

November 8, 2006

Office of School Facilities
Rose Diamond, Chief Facilities Officer

SUBJECT: PROPOSED SETTLEMENT WITH AVENTURA BELLAGIO, LLC, PERTAINING TO THE DISTRICT'S ACQUISITION OF APPROXIMATELY 4.6 ACRES AS PART OF AN ASSEMBLAGE OF PROPERTIES TO SITUATE STATE SCHOOL "D", RELIEF FOR VIRGINIA BOONE HIGHLAND OAKS ELEMENTARY, MADIE IVES ELEMENTARY AND HIGHLAND OAKS MIDDLE SCHOOLS, IN CONNECTION WITH THE EMINENT DOMAIN PROCEEDINGS OF THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA v. AVENTURA BELLAGIO, LLC, CASE NO. 04-11406-CA (08)

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

Introduction

In September and October 2003, the School Board (Board) approved the purchase of two parcels of land totaling approximately 2.3 acres as part of an assemblage of six properties to situate State School "D"; a K-8 facility to relieve Virginia Boone Highland Oaks Elementary, Madie Ives Elementary and Highland Oaks Middle Schools.

After exhausting all attempts to negotiate a willing sale with the remaining property owners, the Board, at its January 14, 2004 meeting, authorized the filing of a Petition in Eminent Domain to acquire an additional 7.5 acres consisting of four separate properties, located between NE 209 Street and NE 211 Terrace & between West Dixie Highway and NE 26 Avenue, Miami, Florida (see attached location map). The lawsuit to acquire the four additional properties was filed on May 21, 2004, culminating in the execution of a "Stipulated Order of Taking" (Stipulated Order) in favor of the Board on August 3, 2004. Title to these properties and all improvements contained thereon was subsequently transferred to the Board on August 30, 2004, upon deposit of the District's good-faith funds of \$3,936,000. Pursuant to state law, the final value to be paid to the property owners is to be determined through mediation or by a jury trial. The Condemnation proceedings are pending in the Circuit Court, in and for Miami-Dade County. Tom Bolf, Esquire, of the Law Firm of Ruden McClosky is representing the Board in the condemnation action. The Board is required by Florida law in Eminent Domain proceedings to pay the owner's reasonable costs and attorney's fees.

Background

As referenced above, and as allowed by law, three mediation sessions were held between District staff and Aventura Bellagio, LLC., the owners of an approximate 4.6-

acre parcel, located at the Southeast corner of NE 211 Terrace and NE 26 Avenue, Miami, Florida (labeled as Parcel "B" on the attached location map), to discuss settlement terms. The Site is vacant, but was in the process of being improved for the construction of 55 Town Homes. As a result of the above referenced discussions, the property owner has tentatively agreed to accept a settlement payment of \$7,000,000, inclusive of all related damages, costs, and attorney fees.

It is important to note that final disposition has been reached for each of the other three properties not originally purchased (Parcels "C", "D" and "F" on the attached location map), and the proposed settlement for the remaining Parcel "B", will complete the acquisition of the full 9.8 acre parcel. State School "D" is presently under construction and is scheduled to open in 2008.

