

Office of School Facilities  
Rose Diamond, Chief Facilities Officer

**SUBJECT: PROPOSED SETTLEMENT WITH YAMIT REALTY, LLC, PERTAINING TO THE DISTRICT'S ACQUISITION OF APPROXIMATELY 1.2 ACRES TO SITUATE STATE SCHOOL "BB1", A PLANNED K-8 CENTER INTENDED TO RELIEVE RUTH K. BROAD/BAY HARBOR ELEMENTARY SCHOOL AND HIGHLAND OAKS MIDDLE SCHOOL, IN CONNECTION WITH THE EMINENT DOMAIN PROCEEDINGS OF THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA v. YAMIT REALTY, LLC, CASE NO. 06-03744-CA-22**

**COMMITTEE: FACILITIES AND CONSTRUCTION REFORM**

**LINK TO  
STRATEGIC PLAN: IMPROVE CONSTRUCTION SERVICES**

Introduction

In 2004, the City of Sunny Isles Beach, Florida (City), approached the District with an offer to donate two adjacent parcels of land within the City at N.E. 182<sup>nd</sup> Drive and North Bay Road (see Parcels "A" and "B" on the location map), totaling approximately 2.1-acres, for the future construction of a K-8 educational facility. Parcel "A" is approximately 1.2 acres and was developed with a 68-unit apartment house. Parcel "B" is undeveloped. The City intended to acquire this land through a combination of donation and condemnation. An adjacent 2 acre public park (see Parcel "C" on the location map) would also be made available for school recreational activities, under a proposed park/school agreement, allowing more of the 2.1-acre site to be used for actual school construction. The public right-of-way running between the school site and the park was subsequently closed and vacated by the City, to create a unified parcel (see location map). The site, designated as State School "BB1", will provide relief to Ruth K. Broad/Bay Harbor Elementary School and Highland Oaks Middle School. The Board awarded a contract for building demolition and site work at the January 2007 Board meeting; the school is scheduled to open in 2008.

Initially, the City envisioned negotiating the voluntary acquisition of the land or pursuing eminent domain under Section 166.411(11), Florida Statutes, which allowed cities to condemn property for public schools. This provision was subsequently repealed, and the City focused on negotiating a willing purchase of the land, which attempts proved unsuccessful. As a result, discussions subsequently shifted to District acquisition of the land, with the District deriving financial assistance from the City. These discussions culminated in the unanimous approval of a resolution by the City, at its July 14, 2005 meeting, to donate \$8,500,000 toward the District's acquisition of the land. The Board, at its September 7, 2005 meeting, accepted the City's proffered donation and, in turn,

approved an amendment of the District's Five Year-Capital Plan allocating \$12,000,000 towards the District's acquisition of the site, which included the City's donation.

At its meeting of March 16, 2006, the City adopted a Resolution ratifying an Interlocal Agreement between the City and the Board. The City agreed to tender the first \$10,000,000 towards the acquisition of Parcels "A" and "B", with the District responsible for any additional costs, up to a total of \$20,000,000. Thereafter, all costs would be shared equally by the parties on a 50%/50% pro rata basis.

The lawsuit to acquire Parcel "A" was filed on February 24, 2006, culminating in the execution of a "Stipulated Order of Taking" in favor of the Board on May 22, 2006. Title to the property and all improvements contained thereon, was subsequently transferred to the Board on June 9, 2006, upon deposit of \$14,800,000 in good-faith funds. Of this amount, the City provided \$5,200,000, and the District provided \$9,600,000. It is important to note that final disposition of Parcel "B" is not covered by this settlement and will be determined either through a mediated settlement currently underway or by jury trial yet to be scheduled if mediation is unsuccessful. The City has provided \$4,800,000 in good-faith funds towards the acquisition of Parcel "B".

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, and Dale Brushchi, Esquire, of the Law Firm of Ruden McClosky et al., are 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.

#### Proposed settlement

As referenced above, and as allowed by law, two mediation sessions were held between District staff and Yamit Realty, LLC, the prior owner of Parcel "A". The proposed settlement, in the amount of \$18,200,000, covers all costs, including attorney's fees, expert costs and interest. The balance between the initial good-faith deposit and the settlement amount is \$3,400,000. In keeping with the funding agreement with the City, the City will fund \$1,500,000 of this cost (the \$5,200,000 already deposited by the City for Parcel "A", plus the \$4,800,000 already deposited for Parcel "B", equals the City's initial \$10,000,000 commitment). The District will provide the remaining \$1,900,000 of the settlement amount as follows: \$400,000 (which together with the District's \$9,600,000 deposit, will equal the District's initial \$10,000,000 commitment), plus \$1,500,000, which is half of the remaining \$3,000,000 settlement amount. Subsequent to acceptance of the proposed settlement amount for Parcel "A", the City and the Board will each have provided \$11,500,000 towards the acquisition of land for State School "BB1".

