

Office of School Facilities  
Rose Diamond, Chief Facilities Officer

**SUBJECT: ADOPT RESOLUTION NO. 05-53 AUTHORIZING THE SUPERINTENDENT TO INITIATE EMINENT DOMAIN PROCEEDINGS TO ACQUIRE APPROXIMATELY 2.1 ACRES OF LAND LOCATED AT NE 182 DRIVE AND ATLANTIC BOULEVARD, SUNNY ISLES BEACH, FLORIDA, TO SITUATE STATE SCHOOL "BB1", A PLANNED K-8 CENTER INTENDED TO RELIEVE RUTH K. BROAD/BAY HARBOR ELEMENTARY SCHOOL, AND HIGHLAND OAKS MIDDLE SCHOOL**

**COMMITTEE: FACILITIES AND CONSTRUCTION REFORM**

Background

In accordance with School Board (Board) Rule 6Gx13-2C-1.083, the School Site Planning and Construction Committee (SSPCC), at its December 7, 2005 meeting, recommended that staff present an item to the Board requesting approval of a Resolution to initiate eminent domain proceedings to acquire approximately 2.1 acres of land consisting of two contiguous parcels to situate State School "BB1" (see Parcels "A" and "B" on attached location map). These two parcels (Site) are located at NE 182 Drive and Atlantic Boulevard, Sunny Isles Beach, Florida, adjacent to a planned public park (see Parcel "C" on attached location map), currently being developed by the City of Sunny Isles Beach (City). The City has agreed to allow use of the park for the new school's daily recreational activities pursuant to an Interlocal Agreement currently being negotiated. The City has allocated in excess of \$10,000,000 towards park improvements, including an outdoor Little-League baseball field and construction of a two-story Community/Recreational Center which will contain multi-purpose play areas, arts and crafts classrooms, indoor basketball, volleyball and badminton courts, and a gymnasium. As such, most, if not all of the District's typical capital expenditures for recreational facilities will be significantly reduced or eliminated.

Initially, the City envisioned negotiating the voluntary acquisition of the land or pursuing eminent domain under Section 166.411, Florida Statutes, which allowed Cities to condemn property for public schools. This provision has since expired, and the City focused on negotiating a willing purchase of the Site, which attempts proved unsuccessful. As a result, discussions subsequently shifted to District acquisition of the Site, with the District deriving financial assistance from the City. These discussions culminated in the unanimous approval of a resolution by the City, at its July 14, 2005 meeting, to donate \$8,500,000 toward the District's acquisition of the Site. The Board, at its September 7, 2005 meeting, accepted the City's proffered donation and, in turn, approved an amendment of the District's Five Year-Capital Plan allocating \$12,000,000 towards the District's acquisition of the Site, which included the City's donation.

State School "BB1" is a planned K-8 Center which will accommodate approximately 1624 new seats to relieve Ruth K. Broad/Bay Harbor Elementary School and Highland Oaks Middle School. These two schools were operating at permanent F.I.S.H. capacities of 191%, and 173%, respectively, as of October 2005. Funding for design is allocated in the 2005-2006 fiscal year as part of the Five-Year Work Program. Funding for construction has been allocated in the 2006-2007 fiscal year.

#### School Site Planning and Construction Committee

A summary of the SSPCC's recommendations is outlined the Exhibit "A", attached hereto. A copy of the full record of the site selection and investigation process will be provided to the Board as supplemental information.

#### Site Analysis

A summary of the Site's characteristics and accompanying due diligence results are summarized in Exhibit "A", attached hereto. A copy of completed due diligence reports for the Site will be submitted to the Board as supplemental information, and a copy placed with Citizen's Information.

#### 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 owners of the properties to be acquired, provide a written offer and, if requested, a copy of the appraisal upon which the offer is based. Accordingly, based on the fair market value established in the appraisal process, staff forwarded to the owners the prerequisite purchase offers on November 22, 2005; the owners had 30 days to review and act on such offers before a condemnation suit could be filed. These offers were made subject to final Board approval. Since it now appears the owners remain unwilling to sell, the District's Eminent Domain Counsel is ready to prepare the condemnation suit pending School Board approval. The suit will combine the two property owners into one filing. A memorandum will be submitted by the District's Eminent Domain Counsel to 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.

