

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

**SUBJECT: PROPOSED SETTLEMENT AGREEMENT**

***TARAFI CONSTRUCTION, INC. vs. THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, CASE NO. 04-00836-CA 06 (ASSOCIATED WITH SCHOOL BOARD PROJECT NO. A0786, BROADCAST TOWER AND TRANSMITTER BUILDING, WLRN – CHANNEL 17)***

This matter involves a settlement of litigation of claims asserted by Tarafa Construction, Inc. (Tarafa) against the Board arising out of a contract entered into on December 13, 2000, between the Board and Tarafa in connection with the above-referenced Project.

**BACKGROUND:**

Tarafa Construction Company, Inc. ("Tarafa") was the design/build firm under a \$6,910,000 contract for the construction of a broadcast tower and transmitter building to provide a new digital television (DTV) antenna and FM antenna located on property in Broward County and jointly owned by the School Board and the State of Florida. After belatedly substantial completion of the project in October 2002, the main DTV antenna failed in January 2004, and a standby DTV antenna was installed to maintain continuous DTV broadcasting. Also, around the same time, on January 13, 2004, Tarafa filed a lawsuit against the Board asserting various claims against the Board for payment of the contract balances, approved but unpaid change orders, unapproved change orders, delay damages and other costs associated with the failure of the DTV antenna, interest and attorney's fees.

On March 12, 2008, a partial settlement of the matter with third-party Dielectric (manufacturer of the DTV antenna) was approved by Board, in which the Board received a new main DTV Antenna, standby antenna with transmission line and associated improvements to the tower structure. The Board also engaged a separate contractor to remediate other problems with the air-conditioning and electrical systems in order to maintain ongoing operations at the facility. The costs incurred in the settlement with Dielectric and the remedial work totaling \$774,176 were both funded from balances then remaining on Tarafa's contract. On November 16, 2010, Tarafa was awarded \$1,763,045.33 in non-binding arbitration, including pre-judgment interest, but not including an award of any of Tarafa's attorney's fees.

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**PROPOSED SETTLEMENT:**

A proposed settlement of Tarafa's claims has been agreed to by the parties pending approval by the Board. Prior to the parties reaching this proposed agreement, outside counsel and the School Board Attorney's office presented recommendations to the Board in an attorney-client session where a range of authority to make a settlement offer to Tarafa was made in hopes of resolving this matter. The amount of this proposed settlement falls within the settlement range authorized by the Board. Upon approval of the proposed settlement by the Board, Tarafa shall be paid a total amount of \$2,000,000. The terms of the proposed settlement agreement provide that Tarafa will receive an initial payment of \$1,350,000 within 15 days of approval of the settlement by the Board and the balance of \$650,000 within three months thereafter. The parties will also execute and exchange general releases as to the matter in its entirety.

Outside legal counsel, the School Board Attorney's office and administrative staff agree with this recommendation as being in the best interests of the Board. A copy of the Settlement Agreement and counsel's letter of recommendation for this settlement will be made available under separate cover prior to the Board meeting of April 13, 2011.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida, approve the proposed Settlement Agreement in the case of *Tarafa Construction, Inc. v. The School Board of Miami-Dade County, Florida, Case No. 04-00836-CA 06* (associated with Project No. A0786, Broadcast Tower and Transmitter Building, WLRN - Channel 17).