

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

**SUBJECT: AUTHORIZATION TO:**

- 1) **ADOPT RESOLUTION NO. 07-25, AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS UNDER A PRE-SUIT AGREEMENT AS TO VALUE, TO ACQUIRE AN APPROXIMATE .84-ACRE PARCEL IMPROVED WITH A FOUR-STORY OFFICE BUILDING LOCATED AT 1570 MADRUGA AVENUE, CORAL GABLES, FLORIDA, TO SITUATE STATE SCHOOL "LLL1", A PLANNED SENIOR HIGH SCHOOL FOR INTERNATIONAL STUDIES, AND EXECUTE A PRE-SUIT AGREEMENT WITH MADRUGA RB-GEM, LLC, AS WELL AS ANY OTHER NECESSARY DOCUMENTS TO EFFECUTATE THE ACQUISITION OF THE SITE; AND**
- 2) **ASSUME THE AT&T WIRELESS SERVICES LEASE AGREEMENT FOR ROOFTOP AND INTERIOR SPACE AT THE SITE, AND EXECUTE A LEASE AMENDMENT WITH AT&T WIRELESS SERVICES**

**COMMITTEE: FACILITIES AND CONSTRUCTION REFORM**

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

Introduction

At its meeting of May 16, 2007, the School Board adopted Resolution No. 07-25, authorizing the initiation of eminent domain proceedings under a pre-suit agreement as to value in the amount of \$12,500,000, all inclusive, to acquire an approximate .84-acre site improved with a four-story office building located at 1570 Madruga Avenue, Coral Gables (Site), to situate State School "LLL1", a planned senior high school for international studies (see location map). The School Board also authorized the Superintendent to execute a purchase and sale agreement with Madruga RB-Gem, LLC (Owner), as well as any other necessary agreements or documents to effectuate the acquisition of the Site, at a purchase price of \$12,500,000, subject to the Owner removing all short and long-term tenants from the premises, at its sole cost and expense, prior to the District filing the condemnation lawsuit, and prior to entering into a Stipulated Order of Taking (Stipulated OT) and Final Judgment and depositing funds into the court registry.

Additional Information

Subsequent to the May 16, 2007 School Board meeting, the Owner advised the District that it was no longer able to accept the responsibility for removal of all long-term tenants prior to the filing of the Stipulated OT, although the Owner remained committed to removing from the premises all short-term tenants and as many of the nine (9) long-term tenants as possible prior to the filing of the Stipulated OT.

As a result of the above, the parties discussed the possible renegotiation of some of the terms of the transaction and this matter was brought back to the School Site Planning and Construction Committee (SSPCC) at its June 27, 2007 meeting for review and direction. At that time, the SSPCC discussed two key issues: 1) possible acceptable plans for removing all tenants, both short and long-term prior to and/or after filing of the Stipulated OT; and 2) traffic and transportation issues, particularly dealing with student safety, vehicular traffic and on-site and off-site parking. In particular, the SSPCC expressed concern with students crossing U.S. 1 from the Metrorail's South Miami station to access the new school, and requested staff to develop an action plan to address these concerns for presentation at a subsequent meeting. The SSPCC also authorized staff to begin negotiating with AT&T Wireless Services (AT&T) in an attempt to modify key terms of the exiting AT&T lease at the Site, necessary to comply with Florida Statute and Board Rule. AT&T currently leases the rooftop and 300 square feet of interior space at the Site, for the transmission and reception of communication signals. The lease represents potential revenue to the District of approximately \$34,000 annually. As a result of these negotiations, a lease amendment has been executed by both parties, which incorporates the District's required modifications. This lease amendment will be held in escrow by the School Board Attorney's Office until such time as the School Board approves this proposed acquisition, and title to the Site is transferred to the District.

#### Transportation Plan

As a follow-up to the SSPCC's direction, District staff retained the services of a traffic consultant, Edwards & Kelcey, and together with input from Regional Center IV (Region), the District's Transportation Department (Transportation), Curriculum and Instruction (Curriculum) and Facilities Planning, a plan of action for transporting students to the school was formulated and presented to the SSPCC at its August 8, 2007 meeting. The Miami-Dade County Public Schools Police (School Police) also reviewed the preliminary plan and provided input. It should be noted that the School Police also conducted a Homeland Security Comprehensive Assessment of the building and overall site layout and provided observations and recommendations which will be passed on to the selected architect/engineer during retrofit design of the Site; School Police also offered to undertake a subsequent assessment, as needed, during the design and/or construction phases.

