

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

SUBJECT: ADOPT RESOLUTION NO. 07-26 AUTHORIZING THE SUPERINTENDENT OR HIS DESIGNEE TO INITIATE EMINENT DOMAIN PROCEEDINGS TO ACQUIRE APPROXIMATELY 38.73 ACRES OF VACANT LAND LOCATED AT 14950 SW 160 STREET, MIAMI, FLORIDA, TO SITUATE STATE SCHOOL "HHH1", A PLANNED SENIOR HIGH SCHOOL INTENDED TO RELIEVE MIAMI SUNSET, FELIX VARELA AND MIAMI SOUTHRIDGE SENIOR HIGH SCHOOLS

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

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

Background Information

In accordance with School Board (Board) Rule 6Gx13-2C-1.083, the School Site Planning and Construction Committee (SSPCC), at its June 27, 2007 meeting, recommended that staff present an item to the Board requesting approval of a Resolution to initiate eminent domain proceedings to acquire approximately 38.73 acres of vacant land located at 14950 SW 160 Street, Miami, Florida (Site), to situate State School "HHH1" (see location map). State School "HHH1" is a planned senior high school which will accommodate approximately 2000 new seats pursuant to the proposed Capital Plan presented to the Board at the July 5, 2007 workshop, to relieve Miami Sunset, Felix Varela and Miami Southridge Senior High Schools. These three schools were operating at permanent F.I.S.H. capacities of 124%, 130% and 138%, respectively, as of the October 2006 FTE enrollment. Funding for acquisition in the amount of \$18,659,072 was allocated in the 2006-2007 fiscal year as part of the Five-Year Work Program. Funding for design is proposed in FY 07/08 and for construction in FY08/09.

Additional Information

The Site is presently zoned for interim use and is owned by Matheson Properties, S.A. (Owner). Staff will be completing shortly, all the due diligence for the Site as required by Board rule. The Phase I Environmental Audit revealed no evidence of recognized environmental conditions except for historic agrochemical use. Based on this, the District's environmental testing consultant recommended that further environmental testing be conducted on the Site, including soil and groundwater assessments. Such testing has not yet been undertaken, since the Owner would not authorize access to the Site; as such, it will be conducted under court order prior to the entry of an Order of Taking or the transfer of title. While a response from the South Florida Water Management District is pending, it is expected to be received soon and should be favorable since the

Site is not located in an area generally considered to contain wetlands. A copy of completed due diligence records for the Site will be submitted to the Board as supplemental information, and a copy placed with Citizen's Information, along with a full record of all presentations made to the SSPCC on this proposed acquisition. The legal description of the Site is attached hereto and labeled as Exhibit "A".

The Condemnation Process

Pursuant to Section 73.015, Florida Statutes, governing actions in eminent domain, pre-suit negotiations are required before an eminent domain proceeding can be filed. As such, the District must attempt to negotiate in good faith with the owner of the property to be acquired, provide a written purchase offer and, if requested, a copy of the appraisal upon which the offer is based.

This proposed acquisition was first presented to the SSPCC on February 1, 2006, at which time the SSPCC authorized staff to forward the prerequisite purchase offer to the Owner of the Site based on the fair market value established in the District commissioned restricted use appraisal. The Owner subsequently submitted a counteroffer to the District in an amount that far exceeded the value established in the appraisal, and the matter was brought back to the SSPCC on May 18, 2006 for further direction. The SSPCC recommended that the District submit a new purchase offer to the Owner based on the review appraisal value, and if negotiations fail, to pursue eminent domain. Extensive negotiations followed in an attempt to reach a successful conclusion. As part of these negotiations, and as previously recommended by the SSPCC, the parties considered the possibility of trading vacant, unused Board-owned land for the Site in question, but this option was ultimately rejected by the Owner. The parties also considered the possibility of pre-suit mediation, with the hope of reaching agreement on price and other salient terms. However, pre-suit mediation did not prove feasible, as the District was subsequently made aware that a dispute for control of the corporation holding title to the Site exists, making it difficult for the District to negotiate or mediate with the rightful parties. In addition, there continues to be a great disparity between the Owner's counter-offer and the District's appraisals.

