

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

- SUBJECT:**
- 1) ADOPT RESOLUTION NO. 08-71, AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS UNDER A PRE-SUIT AGREEMENT AS TO VALUE, TO ACQUIRE AN APPROXIMATE 8.17-ACRE VACANT PARCEL LOCATED AT NW 114 AVENUE AND NW 90 STREET, DORAL, FLORIDA, TO SITUATE A SECONDARY LEARNING CENTER TO RELIEVE RONALD W. REAGAN-DORAL SENIOR HIGH SCHOOL; AND**
 - 2) AUTHORIZE THE SUPERINTENDENT TO FINALIZE NEGOTIATIONS AND EXECUTE A PURCHASE AND SALE AGREEMENT WITH JANNETTE VILLAS, INC., WHICH INCLUDES PRE-SUIT PROVISIONS AS TO VALUE, TO ACQUIRE THE PROPERTY**

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

LINK TO STRATEGIC PLAN: IMPROVE CONSTRUCTION SERVICES

Background Information

In accordance with School Board Rule 6Gx13-2C-1.083, the School Site Planning and Construction Committee (SSPCC), at its June 4, 2008 and October 3, 2008 meetings, recommended that an agenda item be brought to the Board requesting approval of a Resolution authorizing the initiation of eminent domain proceedings under a pre-suit agreement as to value, for the acquisition of an approximate 8.17-acre (rounded down from 8.1725 acres) vacant parcel located at NW 114 Avenue and NW 90 Street, Doral (Site) to situate a secondary learning center to relieve Ronald W. Reagan – Doral Senior High School (see location map).

The SSPCC also recommended execution of a purchase and sale agreement (Agreement) with Jannette Villas at Doral, Inc. (Owner), in the amount of \$12,495,000, inclusive of any attorneys' fees and costs that might be incurred as part of the eminent domain process. The purchase price is comprised of the land itself and improvements to be done by Owner consisting of road construction and relocation of an existing water retention lake elsewhere on the Site; out of the \$12,495,000 purchase price, \$11,453,511 is for land and \$1,041,489 represents the estimated value of the previously described work to be performed by Owner. The purchase price for the land represents approximately 7% over the high end of the review appraisal, which was \$10,624,250. It should be noted however, that the market values established in the two District commissioned appraisals were higher than the review appraisal, at \$11,441,500 and \$13,256,768, respectively, for the Site. As such, even though the total purchase price for the land (\$11,453,511) is approximately 7% above the high end of the District's

review appraisal range, it is still a lesser amount than that reflected in either one of the two original appraisals.

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, and ensures that the Board acquires clear title to the property. Funding for acquisition in the amount of \$12,632,863 is available in FY 2008-2009. Funding for construction in the amount of \$17,500,000 is proposed in FY 2010-2011.

Additional Information

The Site is presently zoned MF1, "Multifamily Residential", and the City of Doral has indicated the site's location for use as a public school complies with its Comprehensive Development Master Plan. The Miami-Dade County Department of Planning and Zoning (County) has indicated that the Site is better suited for an elementary and/or middle school because the western boundary of the Site is located less than one mile from the Urban Development Boundary (UDB). However, the County further advised that if there are no other sites available in the area, it is recommended that the principal school buildings and entrances be placed as far as functionally practical from the UDB. Staff has conducted appropriate due diligence for the Site as required by Board Rule, including Phase I and Phase II Environmental Assessments. Responses from the Miami-Dade County Office of Historic Preservation, DERM's Water Control Section, South Florida Water Management District, Miami-Dade County Department of Planning and Zoning, Miami-Dade County Aviation Department and the Army Corps of Engineers have all been received and are favorable. It is anticipated that a response from DERM's Office of Plan Review will be received prior to the end of the inspection period provided under the Agreement and should be favorable, as the other environmental agencies are also not objecting.

A copy of completed due diligence records for the Site, including all presentations made to the SSPCC on this proposed acquisition, will be submitted to the Board as supplemental information. Due to its voluminous nature, this information will be submitted in CD format, and a hard copy placed with Citizen's Information and the Recording Secretary, prior to the meeting of October 15, 2008.

