

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

SUBJECT: PROPOSED SETTLEMENT AGREEMENT - SETTLEMENT OF CLAIMS BY AND BETWEEN THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA AND SKANSKA USA BUILDING, INC. (ASSOCIATED WITH HOLMES ELEMENTARY SCHOOL PROJECT) (MIAMI-DADE COUNTY CIRCUIT COURT CASE NO. 09-43426 CA 33)

This matter involves a settlement of litigated claims by and between the School Board against Skanska USA Building, Inc. (Skanska) for issues arising out of the construction of improvements at Holmes Elementary School.

On June 8, 2009 (and subsequently amended on August 11, 2010), Skanska filed this lawsuit against the School Board seeking monetary damages for: 1) Breach of Contract; 2) Breach of Good Faith and Fair Dealing; 3) Negligent Misrepresentation; and 4) Violation of Prompt Payment Act. On November 2, 2009, in response to Interrogatories served by the School Board, Skanska claimed that it was seeking \$8,347,493.17, in damages, exclusive of interest.

The School Board, through its outside attorney, filed a counterclaim against Skanska for: 1) Breach of Contract; 2) Fraud; 3) Breach of Good Faith and Fair Dealing; and 4) Negligent Misrepresentation. The School Board, in addition to denying liability for Skanska's claims, sought to recover \$176,972.03 from Skanska, which represented claims for defective and untimely work and liquidated damages.

The parties have negotiated a proposed settlement of all claims asserted by both parties during the course of this litigation, pending approval by the School Board. Upon approval of the proposed settlement by the School Board, the School will pay to Skanska the sum of \$1,100,000 in full and final settlement of all claims asserted or which could have been asserted by both parties.

Given the amount of the potential exposure to the School Board at trial, as well as the continuing cost of prosecuting the case, the School Board Attorney's office and administrative staff agree with this recommendation as being in the best interest of the Board. A copy of the Settlement Agreement will be made available under separate cover prior to the Board meeting of August 6, 2014.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, approve and execute the Settlement Agreement with Skanska USA Building, Inc.