

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

SUBJECT: REQUEST AUTHORIZATION FOR:

- 1) **THE SUPERINTENDENT TO EXECUTE AN ENVIRONMENTAL QUALITY CONTROL BOARD (EQCB) APPLICATION FOR THE INSTALLATION OF THE AUXILIARY EMERGENCY GENERATOR ABOVE GROUND STORAGE TANK (AST) AND ALL RELATED APPURTENANCES AND INFRASTRUCTURES AT W.R. THOMAS MIDDLE SCHOOL**
- 2) **THE CHAIR AND THE SUPERINTENDENT TO EXECUTE A COVENANT RUNNING WITH THE LAND IN FAVOR OF MIAMI DADE COUNTY, FLORIDA, AS A NECESSARY CONDITION IMPOSED BY THE EQCB IN ORDER TO GRANT A VARIANCE AT W.R. THOMAS MIDDLE SCHOOL, AN OWNER'S AFFIDAVIT AND ANY AND ALL DOCUMENTATION WHICH MAY BE REQUIRED IN ORDER TO EFFECTUATE THIS PROJECT**

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC FRAMEWORK: FINANCIAL EFFICIENCY/STABILITY

Background

The District recently completed an electrical system upgrade project at the Office of Information Technology Services (ITS) which included provision of a higher capacity emergency generator. The generator from ITS was subsequently relocated to W.R. Thomas Middle School, which is adjacent to ITS and serves as a primary Red Cross emergency shelter as well as an alternate regional command center. In the event of power interruption due to a hurricane or other disaster, the generator will enable full operation of the school campus.

Description

The District is seeking a variance from Chapter 24 of the Miami-Dade Code for the installation of an auxiliary emergency generator above ground fuel storage tank (AST) at W.R. Thomas Middle School, located at 13001 SW 26th Street, Miami, Florida.

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The Miami-Dade County Environmental Quality Control Board (EQCB) requires an application with an executed Owner's Affidavit (Exhibit "A") from the Superintendent in order to process the EQCB hearing petition for a variance. Once the variance is granted, the EQCB will require the Chair and the Superintendent to execute a Covenant Running with the Land in favor of Miami-Dade County, ("Covenant"), attached hereto as Exhibit "B",

The installation of this auxiliary emergency generator AST at W.R. Thomas Middle School, located at 13001 SW 26th Street, Miami, Florida, will provide back-up power to the building and region office located at W.R. Thomas Middle School. A variance from Chapter 24 Section 24-43(5) of the Miami-Dade County Code must be obtained by Miami-Dade County Public Schools inasmuch as the auxiliary emergency generator AST at W.R. Thomas Middle School is located in the West Well-field Protection zone.

The Owner's Affidavit and the Covenant will be reviewed and approved by the School Board Attorney's Office, prior to their execution by the Superintendent and the Chair. This project has been properly funded under project number 00445900.

RECOMMENDED: That The School Board of Miami-Dade County, Florida authorize the Superintendent and/or Chair to execute:

1. an Environmental Quality Control Board (EQCB) application for the installation of the auxiliary emergency generator above ground storage tank (AST) and all related appurtenances and infrastructures at W.R. Thomas Middle School; and
2. a Covenant Running with the Land in favor of Miami- Dade County, Florida, as a necessary condition imposed by the EQCB in order to grant a variance at W.R. Thomas Middle School, an Owner's Affidavit and any and all documentation which may be required in order to effectuate this Project.

COVENANT RUNNING WITH THE LAND
IN FAVOR OF
MIAMI-DADE COUNTY

The undersigned, The School Board of Miami-Dade County, FL; being the present owner(s) of the following described real property (hereinafter called "the Property"):

See attached **Exhibit "A"** attached hereto and incorporated herein by reference

(Space Reserved for Clerk of the Court)

Located at 13001 SW 26 Street, Miami-Dade County, Florida, pursuant to a variance from the requirements of Sections 24-43(5) of the Code of Miami-Dade County, granted by the Miami-Dade County Environmental Quality Control Board, hereby submits this executed covenant running with the land in favor of Miami-Dade County:

The undersigned agree(s) and covenant(s) to the following:

