

Business Operations
Ofelia San Pedro, Deputy Superintendent

**SUBJECT: AUTHORIZATION TO ENTER INTO INDIVIDUAL AGREEMENTS
 WITH FLORIDA EAST COAST RAILWAY, LLC, AND
 LAKERIDGE TOWNHOMES HOMEOWNERS ASSOCIATION TO
 ALLOW THE BOARD TO CONSTRUCT AND MAINTAIN A NEW
 SEWER CONNECTION FOR SOUTH MIAMI SENIOR HIGH
 SCHOOL, ON ADJACENT PRIVATE PROPERTY
 PROJECT NO. A0747**

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

Introduction

As part of the ongoing capital improvements at South Miami Senior High School (School), it has been determined that the existing on-site sewage treatment facility is in extremely poor condition and use must be discontinued as soon as possible. The nearest point of connection to Miami-Dade Water and Sewer Department (M-DWASD) facilities, via public right-of-way, is .67 miles from the School, and would cost approximately \$858,518 to complete. As an alternative, the Lakeridge residential development (Lakeridge), located adjacent to the School, has agreed to allow the School to connect to a M-DWASD sewer line located on its property. This will require traversing the Florida East Coast Railway (FEC) parcel lying between the School and Lakeridge (see location map). As such, two separate agreements are required to allow the School to connect to the sewage facilities located on the Lakeridge property. It is estimated that the cost to complete the installation of the School's new sewer line to the Lakeridge site is approximately \$262,004, resulting in a cost savings to the District of approximately \$596,514. Since the new sewer line will be located on private property, the District shall retain ownership of the improvements at all times, and be responsible for all future maintenance.

Staff has spoken with the FEC and Lakeridge Townhomes Homeowners Association (Lakeridge Association) and negotiated agreements to allow use of their lands, under substantially the following terms and conditions:

FEC License Agreement

- The FEC will allow the District to install a new sewer line under its property in order to connect from the School site to Lakeridge;
- in lieu of making ongoing monthly payments to the FEC for use of their property, which is standard FEC policy for such license agreements, the District shall pay a one-time, non-refundable, license fee in the amount of \$8,000, which fee shall cover the lifetime use of the FEC property;

- at such time as the District intends to construct, modify or maintain its sewer line, it shall provide plans and drawings of its proposed work to the FEC, and shall pay an additional non-refundable fee of \$350;
- all construction must conform to the FEC's specifications, in addition to those imposed by the local jurisdictional entities;
- either party may cancel this agreement with 30 days notice. In that event, the District must remove its improvements at its sole cost and expense. If the agreement is canceled by the FEC, it will attempt to provide the District with an alternate location, with such relocation costs to be borne by the District;
- upon termination of the agreement, or upon the accidental breakage of the sewer line causing damage or the danger of potential damage to the FEC property, the District must immediately repair its sewer pipe or remove the improvements and restore the site to its former good condition;
- subject to the provisions of Section 768.28, Florida Statutes, the Board agrees to and shall at all times indemnify, protect and save harmless the FEC, its parent, subsidiaries, and affiliates from and against all costs or expenses resulting from any and all losses, damages, suits or claims on account of the construction, placement, attachment, maintenance, repair or removal of the improvements, whether such loss is suffered by the FEC or by other persons or entities, including the Board, and whether attributable to the fault, failure or negligence of the FEC. However, no provision in the agreement shall be construed as a waiver of sovereign immunity beyond the provisions of Section 768.28, Florida Statutes;
- the District waives any legal right and monetary claims for damages of any sort resulting from its loss of occupancy of the FEC property. Furthermore, the Board covenants not to sue the FEC, waives all present and future claims against the FEC, and releases the FEC from any and all liability for damages to Board property situated within, or adjacent to, the FEC property, whether attributed to the fault, failure or negligence of the FEC;
- the District shall pay all costs of supervision, labor and material incurred by the FEC in supervising or protecting its property by reason of the Board operating the sewer line;
- in the event the District defaults under the terms of this agreement, and fails to cure same within 30 days, or fails to notify the FEC in writing of its proposed cure within said 30 days, which proposed cure is determined to be acceptable to the FEC in its sole discretion, then the FEC may, at its option, immediately cancel this agreement;
- in the event the District fails to pay an obligation within 30 days of presentation by the FEC, the amount of the obligation shall bear interest at 12% per year until paid;
- the parties waive the right to trial by jury with respect to any future litigation, and agree the venue for any such action shall be St. Johns County, Florida;
- unless terminated by either party, this agreement shall remain in full force and effect; and
- the Superintendent shall be the party designated by the Board to grant or deny all approvals required by this agreement, or to cancel this agreement.

Association Agreement

- the Lakeridge Association will allow the District to install a sewer line across a portion of the Lakeridge property, from the adjacent FEC property to a point of connection at an existing W-DWASD sewer line, and will provide an easement to allow the Board to service, repair and maintain the sewer line in the future;
- the District shall pay a one-time, non-refundable fee in the amount of \$30,000, which fee shall cover the lifetime use of the Lakeridge property;
- subsequent to completion of the sewer line installation, the District will restore the area to the same or similar condition than before the work began, and will retain all responsibility for all future maintenance and utility costs related to the improvements;
- in the event the sewage facilities are relocated outside of the easement area by the Board or permanently abandoned, the easement shall automatically terminate;
- in addition to termination of the agreement due to removal or abandonment of the facilities by the District, this agreement may only be terminated in the event of damage and destruction of the sewage facilities, which the Board chooses not to repair;
- in the event of termination of the agreement, the Board shall either remove the improvements or abandon the improvements in compliance with all applicable laws and requirements of the governing jurisdictional entities, at the Board's option; and
- the Superintendent shall be the party designated by the Board to grant or deny all approvals required by this agreement, or to cancel this agreement.

