

Business, Operations, Finance and Construction
Ofelia San Pedro, Deputy Superintendent

SUBJECT: AUTHORIZATION TO ACCEPT THE FIRST AMENDMENT TO DECLARATION OF RESTRICTIONS IN FAVOR OF MIAMI-DADE COUNTY, AND EXECUTE A REVISED AGREEMENT WITH SHOMA DEVELOPMENT CORPORATION FOR THE CONSTRUCTION OF A PRIMARY LEARNING CENTER (PLC "E") AS A CONTRIBUTION IN-LIEU-OF EDUCATIONAL FACILITIES IMPACT FEES

COMMITTEE: FACILITIES MANAGEMENT

Introduction

At its October 22, 2003 meeting, the Board authorized the Superintendent to negotiate and execute an agreement with Shoma Development Corporation (Shoma) for the construction of a Primary Learning Center (PLC "E"), on approximately two acres of land located at the northeast corner of SW196 Street and Old Cutler Road, with the land and constructed PLC to be conveyed to the Board as a contribution in-lieu-of educational facilities impact fees.

Terms of the proposed agreement provided an impact fee credit to Shoma of \$2,063,000, based on the Board established value for a PLC of \$1,500,000 (originally set in 1995), plus the fair market value of the land at \$563,000. The Board was further obligated to reimburse Shoma \$300,000, representing the difference between the original PLC contribution in-lieu-of impact fee value (\$1,500,000) and the current Board adopted value of \$1,800,000 (established in 1997); District-approved changes that will increase the construction cost of PLC "E" by an estimated \$46,000 to \$65,000; and additional school impact fees collected by Miami-Dade County (County) through the issuance of residential building permits, in an amount estimated at \$24,000.

Background

Subsequent to the October 2003 Board action, Shoma advised that it would be unable to complete construction of the PLC at the \$1,800,000 value established by the Board in 1997, due in large part to the current economic environment, which has seen a dramatic escalation in costs for labor and certain construction materials. This is evidenced by the May 19, 2004 bid award to BDI Construction Company for PLC "H-1" at Auburndale Elementary School, in the amount of \$2,728,400. Shoma indicated that a value approaching \$2,700,000 would be required to fairly represent the current cost of constructing the PLC. Staff has been involved in protracted negotiations with Shoma in an attempt to reach consensus on this issue.

Proposed revisions to the agreement for construction of the PLC

In an attempt to bring this issue to closure in sufficient time for PLC "E" to open for the 2005-06 school year, staff analyzed the inflationary impact on the \$1,800,000 value of the PLC since 1997. After first allowing for the approximately 642 square feet of additional construction required by the District at PLC "E" (over the standard 1997 prototype PLC size), and utilizing the Federal Government's Consumer Price Index (CPI), it was determined that the value for PLC "E" would approach approximately \$2,196,350 in 2004 dollars. Shoma has now advised a willingness to complete construction of PLC "E" at a cost to the District of \$2,200,000. Since the contribution in-lieu-of impact fee credit to Shoma includes a value for construction of the PLC at \$1,500,000, the Board will be required to reimburse Shoma for the \$700,000 difference between the two amounts.

Proposed amendment to Declaration of Restrictions

Additionally, Shoma is requesting that the Board accept an amendment to the original Declaration of Restrictive Covenants (Covenant), which was entered into with Miami-Dade County in 1995 to allow the developer to obtain necessary zoning changes for its residential development. As a condition of the Covenant, Shoma was to begin construction of the PLC prior to issuance of the 100th residential building permit or within three years from the date of issuance of the first building permit, whichever occurs earlier. The PLC was to be completed and receive written approval from the District indicating that the building was able to be occupied, prior to issuance of a certificate of completion for the 199th residential dwelling unit.

As a result of a number of delays beyond the control of Shoma, the developer is requesting that the Covenant be amended such that no more than 300 certificates of occupancy may be issued prior to January 1, 2005. Further, no more than 400 certificates of occupancy may be issued prior to June 1, 2005, unless construction of the PLC is first completed and accepted by the District. In addition, the letter of credit provided by Shoma to guarantee completion of the work will be increased from \$1,900,000 to \$2,420,000. Shoma now estimates that construction of PLC "E" will be completed and ready by the start of the 2005-06 school year.

The proposed revised agreement will be reviewed by the School Board Attorney's Office and the Office of Risk and Benefits Management prior to execution.

RECOMMENDED: That The School Board of Miami-Dade County, Florida:

1. authorize the Superintendent to accept the First Amendment to Declaration of Restrictions from Shoma Development Corporation, in favor of Miami-Dade County, under substantially the terms and conditions set forth above;
2. authorize the Superintendent or his designee to execute a revised Agreement with Shoma Development Corporation for the construction of a Primary Learning Center (PLC "E"), under substantially the terms and conditions set forth above, as a contribution in-lieu-of educational facilities impact fees; and
3. authorize the amendment of the Five-Year Facilities Work Program to provide sufficient funding for the stipulated capital improvements for PLC "E" stipulated at \$450,000 (Program 2816), from impact fee reserves (Program 2801) and/or contingency (Program 0001).

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