1. Hazardous materials, except for diesel fuel stored in a 8000 gallon above ground storage tank in association with a emergency generator, shall not be used, generated, handled, disposed of, discharged or stored on that portion of the Property within the Northwest Wellfield protection area or within the West Wellfield Interim protection area or within the basic wellfield protection area of any public utility potable water supply well, and hazardous wastes shall not be used, generated, handled, disposed of, discharged or stored on that portion of the property within the average day pumpage wellfield protection area, or the outer wellfield protection zone, but not within the basic wellfield protection areas of the Alexander Orr Wellfield, Snapper Creek Wellfield, South Miami Heights Wellfield Complex, Southwest Wellfield, Miami Springs Lower Wellfield, Miami Springs Upper Wellfield, John E. Preston Wellfield or Hialeah Wellfield unless a variance is granted by the Environmental Quality Control Board, pursuant to Chapter 24 of the Code of Miami-Dade County, and if so granted; said hazardous materials or hazardous wastes may be used, handled, generated, disposed of, discharged or stored on the Property only to the extent permitted by any such variance from the Environmental Quality Control Board of Miami-Dade County.
2. Fuels and lubricants required for rockmining operations (lake excavations, concrete batch plants, rock crushing and aggregate plants) within the Northwest Wellfield protection area or within the West Wellfield interim protection area; electrical transformers serving non-residential land uses; small quantity generators of hazardous wastes as defined in Chapter 24 of the Miami-Dade County Code within the average day pumpage wellfield protection area, or the outer wellfield protection zone, but not within the basic wellfield protection areas of the Alexander Orr Wellfield, Snapper Creek Wellfield, South Miami Heights Wellfield Complex, Southwest Wellfield, Miami Springs Upper Wellfield, Miami Springs Lower Wellfield, John E. Preston Wellfield or Hialeah Wellfield; and existing land uses required by the Director or his designee to correct violations of this chapter; shall not be prohibited when the following water pollution prevention and abatement measures and practices will be provided.
 - (i) Monitoring and detection of water pollution caused by hazardous materials, and
 - (ii) Secondary containment of water pollution caused by hazardous materials, and
 - (iii) Inventory control and record-keeping of hazardous materials, and
 - (iv) Stormwater management of water pollution caused by hazardous materials, and
 - (v) Protection and security of facilities utilized for the generation, storage, usage, handling, disposal or discharge of hazardous materials.

Said water pollution prevention and abatement measures and practices shall be subject to the approval of the Director of the Department of Environmental Resources Management or his designees.

3. The use, handling or storage of factory pre-packaged products intended primarily for domestic use or consumption determined by the Director of the Department of Environmental Resources Management or his designee to be hazardous materials shall not be prohibited, provided however, that:
 - (i) The use, handling or storage of said factory pre-packaged products occurs only within a building, and
 - (ii) The non-residential land use is an office building use (or equivalent municipal land use) or a business district use (or equivalent municipal land use) engaged exclusively in retail sales of factory pre-packaged products intended primarily for domestic use or consumption, and
 - (iii) The non-residential land use is served or is to be served by an operable public water main and an operable public sanitary sewer, and
 - (iv) Said building is located more than thirty (30) days travel time from any public utility potable water supply well.
4. Prior to the entry into a landlord-tenant relationship with respect to the Property, the undersigned agree(s) to notify in writing all proposed tenants of the property of the existence and contents of this Covenant.
5. The undersigned agree(s) and covenant(s) that this Covenant and the provisions contained herein may be enforced by the Director of Environmental Resources Management by preliminary, permanent, prohibitory, and mandatory injunctions as well as otherwise provided for by law or ordinance.
6. This agreement and Covenant shall be recorded in the Public Records of Miami-Dade County, Florida and the provisions hereof shall constitute a Covenant Running with the Land and shall remain in full force and effect and be binding upon the undersigned, their heirs, legal representatives, estates, successors, grantees and assigns.
7. This agreement and Covenant shall upon request by the undersigned be released by the Director of the Department of Environmental Resources Management or his designee when the Director or his designee determines that the Property is neither within the Northwest Wellfield protection area nor within the West Wellfield interim protection area nor within the average day pumpage wellfield protection area, or the outer wellfield protection zone of the Alexander Orr Wellfield, Snapper Creek Wellfield, Southwest Wellfield, South Miami Heights Wellfield Complex, Miami Springs Lower Wellfield, Miami Springs Upper Wellfield, John E. Preston Wellfield or Hialeah Wellfield nor within the basic wellfield protection area of any public utility potable water supply well.

IN WITNESS WHEREOF, the undersigned have caused this Covenant to be executed this _____ day of _____, 2010.

IN WITNESS WHEREOF, the undersigned have caused this Covenant to be executed this _____ day of _____, 2010.

