

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

SUBJECT: AUTHORIZATION FOR:

1) THE SUPERINTENDENT TO FINALIZE NEGOTIATIONS AND EXECUTE AN AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE SCHOOL BOARD (AS LESSOR) AND MIAMI-DADE COUNTY (AS LESSEE), FOR USE OF VACANT BOARD-OWNED LAND, LOCATED AT 8300 NW 12 PLACE, AS ARCOLA LAKES PARK; AND

2) THE CHAIR AND SECRETARY TO EXECUTE A COVENANT RUNNING WITH THE LAND IN FAVOR OF MIAMI-DADE COUNTY IN CONNECTION WITH THE PROPOSED CONSTRUCTION BY THE MIAMI-DADE COUNTY PARK DEPARTMENT OF A PICNIC SHELTER ON THE BOARD-OWNED LAND.

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

LINK TO STRATEGIC FRAMEWORK: FINANCIAL EFFICIENCY/STABILITY

Background

Since February 1976, Miami-Dade County (County), has leased approximately 14.5 acres of vacant land from the Board, located at 8300 NW 12 Place. The County owns an adjacent 3.85-acre parcel, and operates the two parcels collectively as Arcola Lakes Park (Park) (see location map). Under the terms of the lease agreement (Agreement), the County may make improvements to the site, at its expense, for community park purposes. The County previously constructed a recreation center, two playgrounds, four tennis courts, two tot lots, four hand ball courts, two parking lots and other recreational amenities on the Board-owned land. The County retains responsibility for all maintenance, utilities and any other Park operating costs. In addition, the Agreement stipulates that, should the District require use of some of the leased area for a future educational facility, that portion of the leased area will be released from the Agreement. The current term of the Agreement will expire on December 31, 2036.

Additional Information

Currently, the facilities on site are served by a septic tank, which has been duly inspected and found to be compliant with applicable regulations. The County has advised that it intends to construct a recreation center designed primarily for senior programs on the County-owned portion of the Park. At such time as the work is initiated,

the County will at its expense install an 8" sewer force main across a portion of the Board-owned parcel in order to connect to Miami-Dade Water and Sewer Department facilities. Additionally, to ensure that the sewer line will not impact the Board's ability to use its parcel in the future, the County agreed that it will relocate the sewer line, at its expense, should the District determine that such relocation is necessary. The terms and conditions of such agreement were previously approved by the Board at its July 15, 2008 meeting (Board Item F-7).

Since as noted above, the Park is currently served by a septic system located on the Board-owned land, and construction of a sewer line and connection to the sewer system is not envisioned for at least two years, the County has also agreed that should the Miami-Dade County Department of Environmental Resource Management (DERM) or other jurisdictional entity provide notice that the leased area must be connected to the sanitary sewer system prior to that time, the County, will at its sole cost and expense, do so and will also properly vacate and close the existing septic system in compliance with applicable statutes and codes.

The County has also agreed to include language in the proposed Amendment stipulating that it will maintain and operate the septic tank and ancillary equipment located on the leased area in compliance with all applicable statutes and codes, and provide to the District bi-annual inspection reports from a certified septic tank inspector certifying that the septic system is code compliant.

Proposed Picnic Shelter and Covenant

The County Park Department (Park Department) is in the process of constructing a new picnic shelter on a portion of the property the County leases from the Board. While the shelter will not have bathroom facilities, DERM is requiring execution of a covenant running with the land, in favor of the County (Covenant), to provide that the only liquid waste which shall be generated, disposed of, discharged, or stored on the Board-owned site, shall be domestic sewage discharged into the septic tank. Under the terms of the proposed Amendment to the lease agreement (Amendment), the County will subordinate the Amendment to the Covenant, and be obligated to comply fully with all requirements and obligations, financial or otherwise, required of the Board under the Covenant. The Covenant will be reviewed and approved by the School Board Attorney's Office and the Office of Risk and Benefits Management prior to execution.

