

Office of School Facilities
Rose Diamond, Chief Facilities Officer

SUBJECT: ADOPT RESOLUTION NO. 06-66 AUTHORIZING THE ACQUISITION OF AN APPROXIMATE 9.81-ACRE SITE LOCATED AT NW 86 STREET AND NW 112 AVENUE, DORAL, FLORIDA, BY EMINENT DOMAIN BASED ON A PRE-SUIT AGREEMENT AS TO VALUE, TO SITUATE STATE SCHOOL "P1", PLANNED TO RELIEVE EUGENIA B. THOMAS EDUCATION CENTER AND DORAL MIDDLE SCHOOL; AND AUTHORIZE A PURCHASE AND SALE AGREEMENT WITH THE GRAND AT DORAL TWO, LTD., TO ACQUIRE THE SITE

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

Introduction

In accordance with School Board Rule 6Gx13- 2C-1.083, the School Site Planning and Construction Committee (SSPCC), at its December 6, 2006 meeting, recommended that an agenda item be brought to the Board requesting approval of a Resolution authorizing the acquisition of an approximate 9.81-acre site located at NW 86 Street and NW 112 Avenue (Subject Site), in the City of Doral, by eminent domain and based on a pre-suit agreement with The Grand At Doral Two, Ltd (Owner) as to value, in the amount of \$12,000,000. The SSPCC also recommended execution of a purchase and sale agreement (Agreement) with the Owner, in that amount. The Subject Site will be used to situate State School "P1", proposed to relieve overcrowding at Eugenia B. Thomas Education Center and Doral Middle School (see location map). The pre-suit agreement as to value will provide the Owner with an opportunity to reinvest the proceeds with some tax benefits, as well as eliminate Documentary Stamps and Surtax on the Deed.

Background

The Owner previously offered to sell the Subject Site to the District for a total of \$16,320,000, which covered the cost of the Subject Site at \$12,000,000, and the cost of site preparation at \$4,320,000. At its November 8, 2006 meeting, the SSPCC authorized negotiations with the Owner and the submittal of a conditional purchase and sale agreement up to the amount of \$16,320,000. Subsequent to the meeting however, and given the need to ensure expedient site development to facilitate school construction for a 2008 school opening, an internal decision was made to instead pursue the purchase of the Subject Site in an "as-is" condition, and to take-on site development as part of the construction process rather than as a separate process; all subject to SSPCC and Board approval. The initial District offer, which was based on a restricted use appraisal, was \$11,750,000; this offer was made subject to further appraisals, environmental assessment and final Board approval. The District subsequently commissioned and received the required second appraisal, which valued

the property at \$12,000,000, and a review appraisal, as called for in the governing Board Rule; the review recommended negotiating parameters up to \$12,300,000. The Owner's counter-offer of \$12,000,000 is within the recommended range.

It should be noted that the District previously pursued the possible acquisition of a site located at approximately NW 81 Street and NW 112 Avenue for the siting of State School "P1" (Board item F-18, at the Board meeting of July 12, 2006). This site was not purchased however, due to environmental concerns and the high cost of remediation.

Additional Information

District staff undertook and completed due diligence for the Subject Site as required by the governing Board Rule. Due to the presence of wetlands, site development will require permits from the South Florida Water Management District (SFWMD) and the Department of Environmental Resources Management (DERM), and wetland mitigation. A preliminary determination by the Army Corps of Engineers (Corps), indicated the Subject Site would not require a Corps permit. The District's Phase I Environmental Assessment indicated no evidence of on-site recognized environmental conditions, and recommended no further testing. A copy of due diligence records will be submitted to the Board under separate cover and a copy placed with Citizen's Information.

Recommended Board Action

Pursuant to the SSPCC's recommendations, it is recommended that the Board initiate Eminent Domain proceedings to acquire the Subject Site under a pre-suit agreement as to value, and that a purchase and sale agreement with The Grand At Doral Two, Ltd., be executed, substantially in conformance with the following terms and conditions:

- The purchase price shall be \$12,000,000 for the approximate 9.81-acre site, in an "As Is" condition;
- The Seller shall be responsible for the payment of any and all outstanding taxes, special assessments or liens, if any; and
- The Board will be responsible for the cost of the Survey, Title Insurance Commitment and premium for the Title policy obtained by the Board for issuance of the Commitment, and the Seller's Attorney's fees, in an amount not to exceed \$10,000, associated with reviewing documents pertaining to the filing of the eminent domain law suit. This expense is expected to be nominal, given the minimal amount of work associated with reviewing the court filing under a pre-suit agreement.

