

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

**SUBJECT: REQUEST APPROVAL OF PRE-LITIGATION SETTLEMENT WITH SUFFOLK CONSTRUCTION CO. RELATED TO THE PLAYGROUND SAFETY SURFACE CONSTRUCTED FOR PROJECT NO. A01032, DR. MANUEL C. BARREIRO ELEMENTARY SCHOOL (STATE SCHOOL "W-1")**

This matter involves a pre-litigation settlement of claims by the District against Suffolk Construction Co. (Contractor), arising out of a Construction Management at-Risk contract for the construction of Dr. Manuel C. Barreiro Elementary School, Project No. A01032 (Project).

After the completion of the construction on the Project, the top wear layer of the rubberized playground safety surface at the primary playground had delaminated and the playground was removed from use as a safety precaution. Administration made written demand upon the Contractor to completely replace the top wear layer of the playground safety surface or to pay the Board for the full cost of that replacement. A tentative agreement has been reached between the Contractor and District staff in which the Contractor has agreed to pay the Board the amount of \$11,625, which represents the full cost to replace the top wear layer of the playground safety surface.

The proposed settlement agreement is recommended as being in the best interest of the Board considering the full range of factors involved in this claim. Administration is in agreement with the proposed settlement. A copy of the proposed settlement agreement executed by the Contractor and District staff will be provided under separate cover prior to the Board Meeting.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida approve the proposed pre-litigation settlement agreement between Suffolk Construction Co. and the Board as specifically identified therein, authorize acceptance of payment in the manner prescribed herein and as more fully described in the Settlement Agreement, and approve the Settlement Agreement and Limited Release for the Dr. Manuel C. Barreiro Elementary, Project No. A01032.