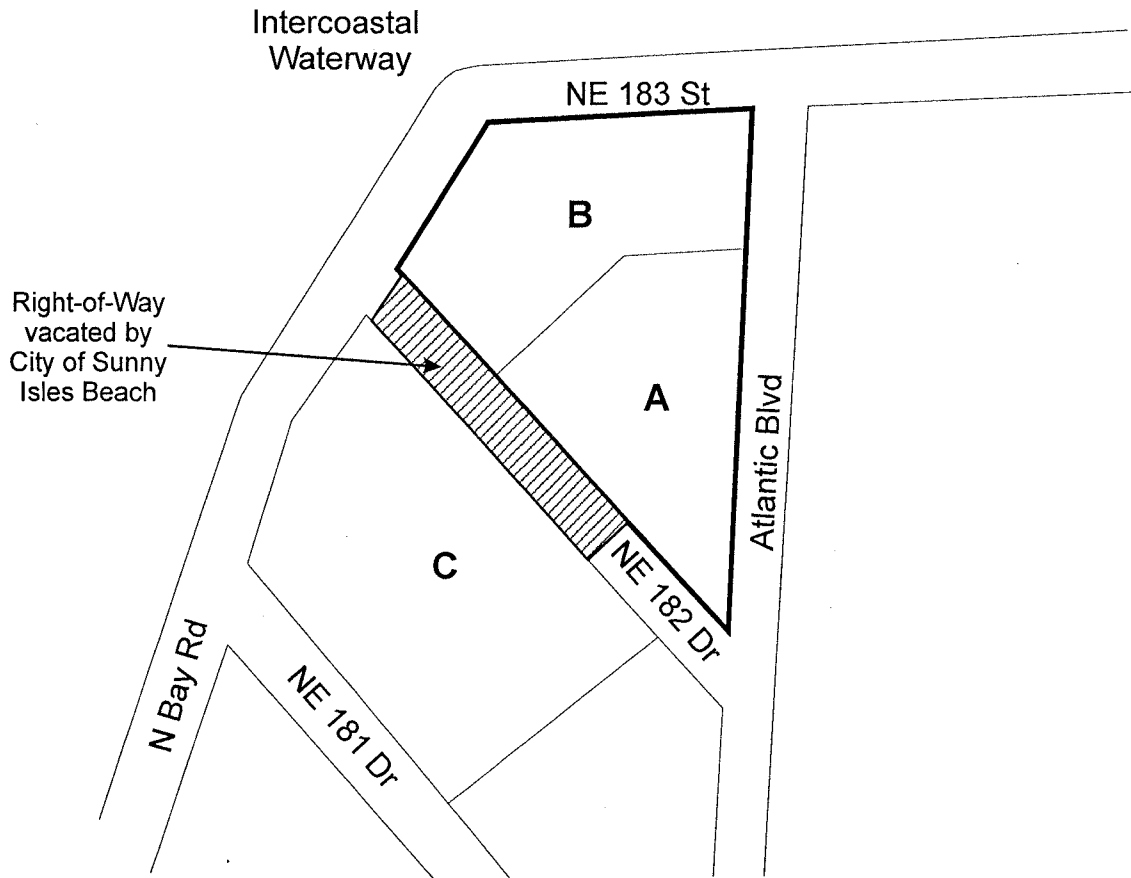
This settlement is recommended as advantageous to the Board, as further detailed in the confidential supplemental information memorandum prepared by the Board's Eminent Domain Counsel and submitted to the Board through the School Board Attorney's Office.

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

1. approve and authorize the final settlement with Yamit Realty, LLC, in the total amount of \$18,200,000, which includes all costs pertaining to the District's acquisition of approximately 1.2 acres, to situate State School "BB1" (relief for Ruth K. Broad/Bay Harbor Elementary School), in connection with the Eminent Domain proceedings of the School Board of Miami-Dade County, Florida v. Yamit Realty, LLC, Case No. 06-03744-CA-22; and
2. authorize the appropriate amendment to the Five Year Work Program.

MAL:ml

# LOCATION MAP



LEGEND	
PARCEL A:	68-UNIT APT BUILDING (1.2 ACRES)
PARCEL B:	VACANT LAND (.89 ACRES)
PARCEL C:	FUTURE CITY PARK (2 ACRES)

