At the School Board Meeting of December 15, 2010, the School Board authorized the School Board Attorney to make a demand for judgment in the amount of \$250,000, in part to preserve the School Board's right to seek recovery of its legal expenses.

## **PROPOSED SETTLEMENT**

On February 24, 2011, a Court ordered mediation was held and the parties entered into a settlement conditioned upon approval by the School Board. Upon approval of the settlement by the Board, HADP, through its insurance carrier, will pay the School Board the amount of \$187,000.00. The School Board will also retain the previously withheld balance on the A/E's contract of approximately \$13,654.00. In addition, HADP will dismiss its counterclaim against the School Board for \$75,000.00, which results in an overall settlement value of approximately \$275,974.00 in favor of the School Board.

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The Board Attorney's office and administrative staff agree with this recommendation as being in the best interests of the School Board. A copy of the Settlement Agreement will be made available under separate cover prior to the Board meeting of March 9, 2011.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida, approve the proposed Settlement Agreement in the case of *The School Board of Miami-Dade County, Florida v. HADP Architecture, Inc. f/k/a Harper Partners, inc.*, Case No. 06-16583 CA 22.