Witnesses:

Witnesses:

THE SCHOOL BOARD OF MIAMI-
DADE COUNTY, FLORIDA

BY: _____
Name: Dr. Solomon C. Stinson
Title: Chair

ATTEST:

Alberto M. Carvalho, Secretary

TO THE SCHOOL BOARD:
APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

BY: _____
BOARD ATTORNEY

(ACKNOWLEDGMENT)

STATE OF FLORIDA)
) SS.
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY, that on this day of JUNE , A.D. 2010, before me personally appeared, DR. SOLOMON C. STINSON and ALBERTO M. CARVALHO, as Chair and Secretary, respectively, of THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, ("School Board") known to me to be the persons described in and who executed the foregoing Covenant Running With the Land in favor of Miami-Dade County, FL, on behalf of the School Board, and they acknowledged to me the execution thereof in their official capacity as Chair and Secretary, respectively, of the School Board, for and as the act and deed of the said School Board, and in its name, and after being duly authorized by said School Board to execute the foregoing Covenant for the uses and purposes therein mentioned.

WITNESS my signature and official seal at the City of Miami, in the County and State aforesaid, the day and year last aforesaid.

Print Name:
Notary Public, State of Florida
My commission expires:

THIS INSTRUMENT PREPARED BY:

DERM
Code Coordination and Public Hearings
701 N.W. 1st Court, 2nd Floor
Miami, FL 33136

This Instrument Prepared By:

Ana R. Craft, Esquire
School Board Attorney's Office
1450 NE 2nd Avenue, #430
Miami, FL 33132

AFFIDAVIT

STATE OF FLORIDA)
)ss.:
COUNTY OF MIAMI-DADE)

BEFORE ME, the undersigned authority, duly authorized, duly to administer oaths and take acknowledgments, personally appeared this day **ALBERTO M. CARVALHO** ("Affiant"), as Superintendent of Schools for the School District of Miami-Dade County, Florida, who, after being duly sworn, deposes and says as follows:

1. That The School Board of Miami-Dade County, Florida, (" School Board") is the owner of the property described in Exhibit " A " attached hereto and incorporated herein, which property is the subject matter of the proposed Environmental Quality Control Board (EQCB) hearing;
2. That Affiant has been authorized by the School Board to file this application for public hearing before the EQCB Board;
3. That all answers to the questions in said application, all sketches, data and other supplementary matter attached to and made a part of this application are honest and true to the best of our knowledge and belief;
4. That Affiant understands that the EQCB application must be complete and accurate before a hearing can be advertised;
5. That the School Board intends to have Luis M. Garcia, Esquire or Ana R. Craft, Esquire, represent it at the subject public hearing. We understand that representation may only be through legal counsel.

FURTHER AFFIANT SAYETH NAUGHT.

ALBERTO M. CARVALHO

SWORN TO AND SUBSCRIBED BFORE ME this _____ day of _____, 2010.

Notary Public
State of _____
My Commission Expires:

Exhibit "A"
Legal Description

Portion of the SE¼ of Section 11, Township 54 South, Range 39 East, being more particularly described as follows:

Commence at the Southwest corner of the SE¼ of said Section 11 and run North 0° 55' 13" West along the West line of said SE¼ of Section 11 for 50.00 feet to the Point of Beginning; thence run North 0° 55' 13" West along the last described course for 1605.29 feet; thence run North 89° 04' 32" East along the South Right-of-Way line of a 100 foot canal, as shown on "SOUTHWEST MANORS SECTION ONE" as recorded in Plat Book 73 at Page 10 of the Public Records of Dade County, Florida, for 1195.67 feet; thence run South 0° 55' 28" East for 100.00 feet; thence run South 89° 04' 32" West for 52.24 feet; thence run South 0° 53' 32" West for 52.24 feet; thence run South 0° 53' 13" East for 250.00 feet; thence run South 89° 04' 32" West for 25.00 feet; thence run South 0° 53' 13" East for 1155.78 feet; thence run North 89° 06' 02" East for 28.18 feet; thence run South 0° 53' 13" East for 100.00 feet; (said last described seven courses being coincident with the Westerly boundary of "SOUTHWEST MANORS SECTION FIVE" as recorded in Plat Book 77 at Page 47 of the Public Records of Dade County, Florida); thence run South 89° 06' 02" West along a line parallel with and 50.00 feet North of the South line of said SE¼ of Section 11, for 1145.77 feet to the Point of Beginning, lying and being in Dade County, Florida.