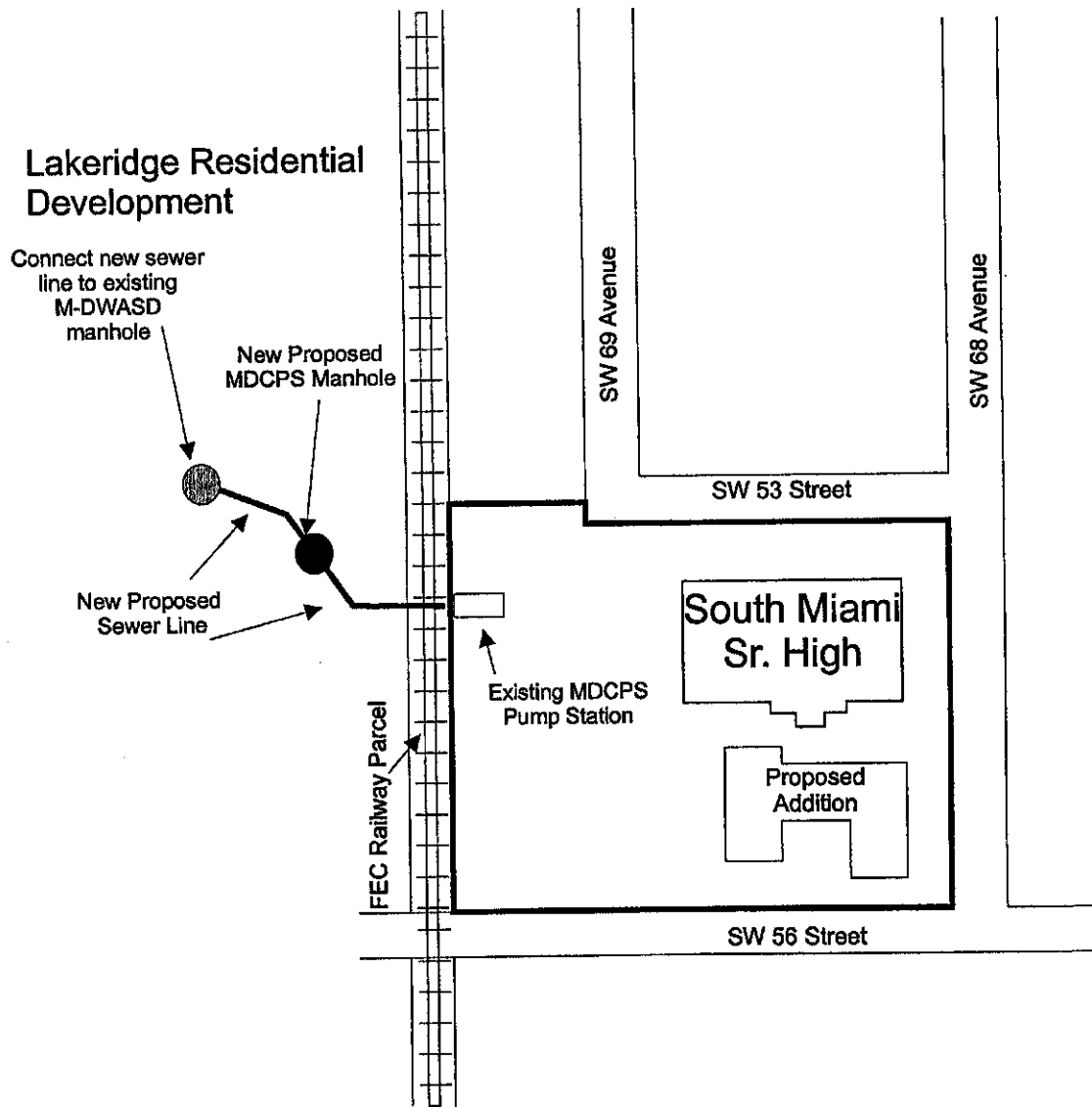
The Chief Construction Officer, Chief Maintenance Officer, Principal of South Miami Senior High School and Assistant Superintendent for Region 5 recommend entering into individual agreements with the Florida East Coast Railway and Lakeridge Association to allow construction and ongoing maintenance of a new sewer line for South Miami Senior High School. The agreements will be reviewed by the School Board Attorney's Office and the Office of Risk and Benefits Management prior to their execution.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, authorize the Superintendent or his designee to execute individual Agreements with the Florida East Coast Railway LLC, and the Lakeridge Townhomes Homeowners Association (including one time payments of \$8,000 and \$30,000 respectively), to allow the Board to construct and maintain a new sewer connection for South Miami Senior High School, on adjacent private property, substantially in conformance with the terms noted above.

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LOCATION MAP



(Not To Scale)