Recommended Board Action

In compliance with the SSPCC action, it is recommended that the Board initiate eminent domain proceedings to acquire the Site under a pre-suit agreement as to value, and that an Agreement with Jannette Villas at Doral, Inc., be executed, substantially in conformance with the following terms and conditions:

- The purchase price will be \$12,495,000, inclusive of any and all Owner attorney fees and costs and inclusive of all site improvements noted below;
 - The Owner shall deliver the Site to the Board as follows:
 - Properly demucked and filled to Miami-Dade County regulations, with the soil compacted in accordance with District specifications.
 - With utilities, including but not limited to water, sewer and electrical services, to the Site.
 - With the existing water retention lakes relocated or excavated to

the minimum requirements of all jurisdictional authorities, including without limitation, SFWMD and DERM. The Board shall bear the ordinary cost of permits procured by the Owner, related to the cost of relocating the existing water retention lakes, and for up to 50% of professional fees related to these permits or \$7,500, whichever is less.

- With all road rights-of-way dedicated and roadways constructed as required by the City of Doral and Miami-Dade County Public Works Department (all adjacent roads are currently constructed except for NW 90 Street, which will be built by the Owner under the terms of the proposed Agreement).
 - With the Site cleared of any environmental conditions.
 - With Wetland mitigation fees paid by the Owner.
- The Board will deposit the sum of \$10,000 as earnest money into an escrow account to be held by the School Board Attorney's office, which shall be credited towards the total purchase price;
 - The Owner will re-plat the Site, at his sole cost and expense, and record the Final re-plat within nine (9) months after approval of the Tentative re-plat;
 - The Board shall initiate the filing of Eminent Domain action, subject to the Owner meeting all conditions under the Agreement, with the exception of recording the Final re-plat;
 - The Owner shall procure and receive all government and quasi-governmental approvals necessary for the District to use the Site and shall be responsible for the payment of any and all outstanding taxes, special assessments or liens, if any;
 - The Owner shall deliver the Site to the Board with good and marketable title, free and clear of all liens, assessments or other encumbrances; 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.

The legal description of the Site is generally as attached hereto and labeled as Exhibit "A", but will be more specifically defined upon completion by the District of a certified Site survey.

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 of the land 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 the sales price for the land, which is approximately seven percent (7%) over the high end of the review appraisal range.

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

- 1) adopt Resolution No. 08-71, authorizing the initiation of eminent domain proceedings under a pre-suit agreement as to value, to acquire an approximate 8.17-acre vacant parcel located at NW 114 Avenue and NW 90 Street, Doral, to situate a secondary learning center to relieve Ronald W. Reagan – Doral Senior High School; and
- 2) authorize the Superintendent to finalize negotiations and execute a purchase and sale agreement with Jannette Villas Inc., which includes pre-suit provisions as to value, to acquire the property in conformance with the terms noted above.

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RESOLUTION NO. 08-71

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, 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 Fifteenth day of October, A.D., 2008

THE SCHOOL BOARD OF MIAMI-DADE COUNTY,
FLORIDA

Chair

ATTEST:

Secretary

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

An approximate 8.1725 acre portion, net of Right-of-Way Dedications, of the following legally described property:

A Portion of Tract 17, of **FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1**, of Section 7, Township 53 South, Range 40 East, as recorded in Plat Book 2, at Page 17, of the Public Records of Miami-Dade County, Florida.

AND:

The West 385 feet of Tract 18, of **FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1**, of Section 7, Township 53 South, Range 40 East, as recorded in Plat Book 2, at Page 17, of the Public Records of Miami-Dade County, Florida.

Folio # 35-3007-016-0010, and portions of folios# 35-3007-016-0020, 35-3007-016-0030, 35-3007-016-0040

THE ABOVE LEGAL DESCRIPTION IS TO BE MORE SPECIFICALLY DEFINED UPON RECEIPT OF A COPY OF A CURRENT SURVEY OF THE SUBJECT PROPERTY, CERTIFIED TO THE BOARD, WHICH LEGAL DESCRIPTION SHALL BE INCORPORATED HEREIN.

LOCATION MAP

**Proposed Site for secondary learning center to relieve
Ronald W. Reagan- Doral Senior High School**

NW 90TH ST

NW 114TH AVE

NW 88TH ST

NW 87TH LN

NW 114TH CT

NW 113TH CT

NW 112TH PATH

NW 112TH PL

NW 112TH CT

NW 87TH ST

N

Not to Scale