Given the additional costs attendant to the condemnation process, coupled with the recent sale of Parcel "A", the total acquisition expense may be driven upwards. As such, the SSPCC recommended at its December 7, 2005 meeting, that District staff explore the possibility of securing additional financial assistance from the City, and City representatives have agreed on a modified financial sharing arrangement of total acquisition costs. The School Board Attorney's Office will submit to the Board Members and the Superintendent, as confidential supplemental information, a memorandum from the Districts' Outside Eminent Domain Counsel explaining the details of this proposed sharing arrangement.

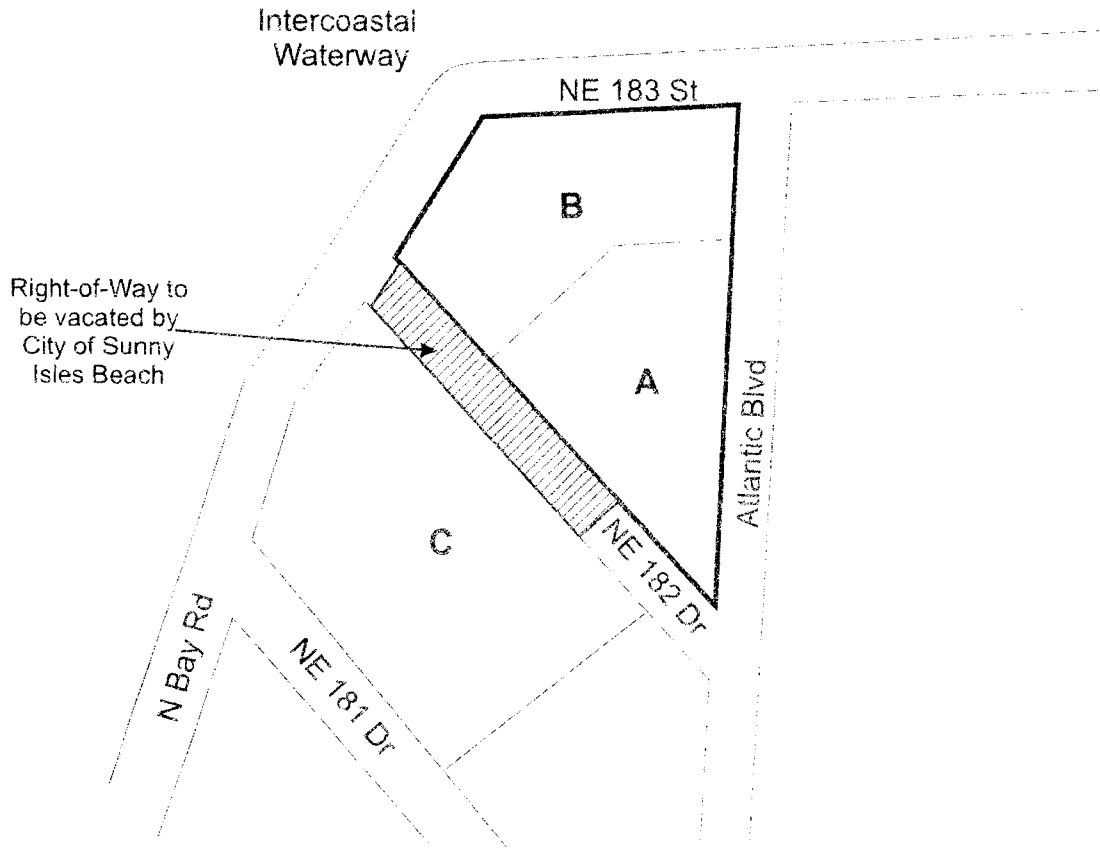
**RECOMMENDED:**

That The School Board of Miami-Dade County, Florida:

