

**APPROVE SETTLEMENT AGREEMENT BETWEEN PUBLIC BUILDING COMMISSION
AND CARLO STEEL CORPORATION/LEJEUNE JOINT VENTURE**

THE GENERAL COUNSEL RECOMMENDS THE FOLLOWING:

Approve a settlement agreement between the Public Building Commission ("PBC") and Carlo Steel Corporation/LeJeune Joint Venture ("Carlo/LeJeune") regarding the fabrication and delivery of pre-purchased structural steel for construction of the Little Village High School construction project ("Little Village High School Project"). This settlement involves payment by the PBC to Carlo/LeJeune of funds previously appropriated and transferred by the Board to the PBC, and both the Board and the PBC will be released from liability by Carlo/LeJeune.

ENTITIES: Carlo Steel Corporation/LeJeune Joint Venture
c/o Nelson Carlo, President
3100 East 87th Street
Chicago, Illinois 60617

Public Building Commission
Richard J. Daley Center, Room 202
Chicago, Illinois 60602

HISTORY: The proposed settlement agreement resolves disputes that arose between the PBC and Carlo/LeJeune concerning the Pre-Purchased Structural Steel Agreement between Carlo/LeJeune and the Board, for the construction of the Little Village High School Project. Carlo/LeJeune was to fabricate, furnish and deliver structural steel for the Little Village High School Project. A dispute arose between the PBC and Carlo/LeJeune regarding payment for steel fabricated and delivered under the Partial Assignment and certain credits allegedly due the PBC for work performed under the Partial Assignment. Carlo/LeJeune filed a lawsuit against the PBC, the Board, and the City of Chicago seeking \$5,551,923.00. This settlement agreement will provide for a resolution of the outstanding monetary issues claimed by Carlo/LeJeune under the Partial Assignment.

DESCRIPTION OF SETTLEMENT: Carlo/LeJeune claims it was not paid \$551,923.00 due under the Partial Assignment, and further claims \$5,000,000 in additional damages. Under the settlement agreement, by taking into account payments, credits and compromise adjustments, Carlo/LeJeune will accept, as final payment \$450,000, to be paid from funds previously appropriated by the Board to the PBC for the Little Village High School Project by Board Report Nos. 02-1120-RS12, 03-0924-RS07, and 04-1215-RS1. Carlo/LeJeune will release the PBC, the Board, and the City of Chicago. PBC will release Carlo/LeJeune as to its performance under the Partial Assignment as related to the Little Village High School.

Carlo/LeJeune is not released from its contractual obligations under the Pre-Purchased Structural Steel Agreement with the Board and the Little Village High School Project in any other way. Carlo/LeJeune agrees to defend and indemnify the PBC, Board, and City regarding any claims or legal proceedings brought by any Carlo/LeJeune subcontractors on the Little Village High School Project. Carlo/LeJeune agrees to dismiss its pending lawsuit against the PBC, the Board, and the City with prejudice.

No additional funds are required to be paid directly by the Board in connection with this settlement.

AUTHORIZATION: Authorize the General Counsel and the Chief Operating Officer to acknowledge to the PBC and Carlo/LeJeune that the Board approves the PBC's payment to Carlo/LeJeune of funds previously appropriated and transferred by the Board to the PBC for the Little Village High School Project to complete the above-described settlement.

LSC REVIEW: LSC approval is not applicable to this report.

AFFIRMATIVE ACTION STATUS: Not applicable.

FINANCIAL: No additional appropriation required.

GENERAL CONDITIONS:

Inspector General – Each party to the agreement shall acknowledge that, in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Chicago Board of Education has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.

Conflicts – The agreement shall not be legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3 which restricts the employment of, or the letting of contracts to, former Board member during the one year period following expiration or other termination of their terms of office.

Indebtedness – The Board's Indebtedness Policy adopted June 26, 1996 (96-0626-PO3), as amended from time to time, shall be incorporated into and made a part of the agreement.

Ethics – The Board's Ethics Code adopted June 23, 2004 (04-0623-PO4), as amended from time to time, shall be incorporated into and made a part of the agreement.

Contingent Liability – The agreement shall contain the clause that any expenditure beyond the current fiscal year is deemed a contingent liability, subject to appropriation in the subsequent fiscal year budget(s).

APPROVED,



PATRICK J. ROCKS
General Counsel *WJH*

WITHIN APPROPRIATION:



PEDRO MARTINEZ
Chief Financial Officer