

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

SUBJECT: AUTHORIZATION FOR THE SUPERINTENDENT TO:

- 1) FINALIZE NEGOTIATIONS AND EXECUTE AN INTERLOCAL DEVELOPMENT AGREEMENT WITH THE CITY OF MIAMI FOR THE DESIGN AND CONSTRUCTION OF A SENIOR HIGH SCHOOL FOR LAW STUDIES, HOMELAND SECURITY AND FORENSIC SCIENCES, TO BE CO-LOCATED WITH THE CITY OF MIAMI POLICE DEPARTMENT'S PROPOSED NEW COLLEGE OF POLICING FACILITY IN DOWNTOWN MIAMI; AND
- 2) FINALIZE NEGOTIATIONS AND EXECUTE A LEASE AND OPERATING AGREEMENT WITH THE CITY FOR JOINT USE OF PORTIONS OF THE OVERALL FACILITY; AND
- 3) FINALIZE NEGOTIATIONS AND EXECUTE ANY OTHER RELATED AGREEMENTS NECESSARY TO CONSTRUCT AND OPERATE THE SCHOOL

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

LINK TO

STRATEGIC PLAN: IMPROVE CONSTRUCTION SERVICES

Background

Under the auspices of the Educational Compact between the Board and City of Miami (City), the District has been actively negotiating an Interlocal Agreement (Interlocal) with the City that contemplates design and construction of a senior high school for law studies, homeland security and forensic sciences (High School), to be co-located with the City of Miami Police Department's proposed new College of Policing facility (College) in downtown Miami. The High School, which will house approximately 500 student stations and provide specialized instruction for students in grades 9-12 seeking those particular career paths, was funded for design in the District's Five-Year Capital Plan in FY 2006-07 in the amount of \$1,000,000, and for construction in the amount of \$16,000,000 in FY 2007-08. Terms of the proposed Interlocal address the financing, design, construction, and subsequent use and maintenance of the College and High School facility (Facility). The Facility will be located on City-owned land at NW 2 Avenue

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and NW 3 Street, directly south of the current City Police Department Headquarters Building (see location map). Portions of the High School and College are to be jointly used and maintained by the parties, as generally discussed in this agenda item, with those terms to be defined in a separate Lease and Operating Agreement (Lease).)

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The City previously secured the services of Spillis Candela DMJM to design the Facility, and construction documents have been completed. It was originally anticipated that the District would take over the actual construction of the Facility, and use its Building Department for plan review and approvals, construction inspection services and final acceptance of the work. However, because of the desirability of maintaining sole source responsibility and oversight for design and construction, the City will retain construction responsibilities, with the City to assist the District in commissioning a Construction Management (CM) at-Risk contract; the Board will assign certain of its rights, as well as all of its responsibilities and obligations under the Contract for Construction to the City subsequent to a determination of the Guaranteed Maximum Price for the project (see companion agenda item F-40).)

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The Facility will be approximately 112,316 square feet in size, with the High School portion to encompass approximately 45,400 square feet, or 41% of the overall square footage. As such, the District's commensurate share of design and construction costs of the Facility (the District's total project cost other than movable FF&E and associated items), will not exceed 41% of such costs, or \$14,300,000, whichever is less. Likewise, the District's share of the subsequent cost of maintaining and operating the Facility, under the terms of the proposed Lease, will also be 41% of actual expenses. The City will bear all other costs for construction and ongoing operations of the Facility. It is anticipated that construction activities would commence by January, 2008, with the Facility to be completed by June, 2009.)

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As owner of the Facility, the City would typically schedule the building under its Master Property Insurance Program for the full amount of the premises. The City's Program currently has a \$100,000,000 aggregate coverage for all City properties, with a \$10,000,000 sub-limit for windstorm damage. As with the District, the City's Program is subject to future market conditions and available industry insurance capacity. Because of the need to protect the Board's financial investment in the Facility, City and District staff have investigated a number of alternate insurance options, including joint purchase of a comprehensive commercial package insurance policy, with the premium to be shared proportionately. However, it has been determined that acquisition of such a policy, if available, would be cost prohibitive. Instead, the City has advised that it may elect to provide coverage under the City's Master Property Insurance Program or, at the City's sole discretion, provide an individual property policy covering only the Facility.)

