

APPROVE SETTLEMENT OF MDI ACCESS, INC. v. TYLER LANE CONSTRUCTION AND CHICAGO PUBLIC SCHOOLS, CASE NO. 07 L 5544

THE GENERAL COUNSEL RECOMMENDS THE FOLLOWING:

Approve a settlement of a lawsuit filed by MDI Access, Inc. ("MDI," electrical subcontractor) against Tyler Lane Construction, Inc. ("TLC," general contractor) and Chicago Public Schools arising from certain extra electrical services provided by MDI in 2006 at a construction project at James H. Bowen High School.

ENTITY: Tyler Lane Construction, Inc. (General Contractor)
4200 W. Victoria
Chicago, Illinois 60646

MDI Access, Inc., an Illinois corporation (Subcontractor)
5627 W. 120th Street,
Alsip, Illinois

HISTORY: The Board contracted with TLC for general contracting services, including the construction project at the James H. Bowen High School Campus, 2710 E. 89th Street, Chicago, Illinois ("Bowen project"). TLC then sub-contracted with MDI Access, Inc. ("MDI") for certain electrical labor and materials on the Bowen project. MDI provided certain additional electrical labor and materials on the Bowen project on a time and materials basis, a partial payment for which was approved by the Board (07-0328-PR8) for \$189,166. A dispute arose as to the total amount due for this extra work. MDI served the Board with a Notice of Mechanic's Lien and filed suit against the Board and TLC to recover amounts claimed due for the extra work, as well as the balance due on base scope and other work.

DESCRIPTION OF SETTLEMENT: The Board agrees to pay an additional \$119,000 for the extra electrical work at issue. The undisputed sums due MDI for the remaining electrical work will be paid from monies due TLC that are currently held by the Board from the funds it previously appropriated for the Bowen project. This settlement will provide full and final resolution of the mechanic's lien and pending lawsuit, and also will allow the closeout of the completed Bowen project.

AUTHORIZATION: Authorize the settlement and authorize the Chief Facilities Officer and General Counsel to execute necessary documents to complete the above-described settlement.

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

AFFIRMATIVE ACTION STATUS: Not applicable.

FINANCIAL: Budget Classification: Capital Funds for Change Orders for Projects in the Capital Improvement Program
Funding Source: 12150-499-54105-009512-000000-2010.....\$119,000.00

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 Members 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, is hereby 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, is hereby 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 *PKR*

Within appropriation:



CHRISTINA D. HERZOG
Acting Chief Financial Officer