

March 11, 2003

Business Operations
Larry W. Stanearth, Chief Business Officer

SUBJECT: RESOLUTION AUTHORIZING THE COMMENCEMENT OF EMINENT DOMAIN PROCEEDINGS FOR A ± 11-ACRE SITE LOCATED AT NW 75 PLACE AND THEORETICAL NW 185 STREET, MIAMI, FLORIDA, FOR THE SITING OF PROPOSED STATE SCHOOL "NN1"

COMMITTEE: FACILITIES MANAGEMENT

Background

At its September 12, 2002 meeting, the School Board (Board) authorized the Superintendent to negotiate for the purchase of land for State School "NN1", within Region I of the School District pursuant to the ranking and negotiating parameters recommended by the School Site Planning and Construction Committee (SSPCC). State School "NN1" will provide relief to Lawton Chiles Middle School, which was, as of January 2003, operating at a permanent F.I.S.H. capacity of 157%. Funding for the site purchase of this school has been allocated in the 2002-03 fiscal year as part of the Five-Year Work Program. Funding for construction has been allocated in the 2003-04 fiscal year.

Due to the limited land suitable for school construction, the Board authorized staff to negotiate concurrently with the property owners of two (2) sites. Site "A", which is ±11 acres in size was ranked as first priority by the SSPCC and is located at NW 75 Place and theoretical NW 185 Street. Site "B", approximately 8.67 acres in size was ranked as an alternate site and is located at NW 89 Avenue and NW 178 Street. Both Sites are zoned for residential use.

Following the September 12, 2002 Board meeting, District staff submitted purchase offers for Site "A" and Site "B", pursuant to negotiation parameters established by the School Site Planning and Construction Committee (SSPCC) based on two independent appraisals and a review. The property owners of both sites, through their respective eminent domain counsel, rejected both offers and indicated their unwillingness to sell.

Subsequently, the property owners of Site "B" advised District staff that they would consider selling a smaller parcel of vacant land (± 5.5 acres) representing a combination of vacant land proposed to house a Charter Elementary School and adjacent single family lots. Based on input from Region I staff and its own discussion, the SSPCC at its December 4, 2002 meeting, eliminated Site "B" as an option for placement of State School "NN1", but recommended that staff continue to negotiate with the owners of Site "B" for the placement of State School "U1"; a proposed elementary school within Region I, also funded for site purchase in the 2002-03 fiscal year and construction in the 2005-

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06 fiscal year. State School "U1" will provide relief to Joella Good Elementary School and Charles Wyche Elementary School.

Pursuant to School Board Rule 6Gx13-2C1.083 V, E(1), the SSPCC at its January 2003 meeting, recommended that staff formulate and forward to the Board an item recommending the commencement of eminent domain proceedings to acquire Site "A" for the siting of proposed State School "NN1."

The Condemnation Process

Pursuant to Section 73.015, Florida Statutes governing actions in Eminent Domain, presuit negotiations are required before an eminent domain proceeding can be filed. As such, the District must attempt to negotiate in good faith with the owner of the property to be acquired, provide a written offer and, if requested, a copy of the appraisal upon which the offer is based. Because Site "A" (hereinafter referred to as the "Subject Site") represents a portion of a larger parent tract currently planned for residential development, and pursuant to the governing statutes, the District's Eminent Domain Counsel ("District Counsel") recommended that staff commission appraisals with consideration of severance damages to the remaining portion of the owners' property. Accordingly, based on the fair market value established in these appraisals, and subject to Board approval of eminent domain proceedings, staff will forward to the owners the prerequisite purchase offer for their consideration. The owners will then have thirty (30) days to review and act on the offer before a condemnation suit can be filed. If the owners respond to the offer, the District will negotiate in good faith before filing suit.

If the owners remain unwilling to sell, District Counsel can then begin to prepare the condemnation suit. From that point forward, pursuant to Sections 73.091 and 73.092, Florida Statutes, the District would be responsible for fees and costs of the property owners. These include the owners' attorney fees (if the owner recovers more than the District's first written offer), and all costs reasonably incurred through the use of expert witnesses. Typical expert fees include fees for appraisers, land planners and engineers.

It is important to note that a Phase I Environmental Audit indicated that based on a records review, interviews and reconnaissance, the environmental consultant did not recommend further assessments at the time. However, the board rule governing site acquisition requires a full environmental assessment which includes a Phase II and trenching. These activities could not be undertaken since District staff did not have authorization to access the Subject Site and as such, will need to be undertaken under court order prior to the filing of an Order of Taking.

In accordance with the governing school board rule, a copy of the full record of the site selection and investigation process will be submitted to the Board as supplemental information.

The owners of the Subject Site are Southwest Florida Land Developers and Investors, Inc., whose officers are Mr. Ezequiel Ruiz and Ms. Carmen Barrios.

