

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

SUBJECT: AUTHORIZATION TO AMEND OUTSIDE LEGAL COUNSEL CONTRACTS

COMMITTEE: PERSONNEL, STUDENT, SCHOOL, & COMMUNITY SUPPORT

LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

At its August 14, 2019, meeting, the School Board approved Agenda Item G-2 (Authorization to Retain Outside Legal Counsel) which authorized the Board Attorney to secure legal counsel to represent the Board in the following legal matters: 1) City of Aventura's Invocation of Florida's Governmental Conflict Resolution Act, and 2) 20-1500 Project. In accordance with the Board's approval, the School Board Attorney secured legal counsel for the Board in both matters as described in Item G-2.

City of Aventura and Archimedean Lawsuits

The City of Aventura and the School Board completed the dispute resolution process under Chapter 164 of the Florida statutes at the end of February. As we previously advised, this process culminated in a mediation which ended in an impasse. As a result of the impasse, the City filed a lawsuit in state court. On March 20, 2020, outside counsel from the firm of Greenberg Traurig, P.A., which is representing the Board in this matter, accepted service of the lawsuit on behalf of the Board. The lawsuit is based on the same claims that were raised during the Chapter 164 process and seeks a proportional share of the funds generated by the millage levy referendum approved by Miami-Dade County voters in 2018.

In addition to the City's lawsuit, since the Board's approval of item G-2, a separate but related lawsuit has been filed in the case known as: Archimedean Academy Inc. v. School Board of Miami-Dade County, Circuit Court Case No. 2019-030739-CA-15, where the Plaintiff charter school is also seeking a proportionate share of the referendum proceeds.

20-1500 Project

On June 15, 2015, the Board approved Agenda Item SP-2, which authorized the Superintendent to explore monetization opportunities related to the approximate ten (10)-acre property assembly, commonly referred to as the School Board Administration Complex (SBAB), and to develop an action plan, including but not limited to, issuance of a Request For Qualifications/Proposals and/or Invitations to Negotiate. The monetization plan has been referred to as the District's 20-1500 Project. On March 21, 2018, pursuant to Agenda Item A-2, the Board awarded Request for Proposals No. RFP-16-02-MT Sale of Property Located at 1370 N.E. Second Avenue to offer for sale and or development to highest ranked proposer. As the 20-1500 Project gets closer to realization, the legal complexity of the Project has exponentially increased requiring further reliance on legal counsel with expertise in this field.

The law firm of Greenberg Traurig, P.A., provided District staff with substantial legal guidance on matters associated with the property tax referendum that was approved by voters in 2018. Mr. Robert C. Gang, a shareholder with Greenberg Traurig, P.A. has also served as the District's Bond Counsel for many years. The same law firm has been representing the Board on the 20-1500 project. As this project has progressed, the Board's legal representation in the 20-1500 matter must be updated to replace associate attorneys that are no longer involved in the matter.

This item seeks to amend the previously existing contract with the firm of Greenberg Traurig, P.A. to more efficiently meet the demands of the increased litigation involving the 2018 millage levy referendum and to update the Board's legal representation in the 20-1500 project, with the intent of reducing the overall costs for the Board.

General Construction Litigation

For almost ten (10) years, lawyers from the firm of Taylor Espino Vega & Tournon, PLLC have represented the Board in general construction claims and litigation. The firm has also collaborated with in-house counsel for the Board on construction issues and litigation. This relationship has led to very favorable outcomes for the District and also to substantial savings in attorney's fees for the Board. As a result of the firm's continued relationship with the District, it has proposed a contingency fee agreement. This arrangement would require the Board to pay the hourly rates set forth in this item, while allowing the Board to recover attorneys' fees including but not limited to, all fees paid to the Taylor Vega firm in the event that the Board prevails in litigation and the court awards fees to the Board. Accordingly, the Board Attorney recommends that the Board authorize the amendment of its contract with the firm of Taylor & Vega Taylor Espino Vega & Tournon, PLLC to provide for the contingency fee arrangement and the newly established hourly rates in its representation of the Board in general construction litigation matters.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the School Board Attorney to amend the existing legal contracts with the following law firms in the manner described herein:

- 1) Greenberg Traurig P.A. - to reflect the representation of the Board by Shareholders Mr. Elliot Scherker and Mr. Francisco Sanchez at \$650.00 per hour, Mr. Jay Yagoda (Of Counsel) at a rate of \$550.00 per hour, Ms. Nancy Lash at a rate of \$550.00 per hour, Mr. Robert Gang, at the rate of \$395.00 per hour, Ms. Brenda Saavedra at a rate of \$495.00 per hour, Mr. Sivan Nisimov and Ms. Julie Jeffrey at a rate of \$400.00 per hour, Ms. Stephanie Jimenez, Ms. Claudia Odeja, Ms. Bethany Pandher at a rate of \$375.00 per hour, and paralegals from the firm at \$130.00 per hour; and
- 2) Taylor Espino Vega & Touron, PLLC – to reflect the representation of the Board by attorneys Daniel Vega and Alex Espino at the rate of \$375.00 per hour, associates at \$295.00 per hour, and paralegals at \$150.00 per hour, and provide for the new contingency fee arrangement.