- 1) adopt Resolution No. 05-53 authorizing the Superintendent or his designee to initiate eminent domain proceedings to acquire ±2.1 acres, as described above, located at NE 182 Drive and Atlantic Boulevard, Sunny Isles Beach, Florida, to situate State School "BB1", Relief for Ruth K. Broad/Bay Harbor Elementary and Highland Oaks Middle Schools, pursuant to the recommendation of the School Site Planning and Construction Committee; and
- 2) authorize an amendment to the District's Five-Year Capital Plan to increase funding from the current allocation for acquisition of the Site described above to situate State School "BB1", to the amount defined in the confidential supplemental information provided by the School Board Attorney's Office and subject to the provisions therein, including increased financial participation from the City of Sunny Isles Beach.

JB:rr

# LOCATION MAP



LEGEND	
PARCEL A:	68-UNIT APT BUILDING (1.2 ACRES)
PARCEL B:	VACANT LAND (.89 ACRES)
PARCEL C:	FUTURE CITY PARK (2 ACRES)



## EXHIBIT "A"

### Summary of the SSPCC's Recommendations and Due Diligence Results:

In conformance with Board Rule, an informational packet consisting of potential school sites and preliminary due diligence for State School "BB1" was presented to the SSPCC at its August 10, 2005, October 20, 2005, and December 7, 2005, meetings for review and direction. Based on input from Regional Center II staff, and its own discussion of the proposed sites, at the December 7, 2005 meeting, the SSPCC recommended that staff negotiate and execute conditional purchase and sale agreements (Agreements) to acquire the Site. The Agreements are based on a not-to-exceed purchase price as established in district commissioned appraisals, subject to completion of further due diligence to include environmental assessments and final Board approval.

Pursuant to the governing Board Rule and the SSPCC's recommendation, staff submitted Agreements to the Site's owners proffering the purchase of same. The owners have remained unwilling to sell their property, necessitating the initiation of eminent domain proceedings to acquire the site.

#### Site

The Site is  $\pm 2.1$  acres in size and is comprised of two properties consisting of vacant land and improved property as described below:

#### Parcel A

This parcel is  $\pm 1.2$  acres in size and improved with an apartment complex containing 68 units. This building has been recently purchased for conversion to condominiums. The land is zoned for residential use. The owner is Yamit Realty, LLC. This property is located at N.E. 182 Drive and Atlantic Boulevard, Sunny Isles Beach, Florida, and is legally described in the attached Resolution.

#### Parcel B

This parcel is a  $\pm .89$ -acre tract of vacant land, zoned for residential use. The owner of the property is Marina Bay Club, Ltd. This property is also located at N.E. 182 Drive and Atlantic Boulevard, Sunny Isles, Beach, Florida, and is legally described in the attached Resolution.

Staff has conducted substantial due diligence for the Site as required, with the exception of a Phase II environmental assessment and trenching. These activities could not be undertaken, since District staff did not have authorization to access the site and, as such, they will be conducted under court order prior to the filing of an Order of Taking.

1. Determination of Historic or Cultural Resources: The Miami-Dade County Historic Preservation Division has recommended that an archaeological assessment of the Site be conducted prior to ground breaking activities since the area in question has not been subjected to an archaeological survey. As such, this study will be undertaken under court order prior to title being transferred to the Board.

2. Jurisdictional Statements: Both the South Florida Water Management District and the Department of Environmental Resources Management (DERM) have indicated that the site does not contain wetlands. Additionally, DERM's water control section has indicated that the site is not subject to water retention requirements. The Army Corps of Engineers has not issued a response.
3. Comprehensive Plan/Zoning Compliance: The City of Sunny Isles Beach, Planning and Zoning Department has indicated that the acquisition of this property for a new K-8 Center is in conformity with the Comprehensive Plan and Land Development Regulations.
4. Aviation: The Miami-Dade County Aviation Department has indicated that the Site is compatible with airport operations, as it is located outside the No-School Zone.

**RESOLUTION NO. 05-53**

**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 site for a school, 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 a school, 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 Eighteenth Day of January, A.D. 2006

THE SCHOOL BOARD OF MIAMI-DADE COUNTY,  
FLORIDA

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Secretary