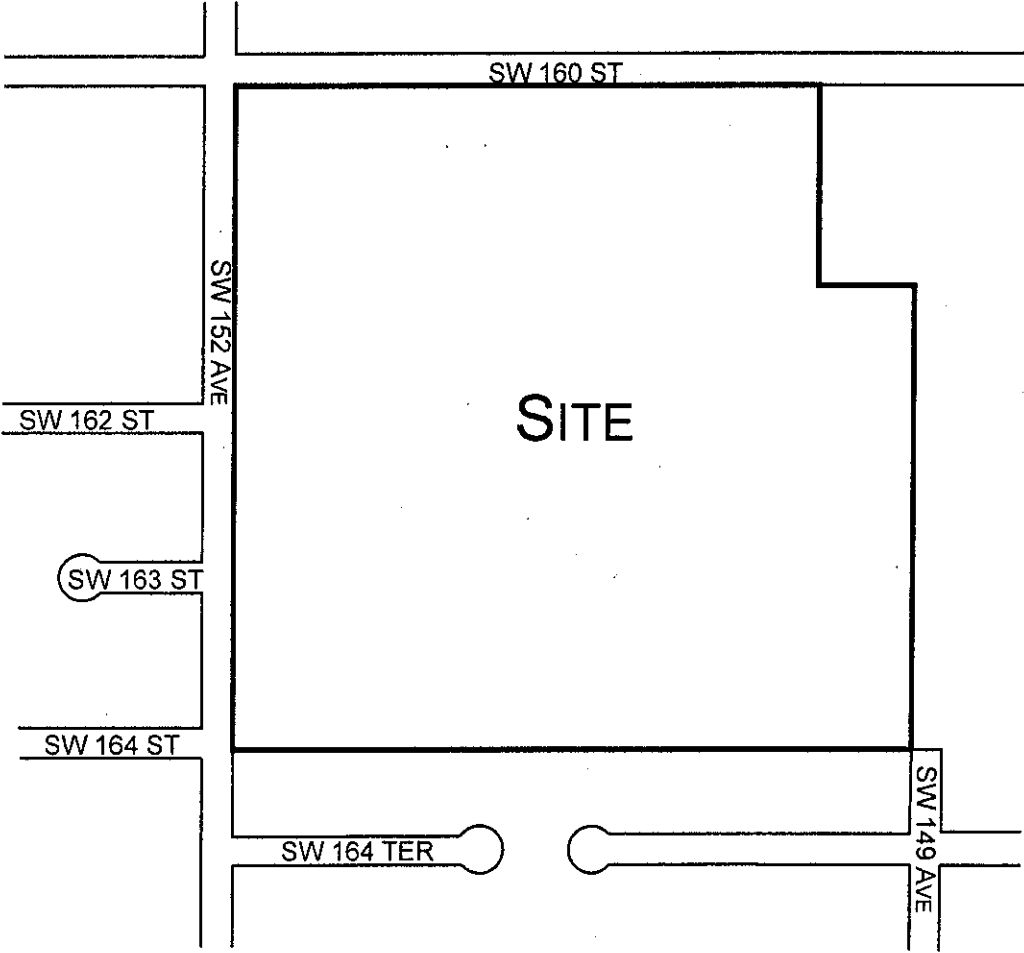
After having exhausted all other options to acquire the Site, this matter was presented to the SSPCC on June 27, 2007, at which time the SSPCC recommended that an item be brought to the Board for authorization to initiate eminent domain proceedings to acquire the Site. The SSPCC also authorized staff to issue a new purchase offer pursuant to Section 73.015, Florida Statutes, to the appropriate representative of the Owner, as a prerequisite to the District filing its eminent domain lawsuit. The new purchase offer was issued on June 29, 2007 and was based on an updated appraisal value secured for this purpose.

The District's Eminent Domain Counsel is ready to prepare the condemnation suit pending School Board approval. A memorandum will be submitted to the School Board by the District's Eminent Domain Counsel through the School Board Attorney and provided to the Board as privileged confidential information, detailing the eminent domain process as governed by state statutes, as well as the specific details of this acquisition, including valuation parameters.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, adopt Resolution No. 07-26 authorizing the initiation of eminent domain proceedings to acquire approximately 38.73 acres of vacant land located at 14950 SW 160 Street, Miami, Florida, to situate State School "HHH1", a planned senior high school intended to relieve Miami Sunset, Felix Varela and Miami Southridge Senior High Schools.

MCA:mca

LOCATION MAP



LEGEND

Site: 38.73 Acres of
vacant land

(NOT TO SCALE)



RESOLUTION NO. 07-26

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 a school site, 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, Florida, 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 First day of August, A.D., 2007

THE SCHOOL BOARD OF MIAMI-DADE COUNTY,
FLORIDA

Chair

ATTEST:

Secretary

EXHIBIT "A"

THE NW 1/4 OF THE SE 1/4 OF SECTION 28, TOWNSHIP 55 SOUTH, RANGE 39 EAST, LYING AND BEING IN MIAMI-DADE COUNTY, FLORIDA, LESS THE FOLLOWING DESCRIBED PARCEL:

