

SETTLEMENT AGREEMENT AND COMPLETE RELEASE

WHEREAS, The School Board of Monroe County, ("School Board") and Biltmore Construction Co., Inc. ("Biltmore"), collectively the "Parties," have agreed to resolve all current or potential claims asserted by School Board against Biltmore for liquidated damages due to alleged project delays pursuant to Section 7(C) of the Plantation Key School Construction Management Agreement entered into by the Parties on or about the 17th day of November, 2015; and

THEREFORE, in consideration of the mutual promises and covenants contained in this Settlement Agreement and Complete Release (the "Agreement"), for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

1. The aforementioned recitals shall be incorporated into this Agreement
2. Biltmore hereby acknowledges that School Board has paid Zyscovich, Inc. d/b/a Zyscovich Architects ("Zyscovich") a total of \$16,012.50 pursuant to invoices for work performed by Zyscovich in July, August and September, 2019. School Board affirms to the best of its knowledge that the three (3) above-referenced invoices are the only invoices that have been paid to Zyscovich outside the scope of the original Design Professional Services Agreement (and the duly authorized addendums thereto) entered into by Zyscovich and School Board on or about September 29, 2015.

3. Biltmore hereby agrees that School Board shall withhold a total of \$16,012.50 from the remaining balance owed to Biltmore pursuant to the Construction Management Agreement. Biltmore agrees to waive any and all claims they may have now or hereafter related to School Board's retention of \$16,012.50 from the remaining contract balance. Following the reduction of \$16,012.50, the remaining contract balance shall be disbursed to Biltmore in accordance with the terms of the Construction Management Agreement. Upon School Board approval of an application for final payment from Biltmore, School Board shall disburse the contract balance within thirty (30) days of that approval. This section shall in no way be construed to affect the auditing rights afforded to School Board pursuant to Section 33 of the General Terms and Conditions of the Plantation Key School Construction Management Agreement.
4. Biltmore hereby acknowledges that Zyscovich may issue additional invoices to School Board for work performed after September 2019.
5. Biltmore does, for itself and for any and all persons, firms, corporations, and entities claiming by or through them, and for its successors and assigns, fully release, relinquish, remise, waive and discharge School Board from any and all debts, claims, demands, damages, suits, actions, and causes of action, which could be levied against School Board now or which may arise hereafter, related to any and all invoices issued by Zyscovich to School Board after September 2019 for work performed pursuant to the Plantation Key Standard Design Professional Services Agreement entered into on or about September 29, 2015 or the Additional Services Proposal # 6 entered into on or about September 24, 2019.

Biltmore agrees to pay or otherwise resolve any claim that Zyscovich might have or that may arise in the future for services provided pursuant to the aforementioned Proposal.

6. Biltmore acknowledges that Additional Services Proposal No. 7 was provided to School Board by Zyscovich on or about October 25, 2019. Biltmore does, for itself and for any and all persons, firms, corporations, and entities claiming by or through them, and for its successors and assigns, fully release, relinquish, remise, waive and discharge School Board from any and all debts, claims, demands, damages, suits, actions, and causes of action, which could be levied against School Board for services provided by Zyscovich pursuant to Additional Services Proposal No. 7. Biltmore agrees to pay or otherwise resolve any claim that Zyscovich might have or that may arise in the future for services provided pursuant to the aforementioned Proposal. In consideration thereof, School Board acknowledges that while services have been provided by Zyscovich pursuant to Additional Services Proposal No. 7, it has not formally approved that Proposal. School Board agrees that it shall not approve any additional services from Zyscovich, excepting those referenced in this agreement, without the written consent of Biltmore.
7. In consideration of the above, School Board agrees to , for itself and for any and all persons, firms, corporations, and entities claiming by or through them, and for its successors and assigns, fully release, relinquish, remise, waive and discharge Biltmore from any and all claims for liquidated damages related to alleged project delays that School Board may assert now or hereafter pursuant to Section 7(C) of

the Plantation Key School Construction Management Agreement entered into by the Parties on or about November 17th, 2015.

8. Biltmore shall indemnify and hold harmless the School Board from and against any and all claims, liabilities, damages, and expenses, including, without limitation, reasonable attorneys' fees, incurred by the School Board in defending or compromising actions brought against it arising out of or related to non-payment of invoices for services provided by Zyscovich pursuant to Additional Services Proposal No. 6 or Additional Services Proposal No. 7, as referenced in this agreement.
9. Each party agrees to bear its own fees and costs incurred in this Claim
10. This Agreement sets forth the entire agreement between the parties and supersedes any and all prior agreements or understandings, written or oral, between the parties pertaining to the subject matter. There are no other promises or agreements which shall be binding on the parties with respect to this subject matter unless contained in this Agreement.
11. The Parties expressly acknowledge and agree that any claims waived by School Board pursuant to this Agreement are expressly limited to claims for liquidated damages under Section 7(C) of the Construction Management Agreement specifically related to alleged delays on the Plantation Key School construction project. This Agreement shall not operate to waive any other claims that the Parties may have now or that may arise hereafter.
12. This Agreement is made to avoid the uncertainty and expense of litigation and is not to be considered as an admission of liability, all liability being expressly

denied by the Parties.

13. The undersigned parties have read the foregoing and fully understand its terms, conditions and provisions and have had a full opportunity to review this Agreement with their attorneys.
14. This Agreement may be executed by the parties in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute a signed Agreement. Facsimile signatures are binding on the parties as if they were original signatures.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

EXECUTED this _____ day of December, 2019.

BILTMORE CONSTRUCTION CO., INC.

By:  _____

Its:  _____

DEREK R. HOUSTON

By: _____
Derek R. Houston, Esq.
Attorney for Biltmore.

SCHOOL BOARD OF MONROE COUNTY,
FLORIDA

By: _____

Its: _____

VERNIS & BOWLING OF THE FLORIDA
KEYS, P.A.

By: _____
Dirk M. Smits, Esq.
Attorney for Monroe County School Board