Proposed Amendment to Lease Agreement

It is recommended that the Superintendent be authorized to finalize negotiations and execute a lease amendment with the County under, substantially, the following terms and conditions:

- the cancellation provision, which currently provides either party with the ability to cancel the Agreement, in whole or in part, with 180 days prior written notice, will be amended to allow either party to cancel, in whole or in part, at any time, with one year prior written notice. In that event, the portion of the Board-owned parcel subject to said cancellation shall be freed from the burden of the Agreement, concurrent with the effective date of said cancellation. In addition, the County covenants and agrees that the Board shall not be obligated to reimburse the

County for any of County's facilities constructed on the Board-owned parcel, or be subject to any other obligation or penalty. Further, the County shall, at the County's sole cost and expense and at the Board's sole option, said option not to be unreasonably imposed, remove or relocate any and all facilities or improvements made to the Board-owned parcel by the County, including, but not limited to any water and sewer improvements or the septic system;

- the County shall maintain and operate any septic tank or other ancillary sewage system equipment, pipes or apparatus associated with the septic system located on the leased area and servicing County facilities, in compliance with Florida Statute, the Florida Building Code and the State Requirements For Educational Facilities. The County shall provide the District with inspection reports from a certified septic tank inspector or other documentation as may be required by Florida Statute, certifying that the septic system is code compliant, and in proper working order, on a bi-annual basis, unless required more frequently by Florida Statute, or as may reasonably be required by the District;
- if at any time during the term of this Agreement, the District receives notice from the Miami-Dade County Department of Environmental Resource Management (DERM) or other jurisdictional entity, through a Notice of Required Connection (NORC) or other official notification, that the leased area must be connected to a nearby sanitary sewer system, the County covenants and agrees as follows: 1) the County shall retain full responsibility for all costs associated with the design and installation of the necessary improvements to complete the connection, 2) the County shall complete the connection to the sanitary sewer system in compliance with the terms of the NORC, and 3) the County shall expedite the proper vacation and closure of the existing septic system, in compliance with Florida Statute, the Florida Building Code and State Requirements For Educational Facilities, and will provide the District with documentation, as may be reasonably required, attesting to same;
- the County agrees to subordinate its interests in the site in the event the Board seeks to initiate financing at this location through a Certificate of Participation or other funding mechanism in the future, or in the event of a sale of the property;
- the Board will execute a covenant running with the land in favor of Miami-Dade County in connection with the proposed construction by the Park Department of a picnic shelter on the leased area. The County covenants and agrees that the Agreement is subordinate to the Covenant. Further, the County covenants and agrees that it shall be obligated to, and shall comply with, all conditions, requirements and obligations, financial or otherwise, required of the Board under said Covenant;
- the Agreement shall be construed and enforced according to the laws of the State of Florida, and the venue for any disputes shall be in Miami-Dade County Florida;

- in the event of any litigation between the parties under this Agreement, each party shall be responsible for its own attorney's fees and court costs through trials and appellate levels. The provisions of this paragraph shall survive the termination of this Agreement; and
- the Superintendent of Schools shall be the party designated by the Board to grant or deny all approvals required by this Agreement, or to cancel this Agreement.

All other terms and conditions of the Agreement will remain unchanged, including the following:

- rental rate at \$1 per year;
- the County may make such improvements and construct such facilities upon the Board-owned parcel, at the County's sole cost and expense, as shall be necessary to utilize said lands for community park purposes;
- the County shall maintain the premises, facilities, and equipment located thereon in a state of good repair and clean condition at all times, at its sole expense; and
- the County shall be responsible for payment of all utilities.

The proposed amendment and Covenant will be reviewed by the Office of Risk and Benefits Management and the School Board Attorney's Office prior to its execution.

