

Business Operations  
Larry W. Stanearth, Chief Business Officer

**SUBJECT: RESOLUTION AUTHORIZING THE COMMENCEMENT OF EMINENT DOMAIN PROCEEDINGS FOR A ± 54-ACRE SITE LOCATED AT OKEECHOBEE ROAD AND NW 92 AVENUE, HIALEAH GARDENS, FLORIDA, FOR THE SITING OF PROPOSED STATE SCHOOL "JJJ", STATE SCHOOL "MM1", AND STATE SCHOOL "V1"**

**COMMITTEE: FACILITIES MANAGEMENT**

Background

At its September 12, 2002 meeting, the School Board (Board) authorized the Superintendent to negotiate for the purchase of land for State School "JJJ", and State School "MM1" within Region I of the School District pursuant to the ranking and negotiating parameters recommended by the School Site Planning and Construction Committee (SSPCC). State School "JJJ" will provide relief to Barbara Goleman, Hialeah-Miami Lakes and American Senior High Schools, which were, as of February 2003, operating at permanent F.I.S.H. capacities of 152%, 124%, and 144% , respectively. State School "MM1" will provide relief to Jose Marti Middle School, which was as of February 2003, operating at a permanent F.I.S.H. capacity of 146%. Funding for the site purchase of both schools have been allocated in the 2002-03 fiscal year as part of the Five-Year Work Program. State School "JJJ" is funded for construction in the 2002-03 fiscal year and State School "MM1" is proposed for construction funding in the 2005-06 fiscal year.

It should be noted that the Board at its September 12, 2002 meeting, authorized staff to negotiate the purchase of an alternate site for placement of State School "MM1". This property located at NW 108 Street and 89 Avenue was subsequently eliminated by the SSPCC as a potential host site for State School "MM1" due to: 1) the property owner's rejection of District staff's purchase offers, 2) the property's previous use as a landfill and, 3) the property owner's final asking price was well in excess of the estimated fair market value as established in two independent appraisals, and a review.

Due to the limited land suitable for school construction and based on input from Region I staff and its own discussion, the SSPCC subsequently recommended that proposed State School "V1" also be located on the subject property referenced above. State School "V1" will provide relief to Ernest Graham Elementary School and Ben Sheppard Elementary School, which were as of February 2003, operating at permanent F.I. S. H. capacities of 172% and 154% respectively. Funding for the site purchase has been allocated in the 2002-03 fiscal year as part of the Five-year Work Program. Funding for construction has been allocated in the 2005-06 fiscal year.

Following the September 12, 2002 Board meeting, District staff submitted purchase offers to the owners of the subject property which consists of a ± 54 acre parcel of vacant land and represents a portion of a larger parent tract approximately 88 acres in size. The purchase offers were submitted pursuant to negotiation parameters established by the SSPCC based on two independent appraisals and a review. The property owners, through their respective eminent domain counsel, rejected both offers and indicated they had no desire whatsoever to voluntarily sell their property.

Pursuant to School Board Rule 6Gx13-2C1.083 V, E(1), the SSPCC at its March 2003 meeting, recommended that staff formulate and forward to the Board an item recommending the commencement of eminent domain proceedings to acquire the subject property for the siting of proposed State School "JJJ", State School "MM1", and State School "V1".

#### The Condemnation Process

Pursuant to Section 73.015, Florida Statutes, governing actions in Eminent Domain, presuit 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 offer and, if requested, a copy of the appraisal upon which the offer is based. Because the subject property represents a portion of a larger parent tract currently planned for residential development, and pursuant to the governing statutes, the District's Eminent Domain Counsel ("District Counsel") recommended that staff commission appraisals with consideration of severance damages to the remaining portion of the owners' property. Accordingly, based on the fair market value established in these appraisals, and subject to Board approval of eminent domain proceedings, staff will forward to the owners the prerequisite purchase offer for their consideration. The owners will then have thirty (30) days to review and act on the offer before a condemnation suit can be filed. If the owners respond to the offer, the District will negotiate in good faith before filing suit.

If the owners remain unwilling to sell, District Counsel can then begin to prepare the condemnation suit. From that point forward, pursuant to Sections 73.091 and 73.092, Florida Statutes, the District would be responsible for fees and costs of the property owners. These include the owners' attorney fees (if the owner recovers more than the District's first written offer), and all costs reasonably incurred through the use of expert witnesses. Typical expert fees include fees for appraisers, land planners and engineers.

It is important to note that a Phase I Environmental Audit indicated that based on a records review, interviews and reconnaissance, the environmental consulting firm recommended that further investigations be conducted through a Phase II Audit, to determine the vertical and horizontal extent of soil and groundwater impact at the property and that the existing water supply well be properly abandoned to prevent a direct conduit to the groundwater beneath the subject property. These activities could not be undertaken since District staff did not have authorization to access the subject property and as such, will need to be undertaken under court order prior to the filing of an Order of Taking.

In accordance with the governing school board rule, a copy of the full record of the site selection and investigation process will be submitted to the Board as supplemental information.

The owner of the subject property is 84-A Holdings LLC, whose Manager is Mr. Maurice Cayon.

**RECOMMENDED:**

That The School Board of Miami-Dade County, Florida, adopt Resolution No. 03-21 authorizing the Superintendent or his designee to initiate eminent domain proceedings to acquire a ± 54-acre site located at Okeechobee Road and NW 92 Avenue, Hialeah Gardens, Florida, for the siting of proposed State School "JJJ", State School "MM1" and State School "V1" within ACCESS Center 1 schools, pursuant to the recommendation of the School Site Planning and Construction Committee.

## RESOLUTION NO. 03-21

**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 ninth day of April, A.D. 2003

THE SCHOOL BOARD OF MIAMI-DADE COUNTY,  
FLORIDA

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Chair

ATTEST:

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Secretary