

Office of School Facilities
Jaime G. Torrens, Temporary Chief Facilities Officer

SUBJECT: PROPOSED SETTLEMENT WITH L.M.D. ASSOCIATES, LTD, PERTAINING TO THE DISTRICT'S ACQUISITION OF APPROXIMATELY .89 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. L.M.D. ASSOCIATES, LTD, CASE NO. 06-02494-CA-32

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. 182nd 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 apartment building has been demolished and construction of the new facility foundation has begun. The building package was awarded by the Board at its meeting of April 18, 2007; 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 This provision was subsequently repealed, and the City focused on negotiating a willing purchase of the land, which attempts proved unsuccessful.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.

Subsequently, 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 combined 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 "B" was filed on February 8, 2006, culminating in the execution of a "Stipulated Order of Taking" in favor of the Board on May 8, 2006. Title to the property and all improvements contained thereon, was subsequently transferred to the Board on May 26, 2006, upon deposit of \$4,800,000 in good-faith funds. 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

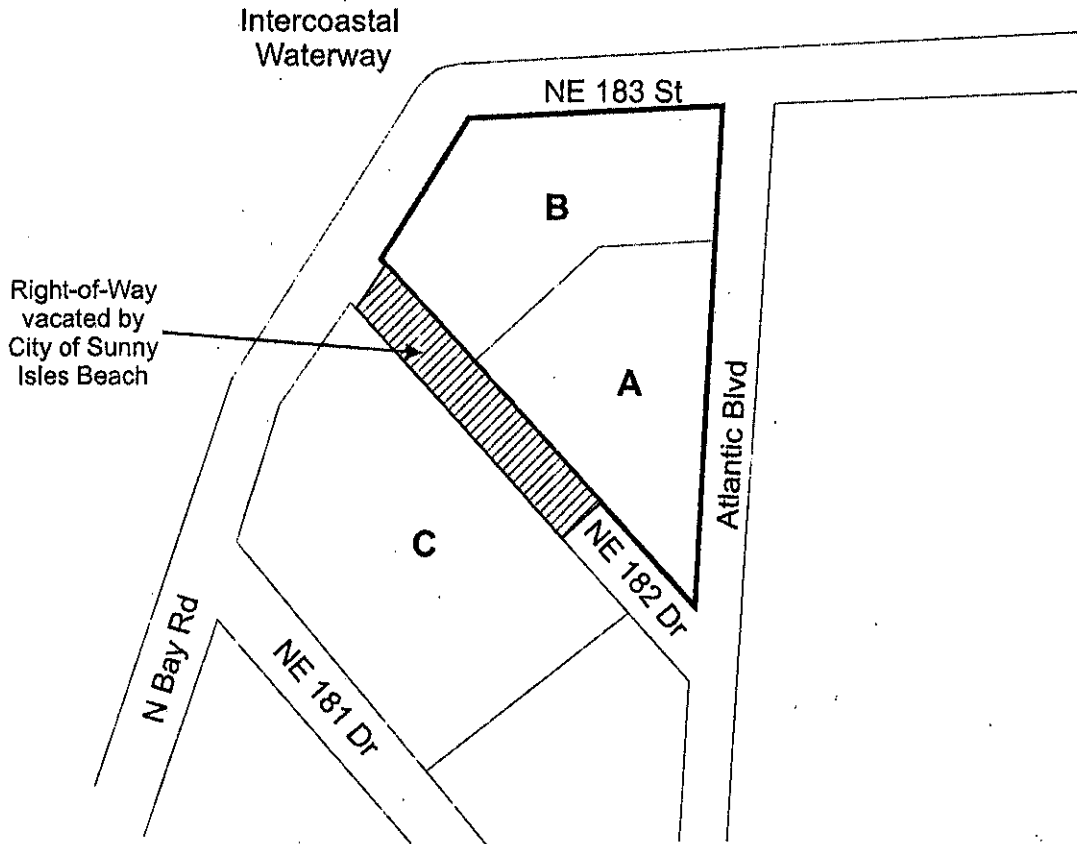
As referenced above, and as allowed by law, two mediation sessions were held between District staff and L.M.D. Associates, Ltd., the prior owner of Parcel "B". The proposed settlement, in the amount of \$6,300,000, covers all costs, including attorney's fees, expert costs and interest. The balance between the initial good-faith deposit and the settlement amount is \$1,500,000. In keeping with the funding agreement with the City, the City will fund \$750,000 of this cost, and the District will provide the remaining \$750,000 of the settlement amount.

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, approve and authorize the final settlement with L.M.D. Associates, Ltd., in the total amount of \$6,300,000, which includes all costs pertaining to the District's acquisition of approximately .89 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. L.M.D. Associates, Ltd., Case No. 06-02494-CA-32, and the resulting final disbursement of \$750,000 in connection with the final settlement, with a like amount to be provided by the City of Sunny Isles Beach.

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)