The Board shall be named as a loss payee for this Facility on the Master Property Program Policy and/or the individual policy. As a result, in the event of Damage and Destruction to the Facility, the City will use insurance proceeds to repair such damage. In the event there are insufficient proceeds to make the repairs, the City will have the option of canceling the Lease without penalty, with a portion of the insurance proceeds to be disbursed to the Board.)

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Proposed Interlocal Development Agreement

Terms of the proposed Interlocal are, substantially, as follows:

- the term shall commence upon full execution of the Interlocal, and shall terminate effective with the commencement date of the Lease;
- the Board shall complete an environmental assessment of the site, with the City to fund half of the Phase II investigation cost;] ADDED
- the Board's share of Facility design and construction expenses (including design, construction testing, geotechnical studies and all other soft costs associated with the work) shall equal 41% of the total costs or \$14,300,000, whichever is less (movable FF&E and associated items for the High School are to be purchased separately by the District at an additional estimated cost of \$1,472,504). A not-to-exceed amount of \$886,998, covering the District's portion of the Facility design fee, is included in the Board's total potential design and construction obligation of \$14,300,000;] REVISED
- the City and Board shall each deposit its portion of the total project construction cost into an interest bearing Escrow Account, with the funds to be used to cover all construction costs related to the Facility;] REVISED
- the Interlocal may be canceled by the District at no cost to the Board in the event of default by the City, which default is not cured, or an inability of the parties to agree on a Guaranteed Maximum Price for construction of the Facility by December 19, 2007, or a determination by the District (as a result of completion of all required due diligence) that the site is incompatible with the operation of the High School and the City is unable or unwilling to mitigate the issue. In all other events, should the District cancel the agreement, the Board will be obligated to reimburse the City for the design fee (not-to-exceed \$886,998), as well as the cost for the City to redesign the Facility for its sole use (in an amount not-to-exceed \$1,000,000);
- the Interlocal may be canceled by the City only in the event of default by the District, which default is not cured, or an inability of the parties to agree on a Guaranteed Maximum Price for construction of the Facility by December 19, 2007;
- the City shall retain ownership of the site and all improvements at all times;
- the City will be responsible for the design of the Facility, and shall retain jurisdiction for coordination of plan review and approvals, construction inspection services and final sign-off for construction of the Facility;
- the District shall assign a Project Manager to act as the Board's representative in all matters dealing with the design and construction of the Facility. Likewise, the City will also designate a Project Manager;
- the District and City shall jointly negotiate and agree on the Guaranteed Maximum Price for the project, with the District to then enter into the Construction Management (CM) at-Risk Contract. Subsequent to the Board executing the contract, the Board shall assign, and the City shall accept, certain of the rights, as well as all of its responsibilities and obligations under the Contract for Construction;] REVISED
- the City and Board shall indemnify and hold each other harmless against any claims or actions arising from the Interlocal, to the extent of the limits of Florida Statutes;

- if either party defaults under the Interlocal and fails to cure, the non-defaulting party shall be entitled to all remedies available at law or in equity, which may include, but not be limited to, the right to damages and/or specific performance; and
- the Superintendent of Schools or designee shall be the party designated by the Board to grant or deny any and all approvals required by the Interlocal dealing with the design and construction of the Facility, and in addition, the Superintendent of Schools shall be the party designated by the Board to terminate this Interlocal in conformance with the provisions of the Interlocal.