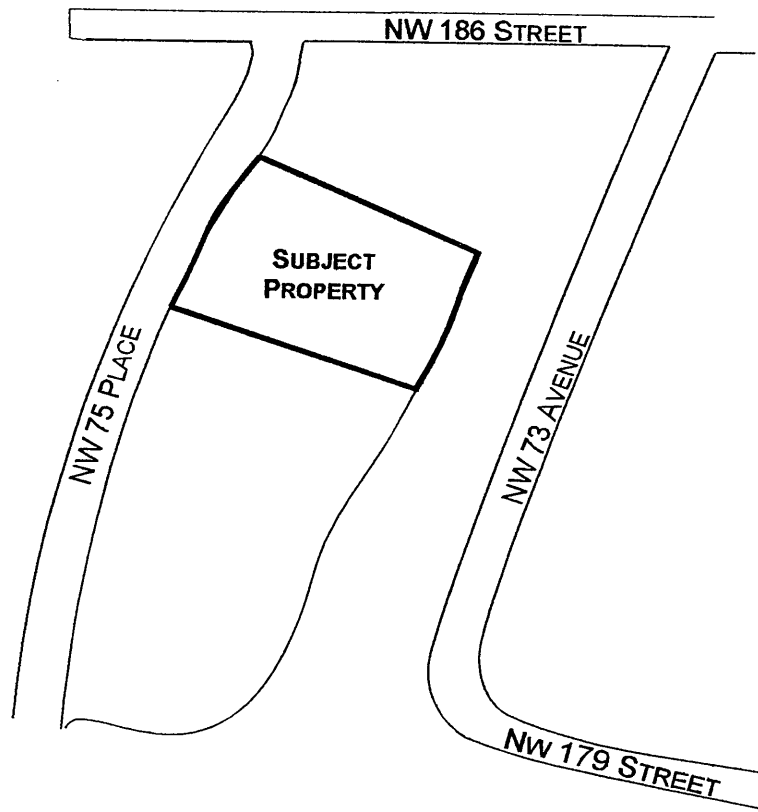
RECOMMENDED:

That The School Board of Miami-Dade County, Florida, adopt Resolution No. 03-19 authorizing the Superintendent or his designee to initiate eminent domain proceedings to acquire a ± 11-acre site located at NW 75 Place and theoretical NW 185 Street, Miami, Florida, for the siting of proposed State School "NN1" within Region I, pursuant to the recommendation of the School Site Planning and Construction Committee.


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JB:hf

LOCATION MAP



LEGEND

 +/- 11 ACRES-SUBJECT PROPERTY
(STATE SCHOOL "NN 1")

NOT TO SCALE



RESOLUTION NO. 03-19

A RESOLUTION OF THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA (“BOARD”), DECLARING THE ACQUISITION OF THE REAL PROPERTY LEGALLY DESCRIBED ON EXHIBIT “A” HERETO IN FEE SIMPLE, AS NECESSARY FOR PUBLIC USE AND FOR THE BOARD PURPOSE OF PROVIDING SCHOOLS TO THE RESIDENTS OF MIAMI-DADE COUNTY, AND AUTHORIZING THE ACQUISITION OF SAID PROPERTY BY PURCHASE OR EMINENT DOMAIN; PROVIDING AN EFFECTIVE DATE

WHEREAS, the Board is responsible for providing schools to the residents of Miami-Dade County; and

WHEREAS, the Board’s staff has recommended, based upon study and planning analysis, consideration of alternative sites, safety, costs, environmental factors, and long range area planning, that the property legally described on Exhibit “A” hereto be acquired in fee simple for a site for a school, which is a school purpose; and

WHEREAS, the Board’s staff has recommended, based upon study and planning analysis, consideration of alternative sites, safety, costs, environmental factors, and long range area planning, that the property legally described on Exhibit “A” hereto provides the most appropriate location for a site for a school, which is a school purpose, to serve the residents of Miami-Dade County in this portion of the County; and

WHEREAS, the Board has determined that the Board’s acquisition of the property legally described on Exhibit “A” hereto is necessary for the purpose of providing a needed site for a school, which is a school purpose, to serve the residents of Miami-Dade County in this portion of the County, and that the acquisition of said property is for a public use and public purpose and is in the best interests of the public welfare and the Board; and

WHEREAS, Chapters 73, 74 and 1013, Florida Statutes, empower the Board to acquire property through eminent domain when the acquisition of such property is necessary for any public school purpose or use; and

WHEREAS, the Board desires to authorize and approve the acquisition in fee simple of the property described on Exhibit “A” hereto by purchase or eminent domain, including, the use of the procedures for “quick takings”;

NOW, THEREFORE, BE IT RESOLVED BY THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA:

SECTION 1. That the above recitals are true and ratified and adopted by this reference.

SECTION 2. That the School Board of Miami-Dade County hereby authorizes the acquisition by purchase or eminent domain of that certain real property more specifically described in the attached Exhibit "A", incorporated by this reference.

SECTION 3. That the Superintendent of Schools and the School Board Attorney or their designee are authorized and directed to survey said property and to employ one or more real estate appraisers for the purpose of securing one or more appraisals of value of the property described above for the purpose of acquiring said property, and to negotiate in good faith with the owner(s) of said property in an effort to acquire the property.

