

Business Operations
J.E. Surash, P.E., Chief Business Officer

SUBJECT: AUTHORIZATION TO EXECUTE A REAL ESTATE EXCHANGE AGREEMENT WITH MIAMI-DADE COUNTY, FLORIDA FOR PROPERTY LOCATED WITHIN THE FORMER HOMESTEAD AIR FORCE BASE (HAFB)

COMMITTEE: FACILITIES MANAGEMENT

Introduction

At its meeting of February 12, 2003, the School Board authorized the Superintendent to explore with Miami-Dade County (County) and/or other agencies a Memorandum of Agreement for the exchange of the Board's contingent rights to an approximate 26-acre site located within the former HAFB and originally designated for an aviation/vocational facility, and grant monies totaling approximately \$1.7M, for a site suitable for construction of one or more K-12 facilities. School District (District) and County staff have since identified an approximate 32-acre site located generally at SW 121 Avenue and SW 280 Street, for the possible construction of a senior high school to relieve Homestead Senior, South Dade Senior and Miami Southridge Senior. This relief school has been included in the 5-year work plan, although it is presently unfunded.

Over the last year, District and County staff have held numerous meetings, and participated in discussions with the two grant agencies, i.e. the State of Florida Department of Community Affairs (DCA) and the U. S. Department of Commerce, Economic Development Administration (EDA), as well as with the Air Force Real Property Agency (AFRPA), the agency responsible for all real property disposition within the former HAFB. Key issues to a successful real estate exchange agreement and to the process through which the grant dollars would be made available to the County include:

1. The District's ability to secure an extension of the two grants totaling approximately \$1.7M for water and sewer infrastructure improvements at the former HAFB, and to make the grant dollars available to the County to implement its water and sewer improvement plan. An extension has been granted to the District by the DCA through June 30, 2004, as has an approval to make the grant dollars available to the County. EDA approval to make the grant dollars available to the County will be required, with an estimated timeline for completion of the water and sewer infrastructure of June 2005. Further, approvals for both grants must be given concurrently since the DCA grant provides the match for the EDA grant;

2. The vehicle or mechanism through which the exchange of property would occur. Under a Public Benefit Conveyance (PBC), title would be assigned from the AFRPA to the U.S. Department of Education and then transferred to the School Board via a quitclaim deed. Under an Economic Development Conveyance (EDC), title is transferred to the County as the local redevelopment agency, and then transferred to the School Board via a quitclaim deed. Discussions with both the County and the Air Force have yielded a preference for pursuing the exchange through an EDC rather than a PBC as a more expedient transfer mechanism; and
3. The currently pending litigation filed against the Air Force by the Homestead Air Base Developers, Inc. (HABDI) on any and all property located within the former HAFB, and the impact of that litigation on the District's ability to acquire clear title to the above-mentioned 32 acres. Presently, the litigation is in federal court. The Air Force has filed a motion for summary judgement, and a decision is expected sometime this summer. If the court rules in favor of the Air Force, then the case would be settled, subject to appeal. If the court rules in favor of HABDI, then the case would be tried.

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It should be noted that the County, through a separate agreement, will receive title to approximately 595 acres ± within the former HAFB, including the 26 acres and 32 acres referenced above.

Additional Information

In summary, the proposed real estate exchange agreement between the County and the District would generally provide for the following:

1. The County will convey the 32-acre site, located at SW 121 Avenue and SW 280 Street to the School Board via a quitclaim deed. Pursuant to further discussions between the School Board and County attorneys' offices, staff has been advised that the Air Force, under its agreement with the County, must warrant that the 32-acre site is clean, and if the site is not clean, the Air Force is required to clean the site. This covenant is to be included in the quitclaim deed conveying the 32-acre site from the County to the School Board. The District will in turn release its contingent rights to the 26-acre site and acknowledge to the DOE the inclusion of that property in the AFRPA's EDC conveyance to the County. As previously noted, the pending HABDI litigation could place a cloud on the 32-acre site until such time there is final disposition of the suit, which may in turn impact upon the District's ability to immediately build the relief high school, should funding become available;
2. The District will make available to the County approximately \$1.7M for water and sewer improvements within the former HAFB. This amount includes approximately \$400,000 from a F.E.M.A. grant, to be disbursed through the DCA, and approximately \$1.3M from an economic development grant, to be disbursed through the EDA. The grant proceeds will be received by the District

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as the grantee and made available to the County, upon receipt of invoices. The District will retain all responsibility for adherence to grant requirements and administration.

3. In the event the grant proceeds totaling approximately \$1.7M cannot be made available to the County, the District will convey approximately 18.4 acres of environmentally endangered land located at SW 272 Street and SW 132 Avenue (EEL Property) to the County, via a quitclaim deed. In further discussions with County staff as to a potential partnership for use of the EEL Property, County staff has advised that it is the County's intent that the EEL Property permanently remain in the EEL program and that the School Board retain the right to use the EEL Property to conduct educational programs over such period.

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For informational purposes, the EEL Property was purchased by the School Board in 1969 for construction of Air Base Middle School. In 1984, the County designated the site as a Natural Forest Community. In 1991, the County established the Environmentally Endangered Lands (EEL) program for the purpose of acquiring, conserving and maintaining environmentally endangered natural forest and wetland communities for the benefit of present and future generations. The EEL Property is on the County's list of such properties.

Given the ecological makeup of the EEL Property and its unsuitability for development, the transfer of the land to the County for its EEL program in the event the \$1.7M cannot be made available to the County, would be reasonable.

A copy of the proposed real estate exchange agreement is under review by the School Board Attorney's Office and will be provided to the Board under separate cover. Subject to approval by the School Board and the Board of County Commissioners, execution of the proposed exchange agreement will not in and of itself convey title for the above referenced 32 acres to the District. This will occur no later than thirty days from conveyance by the AFRPA to the County, following the issuance of a Finding of Suitability (FOS) by the AFRPA to transfer.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, authorize the Superintendent to execute a real estate exchange agreement with Miami-Dade County, as follows:

1. the County will convey the 32-acre site, located at SW 121 Avenue and SW 280 Street to the School Board via a quitclaim deed. Pursuant to further discussions between the School Board and County attorneys' offices, staff has been advised that the Air Force, under its agreement with the County, must warrant that the 32-acre site is clean, and if the site is not clean, the Air Force is required to clean the site. This covenant is to be included in the quitclaim deed conveying the 32-acre site from the County to the School Board. The District will in turn release its contingent rights to the 26-acre site and acknowledge to the DOE the inclusion of that property in the AFRPA's EDC conveyance to the County;
2. the District will make available to the County approximately \$1.7M for water and sewer improvements within the former HAFB. This amount includes approximately \$400,000 from a F.E.M.A. grant, to be disbursed through the DCA, and approximately \$1.3M from an economic development grant, to be disbursed through the EDA. The grant proceeds will be received by the District as the grantee and made available to the County, upon receipt of invoices. The District will retain all responsibility for adherence to grant requirements and administration; and
3. in the event the grant proceeds totaling approximately \$1.7 M cannot be made available to the County, the EEL Property located at SW 272 Street and SW 132 Avenue will be declared surplus, pursuant to School Board Rule 6Gx13-3B1.092, and the District will convey such EEL Property to the County via a quitclaim deed. In further discussions with County staff as to a potential partnership for use of the EEL

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Property, County staff has advised that it is the County's intent that the EEL Property permanently remain in the EEL program and that the School Board retain the right to use the EEL Property to conduct educational programs over such period.

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