Proposed Lease and Operating Agreement

Terms of the proposed Lease are, substantially, as follows:

- a 40 year term, to commence upon substantial completion of the Facility, at a cost to the District of \$1 per year;
- four 10-year option periods, at the Board's sole option, provided the parties come to a mutual agreement regarding any needed capital expenditures that may be required to extend the useful life of the Facility;
- A Joint Use Committee shall be established, comprised of the High School Principal and Chief of Police, or their designees, to coordinate all issues impacting the routine operations by the parties within the Facility, including establishing, monitoring and modifying the scheduled use of joint use facilities, maintenance, utilities and other shared expenses;
- other than for default, which default is not cured, or in the event of Damage and Destruction, as enumerated below, neither party may cancel the Lease during the initial 40 year period;
- the High School and College will share use of portions of the Facility, as mutually agreed upon. The locker room facilities within the High School and College, and the firing range located within the College, shall at no time be shared;
- the District and City shall each provide all routine janitorial, custodial and maintenance functions within their portions of the Facility (the District's annual cost to maintain the High School is estimated at \$225,000). All routine building-wide system maintenance and repair within jointly used and common areas of the Facility shall be provided by the City, with the District to reimburse the City for 41% of such cost (the District's annual reimbursement is estimated at \$35,000);
- the District shall be responsible for reimbursing the City for 41% of the cost of operating the Facility, including utilities and miscellaneous expenditures (the District's annual reimbursement is estimated at \$125,000);
- the District shall be responsible for reimbursing the City for 41% of the cost of major building system maintenance or replacement, including roof, generator and cooling system replacement and exterior painting. It is not anticipated that such costs will be assessed for the first several years after the Facility is occupied. Over the 40-year initial lease period, on average, such reimbursement is estimated at \$60,000 per year);
- the City, at no cost, will supply approximately 15 parking spaces in the adjacent Police Department garage for District staff use. The District, at its cost, will provide approximately 50 additional staff parking spaces at nearby municipal parking facilities, at an estimated recurring annual cost of \$21,000;

- the Board shall have the right at all times to construct non-structural interior improvements within the High School, without the prior approval of the City;
- the City will schedule the building under its Master Property Insurance Program for the full amount of the premises. The City's Program currently has a \$100,000,000 aggregate coverage for all City properties, with a \$10,000,000 sub-limit for windstorm damage. The City may elect to provide coverage under the City's Master Property Insurance Program or, at the City's sole discretion, provide an individual property policy covering only the Facility. The Board shall be named as a loss payee for this Facility on the Master Property Program Policy and/or the individual policy. In the event of Damage and Destruction to the Facility, the City will use insurance proceeds to repair such damage. Should there be insufficient proceeds to make the repairs, the City will have the option of canceling the Lease without penalty, with a portion of the insurance proceeds to be disbursed to the Board;
- during such time that all or a portion of the Facility is untenable or unfit for the purposes of the Board, all of the Board's obligations under the Lease, including the payment of Facility operating and maintenance expenses, shall be reduced proportionately, unless such damage is caused as a result of the negligence of the Board, its agents, representatives or employees, or resulting from the District's failure to perform its obligations under the Lease;
- if either party defaults under the Lease and fails to cure, the non-defaulting party shall be entitled to all remedies available at law or in equity, which may include, but not be limited to, the right to damages and/or specific performance; and
- the Superintendent of Schools or designee shall be the party designated by the Board to grant or deny any and all approvals required by the Lease, and in addition, the Superintendent of Schools shall be the party designated by the Board to terminate this Lease in conformance with the provisions of the Lease.