SECTION 4. That the Superintendent of Schools and the School Board Attorney or their designee are hereby authorized and directed to proceed to take all necessary steps for the Board to acquire in its own name in fee simple by purchase or eminent domain proceedings the real property described on Exhibit "A" hereto, and to prepare in the name of the Board all papers, pleadings and other instruments required for that purpose and to prosecute all eminent domain proceedings to judgment.

SECTION 5. That the Superintendent of Schools and the School Board Attorney or their designee are hereby authorized and directed to take such further actions as are reasonably required to fully accomplish the purposes herein directed.

SECTION 6. That this Resolution shall take effect immediately upon its passage.

ADOPTED this twelfth day of March, A.D. 2003

THE SCHOOL BOARD OF MIAMI-DADE COUNTY,
FLORIDA

Chair

ATTEST:

Secretary

PROPOSED PARCEL FOR SCHOOL SITE NW-1

THAT PORTION OF TRACTS 18 THROUGH 31, FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION No. 1, SECTION 11, TOWNSHIP 52 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, AT PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, ALSO BEING A PORTION OF PARCELS 1170-7, 1170-8, AND 1170-9, AS DESCRIBED IN EXHIBIT "A" TO A SPECIAL WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 18391, AT PAGE 3496, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY LYING WITHIN THE FOLLOWING DESCRIBED PARCEL OF LAND:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 11; THENCE ALONG THE CENTER LINE OF NW 186th STREET (MIAMI GARDENS DRIVE) AS DESCRIBED IN SAID SPECIAL WARRANTY DEED THE FOLLOWING THREE (3) COURSES: (1) THENCE SOUTH 87°51'22" EAST ALONG THE NORTH LINE OF SAID SECTION 11, A DISTANCE OF 1105.90 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, HAVING AS ITS ELEMENTS A RADIUS OF 1145.92 FEET AND A CENTRAL ANGLE OF 29°23'31"; THENCE SOUTHEASTERLY ALONG SAID CURVE, HAVING AS DISTANCE OF 587.84 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST, HAVING AS ITS ELEMENTS A RADIUS OF 1145.92 FEET AND A CENTRAL ANGLE OF 14°30'25"; THENCE SOUTHEASTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 290.14 FEET; THENCE ALONG THE WESTERLY LINE OF A 280.00 FEET FLORIDA POWER AND LIGHT COMPANY EASEMENT (AS DESCRIBED IN SAID SPECIAL WARRANTY DEED) FOR THE FOLLOWING (2) COURSES: (1) THENCE SOUTH 17°51'53" WEST FOR 55.01 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID NW 186TH STREET (MIAMI GARDENS DRIVE); (2) THENCE CONTINUE SOUTH 17°51'53" WEST FOR 374.50 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 1170-9 AND THE POINT OF BEGINNING OF THE HEREAFTER DESCRIBED PARCEL OF LAND; THENCE CONTINUE SOUTH 17°51'53" WEST, ALONG THE EAST BOUNDARY OF SAID PARCEL 1170-9, A DISTANCE OF 276.27 FEET; THENCE NORTH 72°08'07" WEST, ALONG A SOUTHERLY BOUNDARY OF SAID PARCEL 1170-9, A DISTANCE OF 61.50 FEET; THENCE NORTH 17°51'53" EAST, A DISTANCE OF 14.66 FEET; THENCE NORTH 57°20'59" WEST, A DISTANCE OF 179.01 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST HAVING AS ITS ELEMENTS A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 86°02'04"; THENCE NORTHWESTERLY AND SOUTHWESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 75.08 FEET TO A POINT OF TANGENCY; THENCE SOUTH 36°36'57" WEST, A DISTANCE OF 210.00 FEET; THENCE SOUTH 22°04'53" WEST, A DISTANCE OF 592.83'; THENCE NORTH 80°30'26" WEST, A DISTANCE OF 343.00 FEET TO A POINT ON THE WEST BOUNDARY OF SAID PARCEL 1170-7; THENCE NORTHEASTERLY ALONG THE WEST BOUNDARIES OF SAID PARCELS 1170-7, 1170-8 AND 1170-9 FOR THE FOLLOWING (3) COURSES: (1) THENCE NORTH 09°00'00" EAST, A DISTANCE OF 271.58 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST HAVING AS ITS ELEMENTS A RADIUS OF 1105.92 AND A CENTRAL ANGLE OF 35°00'00"; (2) THENCE NORTHEASTERLY ALONG SAID CURVE FOR AN ARC DISTANCE OF 675.56 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE NORTHWEST HAVING AS ITS ELEMENTS A RADIUS OF 840.00 FEET AND A CENTRAL ANGLE OF 11°49'11"; (3) THENCE NORTHEASTERLY ALONG SAID CURVE FOR AN ARC DISTANCE OF 173.29 FEET; THENCE SOUTH 72°08'07" EAST, ALONG THE NORTHERLY BOUNDARY OF SAID PARCEL 1170-9, A DISTANCE OF 627.32 FEET TO THE POINT OF BEGINNING.

ALL OF THE FOREGOING CONTAINING 11.400 ACRES (MORE OR LESS).