COMMENCE AT THE NE CORNER OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28; THENCE RUN WEST, ALONG THE NORTH LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28, FOR A DISTANCE OF 178.58 FEET TO A POINT; THENCE RUN S 0° 48'33" E, FOR A DISTANCE OF 35 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE RUN S 0° 48'33" E FOR A DISTANCE OF 359.29 FEET TO A POINT; THENCE RUN N 89°35'39" E, FOR A DISTANCE OF 153.69 FEET TO A POINT LYING 25 FEET WEST OF THE EAST LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28; THENCE RUN N 0° 48'42" W, ALONG A LINE LYING 25 FEET WEST OF AND PARALLEL TO THE EAST LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28, FOR A DISTANCE OF 334.44 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE TO THE LEFT; THENCE RUN NORTHWESTERLY, ALONG SAID CIRCULAR CURVE TO THE LEFT, HAVING AS ITS ELEMENTS A RADIUS OF 25 FEET AND A CENTRAL ANGLE OF 89°11'18", FOR AN ARC DISTANCE OF 39.92 FEET TO A POINT OF TANGENCY WITH A LINE WHICH LIES 35 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28; THENCE RUN WEST, ALONG A LINE LYING 35 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28, FOR A DISTANCE OF 129.03 FEET TO THE POINT OF BEGINNING.

SUBJECT TO THE FOLLOWING MATTERS OF RECORD AS DESIGNATED IN SCHEDULE B, SECTION 2, THE EXCEPTIONS OF THE COMMITMENT FOR TITLE INSURANCE No. _____, AGENT'S FILE REFERENCE GC-234 STATE SCHOOL HHH-1, FUND FILE No. 01-2007-010210, ISSUED BY, ATTORNEYS' TITLE INSURANCE FUND, INC., EFFECTIVE DATE MAY 15, 2007 @ 11 P.M.:

4. RIGHT OF WAY DEED RECORDED IN DEED BOOK 3561, PAGE 534, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA
5. AFFIDAVIT RECORDED IN O.R. BOOK 13944, PAGE 2108, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

ALSO DESCRIBED AS:

BEGINNING AT THE NORTHWEST CORNER OF THE SE 1/4 OF SECTION 28, TOWNSHIP 55 SOUTH, RANGE 39 EAST LYING AND BEING IN MIAMI-DADE COUNTY, FLORIDA THENCE N88°09'58"E ALONG THE NORTH LINE OF THE SE 1/4 OF SAID SECTION 28 FOR A DISTANCE OF 669.78 FEET TO THE POINT OF INTERSECTION WITH THE WEST LINE OF THE EAST 1/2 OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28, THENCE S 02°38'06" E ALONG SAID WEST LINE FOR A DISTANCE OF 35 FEET, THENCE N 88°09'58" E ALONG THE LINE LYING 35 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE SE 1/4 OF SAID SECTION 28 FOR A DISTANCE OF 491.25 FEET TO THE POINT WHICH IS ALSO POINT OF BEGINNING OF THE "LESS OUT PARCEL" OF LAND AS DESCRIBED BY WARRANTY DEED AND AS RECORDED IN O.R.B. 8613 AT PAGE 117 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, THENCE S 02°38'46" E (S 00°48'33" E (D)) FOR A DISTANCE OF 359.86 FEET (359.29' (D)), THENCE N 87°54'13" E (N 89°35'39" E (D)) FOR A DISTANCE OF 153.41 FEET (153.69' (D)) TO A POINT LYING 25 FEET WEST OF THE EAST LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28, THENCE N 02°38'41" W (N 00°48'42" W (D)) ALONG THE LINE 25 FEET WEST OF AND PARALLEL TO THE EAST LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28 FOR A DISTANCE OF 334.49 FEET (334.44' (D)) TO THE POINT OF CURVATURE OF CIRCULAR CURVE TO THE LEFT, THENCE NORTHERLY, NORTHWESTERLY AND WESTERLY, ALONG SAID CIRCULAR CURVE, HAVING FOR ITS ELEMENTS A RADIUS OF 25 FEET AND A CENTRAL ANGLE OF 89°13'22" (C) (89°11'18" (D)), FOR AN ARC DISTANCE OF 39.93 FEET (39.92' (D)) TO THE POINT OF TANGENCY WITH A LINE 35 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE SE 1/4 OF SAID SECTION 28, THENCE N 88°09'58" E ALONG THE LINE 35 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF THE SE 1/4 OF SAID SECTION 28 FOR A DISTANCE OF 49.58 FEET TO THE POINT ON THE EAST LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28, THENCE S 02°38'43" E ALONG THE EAST LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28 FOR A DISTANCE OF 1281.81 FEET TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28, THENCE S 87°55'50" W ALONG THE SOUTH LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28, FOR A DISTANCE OF 1339.97 FEET TO THE INTERSECTION WITH THE WEST LINE OF THE NW 1/4 OF THE SE 1/4 OF SAID SECTION 28, THENCE N 02°37'29" W ALONG THE WEST LINE OF NW 1/4 OF THE SE 1/4 OF SAID SECTION 28 FOR A DISTANCE OF 1322.31 FEET AND TO THE POINT OF BEGINNING.
CONTAINING: 39.78 ACRES +/- OR 1,689,272 SQUARE FEET MORE OR LESS