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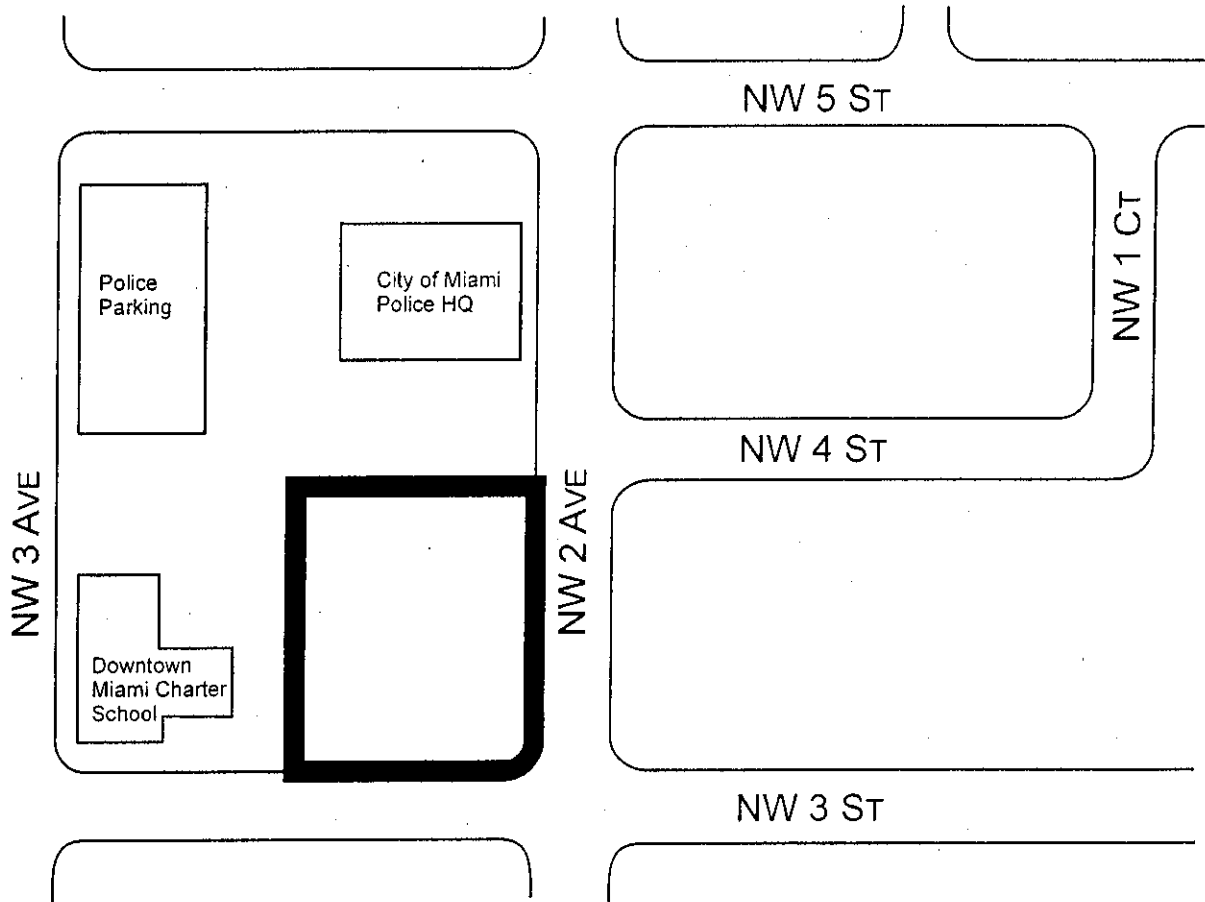
The Regional Center IV Superintendent, Associate Superintendent for School Operations, and Office of School Facilities are in agreement with the proposed Interlocal and Lease. The Interlocal, Lease and any other related agreements necessary to construct and operate the High School will be reviewed by the School Board Attorney's Office and Office of Risk and Benefits Management prior to execution.

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


- 1) authorize the Superintendent to finalize negotiations and execute an Interlocal Agreement with the City of Miami for the design and construction of a senior high school for law studies, homeland security and forensic sciences, to be co-located with the City of Miami Police Department's proposed new College of Policing facility in downtown Miami, at a total District project cost not to exceed \$14,300,000 (other than for movable FF&E and associated items), and under substantially the other terms and conditions noted above; and
- 2) authorize the Superintendent to finalize negotiations and execute a Lease and Operating Agreement with the City of Miami for the joint use of portions of the senior high school for law studies, homeland security and forensic sciences, and the City of Miami Police Department's proposed new College of Policing facility, with the District to reimburse the City 41% of the City's actual cost for maintenance, repair, utilities and other operating expenses and for staff parking, estimated at a total cost of \$241,000 per year, and under substantially the terms and conditions noted above; and
- 3) authorize the Superintendent to finalize negotiations and execute any other related agreements necessary to construct and operate the school.

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LOCATION MAP



LEGEND

 Proposed Senior High School for Law Studies, Homeland Security and Forensic Sciences

(NOT TO SCALE)