The proposed transportation plan for this new school will closely model the plan used at similar high schools, specifically the Design and Architecture Senior High School (DASH), New World School of the Arts and Maritime and Science Technology (MAST) Academy, all of which restrict student driving and instead provide for student transportation through a combination of District bus transportation and Metrorail. As such, the Region has indicated that this new school will be designated a no-driving facility for students, with students to either be dropped off at the school by parents, or

picked up by District buses at various areas throughout the County, dropped off at designated Metrorail stations, from which students will ride Metrorail to the nearby South Miami station, and then be shuttled by District buses to the school upon arrival at the South Miami station. The same process will occur in reverse at dismissal. As part of this transportation plan, the City of Coral Gables (City) has agreed to allow the District exclusive use of ten (10) metered parking spaces directly in front of the school on Madruga Avenue for bus parking in the morning and the afternoon. This traffic assessment and transportation plan will be further developed and coordinated with the City during design and construction and prior to the opening of the new school. Through the Education Compact between the District and the City, staff from the Office of Intergovernmental Affairs, Grants, Marketing and Community Services facilitated meetings between District and City staff to resolve these issues.

At its August 8, 2007 meeting, the SSPCC indicated that the proposed transportation plan adequately addressed their prior concerns, and further recommended that the new school follow the same bell times as all other District high schools in order to minimize the impact of school traffic on adjacent areas. The Region, Transportation and Curriculum have all been involved in the development and refinement of this plan and are in agreement. A copy of the Preliminary Traffic Assessment prepared by Edwards & Kelcey 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.

#### Recommended Board Action

Based on the above, the SSPCC recommended that staff present an item to the Board to initiate eminent domain proceedings to acquire the Site, under a pre-suit agreement as to value, substantially in conformance with the following terms and conditions:

- The purchase price will remain unchanged at \$12,500,000 for the Site, inclusive of any and all Owner attorney fees, expert fees and costs. The purchase price is approximately four percent (4%) above the high end of the negotiating parameters for a willing sale established in the District commissioned review appraisal. Those parameters were \$11,000,000 at the low end and \$12,000,000 at the high end;
- The Owner will be responsible for terminating the tenancies of all month-to-month tenants (approximately 22), at its sole cost and expense, and will commence doing so promptly following School Board approval. Further, the Owner will, at its sole cost and expense, proceed to evict any month-to-month tenants which wrongfully holdover. All month-to-month tenancies will terminate no later than October 15, 2007;
- The Owner will make its best efforts to terminate the long-term tenancies, prior to the District filing its condemnation lawsuit, with the exception of the lease with AT&T;
- The District will file its condemnation lawsuit on or before October 31, 2007 to acquire all interests in and to the Site, including any remaining long-term tenants

(up to a maximum of approximately 9), subject to all conditions set forth herein, and provided that all month-to-month tenants have vacated the Site. The remaining long-term tenants as of the date of the filing of the condemnation lawsuit shall be included in the eminent domain proceedings as party defendants;

- The \$12,500,000 to be paid by the District for the Site will be subject to apportionment claims of long-term tenants, if any, with the Owner to pay any such apportionment claims out of the total \$12,500,000 purchase price;
- With regard to any tenant apportionment claims that may be advanced, the Owner waives its entitlement to fees and costs in defending against said claims, which is a benefit to the District, since typically the condemning authority is responsible for these costs. The School Board will, however, be responsible for the payment of any reasonable attorney's fees and costs of any tenants which may be entitled to apportionment;
- Funds will be disbursed upon Order of the Court or Joint Stipulation of the Parties; and
- The Board will assume the existing lease agreement with AT&T for rooftop space and 300 square feet of interior space at the Site, which as noted above, will generate revenue to the District annually of approximately \$34,000.

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

The Board Rule governing Site Acquisitions for willing sales requires an extraordinary vote from the Board (defined as a majority vote plus one additional vote of the Members present) when the purchase price exceeds the value established in the review appraisal. While this acquisition is being pursued under the umbrella of eminent domain, this provision is being followed since there is agreement between the parties up front as to all conditions, including sales price, and that value is approximately four percent (4%) over the high end of the negotiating parameters.

**RECOMMENDED:**

That The School Board of Miami-Dade County, Florida, by extraordinary vote (majority present plus one):

