

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

SUBJECT: PROPOSED SETTLEMENT AGREEMENT OF CLAIMS BY THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA AGAINST D. STEPHENSON CONSTRUCTION, INC.

LINK TO STRATEGIC BLUEPRINT: EFFECTIVE & SUSTAINABLE BUSINESS PRACTICES

On January 18, 2012 the School Board of Miami-Dade County, Florida (“School Board”) and D. Stephenson Construction (“DSC”) entered into a Miscellaneous Construction Manager at Risk Agreement (“the Agreement”); the Agreement was extended on January 13, 2016. This item presents for the Board’s approval the settlement of all claims in connection work performed pursuant to the Agreement.

As part of the Agreement, DSC was commissioned to complete several projects for the Board. During the performance period under the Agreement, the Office of Inspector General (“OIG”) conducted an investigation regarding DSC’s substitution of electrical subcontractors on selected GOB-funded projects, which concluded that DSC “was not compliant with established M-DCPS procedures and contract requirements pertaining to the substitution of electrical subcontractors.” The report also indicated that “one of those electrical subcontractors, State Building Contractors, LLC, was not a State of Florida licensed electrical contractor at the time that D. Stephenson hired it to replace another firm that was duly licensed.” (*OIG Report, GO BIG No. 15, dated April 2, 2019*).

In response to the findings in the OIG investigation, the School Board did not assign any further projects to DSC. In accordance with the term of the Agreement, District staff on behalf of the Board, have engaged in intensive negotiations to address the issues raised in the OIG investigation and to attempt resolve pending claims related to the projects assigned to DSC under the Agreement. As a result of these negotiations, both parties have tentatively agreed to terminate for convenience Project Number 0119400 at Nathan B. Young Elementary School and DSC has also voluntarily agreed to not seek any new work from the School Board prior to August 15, 2020.

It is recommended that the Board approve the proposed Agreement as being in the best interests of the Board, and which amicably resolves all issues between the parties,

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particularly those matters that were the subject of the OIG investigation. Administration is in agreement with this recommendation. A copy of the Settlement Agreement will be provided to the Board under separate cover prior to the Board meeting of March 18, 2020.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida:

- 1) approve and authorize the Superintendent to execute the Settlement Agreement with D. Stephenson Construction Inc.; and
- 2) terminate for convenience the Nathan B. Young Elementary School Project Number 01619400, pursuant to the conditions indicated herein.