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

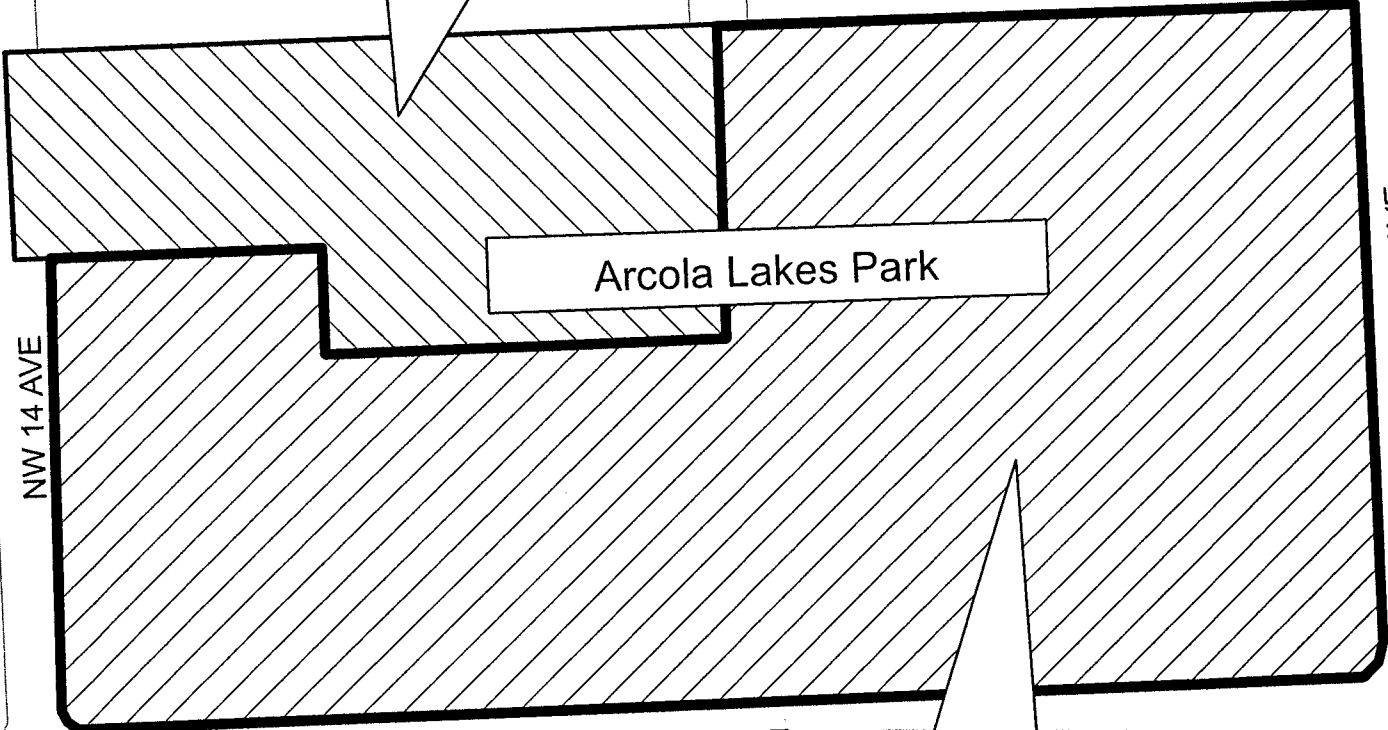
- 1) the Superintendent to finalize negotiations and execute an amendment to the lease agreement between the School Board (as lessor) and Miami-Dade County (as lessee), for use of vacant Board-owned land, located at 8300 NW 12 Place, as Arcola Lakes Park; and
- 2) the Chair and Secretary to execute a Covenant Running With the Land in favor of Miami-Dade County in connection with the proposed construction by the Miami-Dade County Park Department of a picnic shelter on the Board-owned land.

IB:

LOCATION MAP

3.85 - acre
County-owned parcel

NW 84 TER



Arcola Lakes Park

NW 14 AVE

NW 12 AVE

NW 83 ST

14.5 - acre
Board-owned parcel



Not to Scale