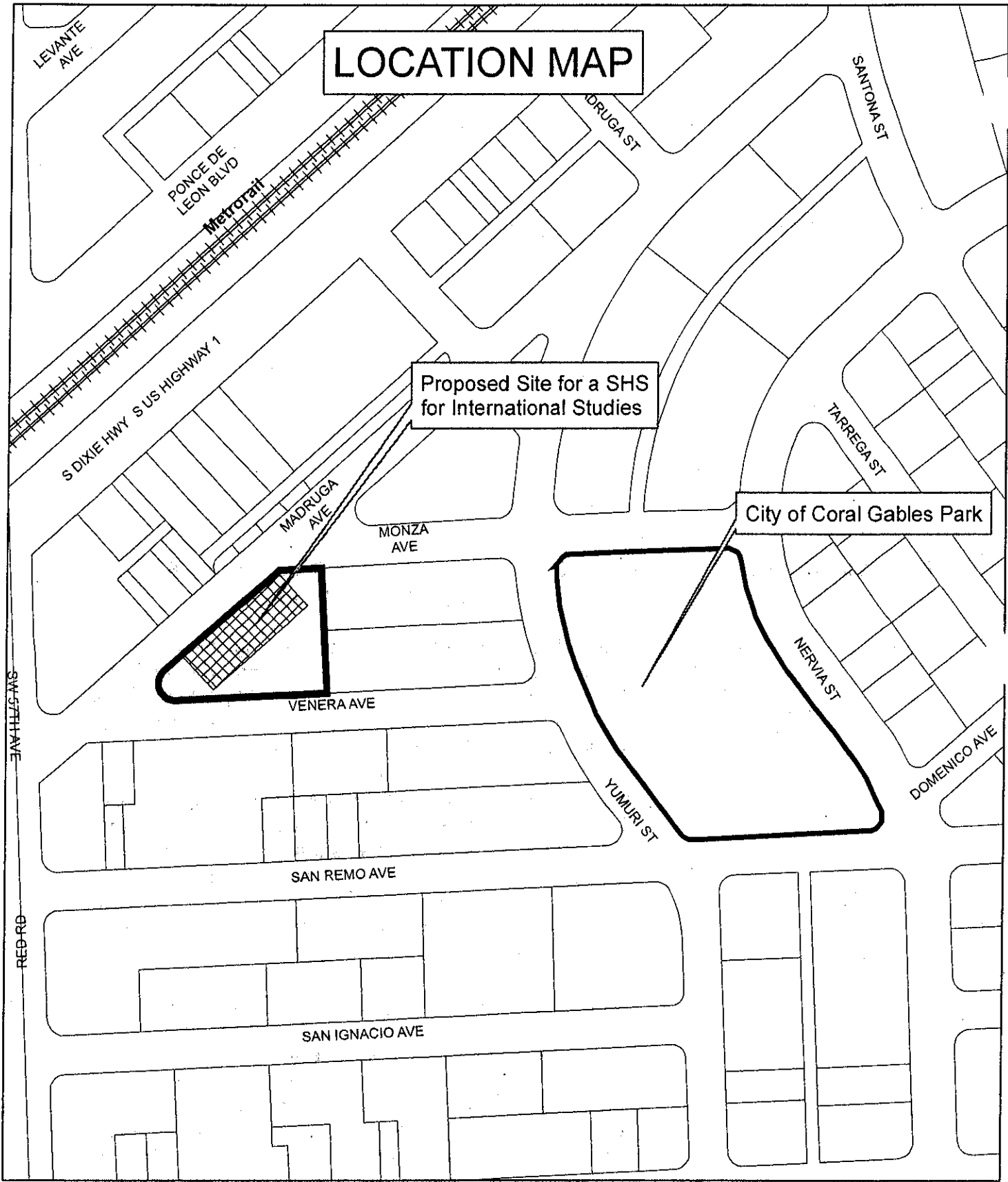
- 1) adopt Resolution No. 07-25, authorizing the initiation of eminent domain proceedings under a pre-suit agreement as to value in the amount of \$12,500,000, and substantially in conformance with the terms and conditions noted above, in order to acquire an approximate .84-acre site improved with a four-story office building located at 1570 Madruga Avenue, Coral Gables, to situate State School "LLL1", a planned senior high school for international studies, and authorize the Superintendent to execute a pre-suit agreement with Madruga RB-Gem, LLC, as well as any other necessary agreements or documents to effectuate the acquisition of the Site, at a purchase price of \$12,500,000; and
- 2) authorize the assumption of the AT&T Wireless Services lease agreement for rooftop and interior space at the Site, and the execution of a lease amendment with AT&T Wireless Services, as reviewed and approved by the School Board Attorney's Office and the Office of Risk and Benefits Management. Such amendment will be held in escrow until such time as title to the Site is transferred to the District.

MCA:mca

# LOCATION MAP

Proposed Site for a SHS  
for International Studies

City of Coral Gables Park



**RESOLUTION NO. 07-25**

**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 Fifth day of September, A.D., 2007

THE SCHOOL BOARD OF MIAMI-DADE COUNTY,  
FLORIDA

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Chair

ATTEST:

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Secretary



**EXHIBIT "A"**

RE: Folio # 03-4130-009-0890

Lots 1, 2, 3, 16, 17 and 18, all in Block 202, of SECOND REVISED PLAT OF CORAL GABLES RIVIERA SECTION, PART 14, according to the Plat thereof, as recorded on Plat Book 28, at Page 32, of the Public Records of Miami-Dade County, Florida.

Also known as Folio #s: 03-4130-034-0010; 03-4130-034-0020; 03-4130-034-0030;  
03-4130-034-0040; 03-4130-034-0050; 03-4130-034-0060;  
03-4130-034-0070; 03-4130-034-0080; 03-4130-034-0090

Condominium Units 1A, 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, all of MADRUGA CORPORATE CENTER CONDOMINIUM, according to the Declaration of Condominium thereof, as recorded in Official Records Book 24100, at Page 2802, of the Public Records of Miami-Dade County, Florida; together with an undivided interest in the Common Elements and Limited Common Elements appurtenant thereto.