Proposed settlement

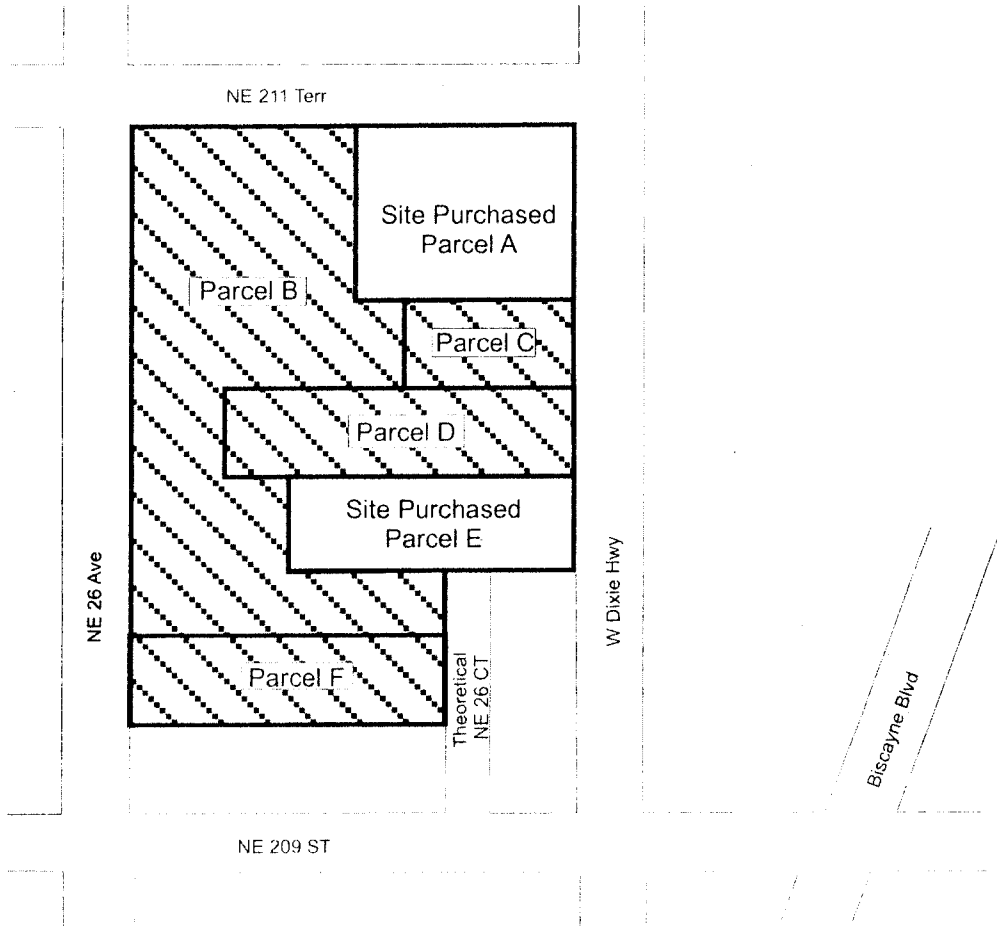
The proposed settlement is subject to Board approval. This settlement is recommended as advantageous to the Board, considering the costs associated with trial, in the absence of a settlement.

The School Board Attorney's Office will submit to the Board Members and the Superintendent, as confidential supplemental information, a memorandum from Eminent Domain Counsel explaining the basis for acceptance of the \$7,000,000 settlement.

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

1. approve and authorize settlement with Aventura Bellagio, LLC, pertaining to the District's acquisition of approximately 4.6 acres, the last parcel in an assemblage of six properties to situate State School "D", relief for Virginia Boone Highland Oaks Elementary, Madie Ives Elementary and Highland Oaks Middle Schools, in connection with the Eminent Domain proceedings of the School Board of Miami-Dade County, Florida v. Aventura Bellagio, LLC, Case No. 04-11406-CA (08). The settlement amount is \$7,000,000, inclusive of all attorney's fees and costs; and
2. authorize transfer of \$4,950,000 (the \$7,000,000 settlement amount, less the \$2,050,000 initial deposit) from 0331 5660 9217 2803 7400 to 0331 5660 0231 2796 7400 (Project A0798).

LOCATION MAP



LEGEND



PORTION OF
ASSEMBLAGE PREVIOUSLY
PURCHASED BY THE BOARD
(PARCELS A & E)
± 2.29 ACRES
VACANT LAND



FOUR PROPERTIES
ACQUIRED BY EMINENT
DOMAIN
± 7.5 ACRES
(PARCELS B,C,D,& F)

TOTAL
ASSEMBLAGE
± 9.8 ACRES

