

Mr. Agustin J. Barrera, Member

**SUBJECT: AUTHORIZATION TO TRANSMIT TO THE CITY OF CORAL GABLES THE SCHOOL BOARD'S MODIFIED POSITION REGARDING ITS TRANSFER OF DEVELOPMENT RIGHTS FOR CORAL GABLES ELEMENTARY SCHOOL; NEGOTIATE A JOINT USE AGREEMENT WITH THE CITY OF CORAL GABLES FOR THE USE OF THE RECREATIONAL AMENITIES AT CORAL GABLES ELEMENTARY SCHOOL; AUTHORIZE ADDITIONAL ATTORNEY FEES TO THE FIRM OF TEW CARDENAS LLP, TO COMPLETE NEGOTIATIONS WITH THE CITY**

**COMMITTEE: FACILITIES MANAGEMENT**

**Background**

At its January 14, 2004 meeting, the Board authorized the execution of a Covenant Running with the Land (Covenant), requiring Coral Gables Elementary School (School) to adhere to the City of Coral Gables (City) Historic Preservation Ordinance for purposes of protecting the District's Transfer of Development Rights (TDRs). The City Commission was to have acted on this matter in January 2004, but City Administration opted instead to postpone the matter and continue negotiating the terms of the Covenant with the District. Under the present TDR ordinance, the portion of the School located within the Central Business District (CBD) is eligible to transfer (sell) 106,019 to 212,038 square feet of development rights to a site in the receiving district, also within the CBD.

**Additional Information**

The law firm of Tew Cardenas, acting as the District's outside counsel in this regard, has been conferring with the City to solidify the District's position as well as to address City concerns. The City's current position is that the TDRs are part of the City Zoning Code and Comprehensive Land Use Plan (CLUP), and that if the District intends to benefit from those provisions, the District should also be required to comply with applicable land use regulations for all public schools located within the City. The City is also requesting to use the recreational facilities located at the School, under a Joint Use Agreement, in order to help satisfy the level of service standards established in the City's CLUP.

The City is now in the process of rewriting its Zoning code, including its TDRs section. The rewrite is on an aggressive schedule and should be in final form by December 2004. The District is in the process of ascertaining whether and how the proposed revisions would potentially affect the District's eligibility to transfer its TDRs and re-certification of such eligibility. That notwithstanding, under the proposed City rewrite, the School could now become eligible to transfer not only the original development rights, but also an additional 206,129 square feet, for a potential total TDR of 418,167. At an estimated value of \$20 per square foot, this would translate to approximately \$8 million.

In order to preserve the District's interests and to allay the City's concerns, it is recommended that additional discussions be held with the City to revise the previously approved Covenant be revised to include the following language:

1. Subject to approval by the City of the rewrite of the zoning code, the school could have up to 418,167 square feet of eligible TDRs, which the School Board could then sell, either in total or in part. Tew Cardenas advises that it believes that in order to perfect the District's interest in the current TDRs the District need only offer to submit to the entire Coral Gables Elementary School site to review under the City's comprehensive plan and land development regulations. However, as consideration for the expanded TDRs, the District could consider adhering to the City's Zoning Code and CLUP for all Miami-Dade County Public Schools located within the City's jurisdictional boundaries. This would include, reviews by the Planning and Zoning Board and/or, Historic Preservation Board, and/or Board of Architects, and/or Development Review Committee, and/or Board of Adjustment or City Commission. The schools impacted would be Coral Gables Elementary, G.W. Carver Elementary, West Laboratory, Ponce de Leon Middle, Coral Gables Senior and Merrick Educational Center. The only caveat would be that any requirements imposed by the City as a result of these reviews would be implemented subject to the state mandated cost per student station allowances;
2. Monies received from the sale of the TDRs would be programmed by the District for the maintenance and/or expansion of the School or other schools in the City; and
3. Reaffirm that should a final, non-appealable order or its equivalent, divest the District of its TDRs, or otherwise limit the transferability of the District's TDRs, the Covenant would terminate automatically, with no further action required of the District or City.

**ACTION PROPOSED BY  
MR. AGUSTIN J. BARRERA:**

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

- 1) authorize the Superintendent to transmit to the City of Coral Gables the School Board's modified position regarding its Transfer of Development Rights (TDRs) for Coral Gables Elementary School; and
- 2) upon approval by the City, authorize the Superintendent to develop and record a Covenant Running with Land that meets the terms and conditions itemized above. Should issues arise that are not covered by this report, a revised plan of action will be developed and brought back to the Board for its consideration; and
- 3) authorize the Superintendent or his designee, to negotiate the terms of a Joint Use Agreement with the City of Coral Gables for the use of the recreational amenities at Coral Gables Elementary School; and
- 4) authorize additional attorney fees for the firm of Tew Cardenas LLP, in an amount not to exceed \$10,000, to complete negotiations dealing with Transfer of Development Rights at Coral Gables Elementary School.