The legal Description of the Subject Site is attached hereto and labeled as Exhibit "A".

RECOMMENDED: That The School Board of Miami-Dade County, Florida, adopt Resolution No. 06-66, authorizing the commencement of Eminent Domain proceedings under a pre-suit agreement as to value, to acquire an approximate 9.81-acre site located at NW 86 Street and NW 112 Avenue, Doral, Florida, to situate State School "P1" (Eugenia B. Thomas Education Center and Doral Middle School relief), and authorize the Superintendent to execute a purchase and sale agreement with The Grand At Doral Two, Ltd., as well as any other necessary agreements or documents to effectuate the acquisition of the site, at a purchase price of \$12,000,000.

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LOCATION MAP



RESOLUTION NO. 06-66

A RESOLUTION OF THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA ("BOARD"), DECLARING THE ACQUISITION OF THE REAL PROPERTY LEGALLY DESCRIBED ON EXHIBIT "A" HERETO IN FEE SIMPLE, AS NECESSARY FOR PUBLIC USE AND FOR THE BOARD PURPOSE OF PROVIDING SCHOOLS TO THE RESIDENTS OF MIAMI-DADE COUNTY, AND AUTHORIZING THE ACQUISITION OF SAID PROPERTY BY PURCHASE OR EMINENT DOMAIN; PROVIDING AN EFFECTIVE DATE

WHEREAS, the Board is responsible for providing schools to the residents of Miami-Dade County; and

WHEREAS, the Board's staff has recommended, based upon study and planning analysis, consideration of alternative sites, safety, costs, environmental factors, and long range area planning, that the property legally described on Exhibit "A" hereto be acquired in fee simple for a site for a school, which is a school purpose; and

WHEREAS, the Board's staff has recommended, based upon study and planning analysis, consideration of alternative sites, safety, costs, environmental factors, and long range area planning, that the property legally described on Exhibit "A" hereto provides the most appropriate location for school sites, which is a school purpose, to serve the residents of Miami-Dade County in this portion of the County; and

WHEREAS, the Board has determined that the Board's acquisition of the property legally described on Exhibit "A" hereto is necessary for the purpose of providing a needed site for schools, which is a school purpose, to serve the residents of Miami-Dade County in this portion of the County, and that the acquisition of said property is for a public use and public purpose and is in the best interests of the public welfare and the Board; and

WHEREAS, Chapters 73, 74 and 1013, Florida Statutes, empower the Board to acquire property through eminent domain when the acquisition of such property is necessary for any public school purpose or use; and

WHEREAS, the Board desires to authorize and approve the acquisition in fee simple of the property described on Exhibit "A" hereto by purchase or eminent domain, including, the use of the procedures for "quick takings".

NOW, THEREFORE, BE IT RESOLVED BY THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA:

SECTION 1. That the above recitals are true and ratified and adopted by this reference.

SECTION 2. That the School Board of Miami-Dade County hereby authorizes the acquisition by purchase or eminent domain of that certain real property more specifically described in the attached Exhibit "A", incorporated by this reference.

SECTION 3. That the Superintendent of Schools and the School Board Attorney or their designee are authorized and directed to survey said property and to employ one or more real estate appraisers for the purpose of securing one or more appraisals of value of the property described above for the purpose of acquiring said property, and to negotiate in good faith with the owner(s) of said property in an effort to acquire the property.

SECTION 4. That the Superintendent of Schools and the School Board Attorney or their designee are hereby authorized and directed to proceed to take all necessary steps for the Board to acquire in its own name in fee simple by purchase or eminent domain proceedings the real property described on Exhibit "A" hereto, and to prepare in the name of the Board all papers, pleadings and other instruments required for that purpose and to prosecute all eminent domain proceedings to judgment.

SECTION 5. That the Superintendent of Schools and the School Board Attorney or their designee are hereby authorized and directed to take such further actions as are reasonably required to fully accomplish the purposes herein directed.

SECTION 6. That this Resolution shall take effect immediately upon its passage.

ADOPTED this Thirteenth day of December, A.D., 2006

THE SCHOOL BOARD OF MIAMI-DADE COUNTY,
FLORIDA

Chair

ATTEST:

Secretary

EXHIBIT "A"

LEGAL DESCRIPTION:

FOLIO NO.: 35-3007-001-0210

Tract 21, less the East 35 feet thereof, of FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. ONE, in Section 7, Township 53 South, Range 40 East, according to the Plat thereof, as recorded in Plat Book 2, at Page 17 of the Public Records of Miami-Dade County, Florida.

The above parcel consists of 9.81 acres, more or less.