

Office of School Board Attorney
Walter J. Harvey, Board Attorney

SUBJECT: REQUEST APPROVAL OF PROPOSED SETTLEMENT AGREEMENT AND RELEASE IN THE SCHOOL BOARD'S INTERVENOR COMPLAINT STYLED *BLUE LEAF HOSPITALITY, INC. v. RONALD WEIL, TRUSTEE*, et al., CIRCUIT COURT CASE NO. 07-25241-CA-09

This matter involves a settlement of claims asserted by the School Board against Blue Leaf Hospitality, Inc., Ronald Weil, Trustee, Pathman Lewis, LLP, and Bird-Wingate Warehouse Condominiums Association, Inc., arising out of a commercial real estate transaction between Blue Leaf Hospitality, Inc. and Ronald Weil, Trustee that affected certain property owned by the School Board.

BACKGROUND

On or about November 12, 2008, the School Board filed a three count Intervenor Complaint against the above-named Defendants seeking (1) Action for Permanent Injunction, (2) Action to Quiet Title, and (3) Action for Trespass. The School Board asserted that the adjacent land owner (Ronald Weil, Trustee) made unauthorized improvements to property belonging to the School Board located at SW 74th Avenue and SW 44th Street which interfered with the School Board's access to its property. In addition, Blue Leaf Hospitality, Inc. and Ronald Weil, Trustee caused a certain document to be recorded in public records purportedly assigning rights to property owned by the School Board which was subject to an ingress-egress easement ("Easement") in their favor.

Throughout this litigation, the School Board was represented by in-house attorneys in the School Board's Attorney Office, and no legal fees were expended in the prosecution of claims made by the School Board.

PROPOSED SETTLEMENT

Subject to approval of the settlement by the Board and in accordance with its terms and conditions, Ronald Weil, Trustee, will pay the School Board \$420,000.00 to resolve the Board's claim against Ronald Weil, Trustee and for dismissal of the action against all parties. In exchange for the consideration paid to the School Board and as part of the terms of the Settlement Agreement, the School Board will convey certain real property (including the Easement) currently owned by the School Board to Ronald Weil, Trustee. The parties shall also execute releases related to this litigation.

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The Board Attorney's Office and administrative staff agree with this recommendation as being fair and reasonable and in the best interests of the School Board. A copy of the Settlement Agreement will be made available under separate cover prior to the Board meeting of May 11, 2011.

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

1. Approve the proposed Settlement Agreement in the case of *The School Board of Miami-Dade County, Florida v. Blue Leaf Hospitality, Inc., et al.*, Case No. 07-25241 CA-09 between the School Board and Blue Leaf Hospitality, Inc., Ronald Weil, Trustee, Pathman Lewis, LLP and Bird-Wingate Warehouse Condominiums Association, Inc., authorizing *inter alia*, the conveyance of certain real property owned by the School Board to Ronald Weil, Trustee, in exchange of payment by defendant, Ronald Weil, Trustee of the sum of \$420,000.00, as settlement of this case;
- (2) Authorize the Chair and the Superintendent to execute a Special Warranty Deed in order to convey subject property pursuant to the Settlement Agreement; and to further authorize the Superintendent to finalize negotiations and to execute any and all documentation necessary to effectuate the above referenced Settlement Agreement.
- (3) Adopt Resolution No. 11-053, which approves the following:
 - (a) approving the proposed Settlement Agreement in the case of *The School Board of Miami-Dade County, Florida v. Blue Leaf Hospitality, Inc., et al*, Case No. 07-25241 CA 09, between the School Board and Blue Leaf Hospitality, Inc., Ronald Weil Trustee, Pathman Lewis, LLP, and Bird-Wingate Warehouse Condominiums Association, Inc.,
 - (b) designating a portion of the subject School Board Owned Property located at approximately SW 74th Avenue and SW 34th Street, Miami, Florida to be unnecessary for educational purposes.
- (4) In the event all terms and conditions of the Settlement Agreement are not fully implemented as stipulated, rescind Resolution No. 11-053 which, in part, designated the subject School Board-Owned Parcel as being unnecessary for educational purposes.

RESOLUTION NO. 11-053

A RESOLUTION OF THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA (“BOARD”), APPROVING THE PROPOSED SETTLEMENT AGREEMENT IN THE CASE OF THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA V. BLUE LEAF HOSPITALITY, ET AL – CASE NO. 07-125241-CA-09 BETWEEN THE SCHOOL BOARD AND BLUE LEAF HOSPITALITY, INC., RONALD WEIL, TRUSTEE, PATHMAN LEWIS, LLP, AND BIRD-WINGATE WAREHOUSE CONDOMINIUM ASSOCIATION, INC., AUTHORIZING THE CONVEYANCE OF CERTAIN BOARD-OWNED PROPERTY BY THE SCHOOL BOARD IN ACCORDANCE WITH THE ABOVE-REFERENCED SETTLEMENT AGREEMENT; AND DETERMINING THAT CERTAIN BOARD-OWNED PROPERTY IS UNNECESSARY FOR EDUCATIONAL PURPOSES.

WHEREAS, the Board owns and has under its jurisdiction certain land located in Miami-Dade County, FL, at approx. 74th Avenue, SW and 34th Street, SW, consisting of approximately 0.56 acre (“Site”), and described in **Exhibit “A”** attached hereto and incorporated herein by reference; and

WHEREAS, the Board at its May 11, 2011 meeting, approved that certain proposed Settlement Agreement in the case of *The School Board of Miami-Dade County, Florida v. Blue Leaf Hospitality, et. al-* Case No. 07-125241-CA-09 between the School Board and Blue Leaf Hospitality, Inc., Ronald Weil, Trustee, Pathman Lewis, LLP, and Bird-Wingate Warehouse Condominiums Association, Inc., providing, *inter alia*, for the conveyance of Board-owned Site (the Site) by the School Board to Ronald Weil, Trustee in exchange for payment of the Sum of \$420,000 as settlement of the referenced case;

WHEREAS, the Board, at its May 11, 2011 meeting, the Board authorized the conveyance of Site in accordance with terms and conditions contained in the said Settlement Agreement, and further authorized the Superintendent to execute any and all documentation necessary to effectuate the conveyance of the Site in accordance therewith.

NOW, THEREFORE, BE IT RESOLVED BY THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA THAT:

Section 1. The above recitals are true and ratified and adopted by this reference.

Section 2. The School Board of Miami-Dade County, Florida hereby approves that certain proposed Settlement Agreement in the case of *The School Board of Miami-Dade County, Florida v. Blue Leaf Hospitality, et. al-* Case No. 07-125241-CA-09 between the School Board and Blue Leaf Hospitality, Inc., Ronald Weil, Trustee, Pathman Lewis, LLP, and Bird-Wingate Warehouse Condominiums Association, Inc., providing for the conveyance of the Site by the School Board to Ronald Weil, Trustee

for the Sum of \$420,000.00 and in accordance with terms and conditions of the referenced Settlement Agreement;

Section 3. The School Board of Miami-Dade County, Florida hereby designates the Site located at approximately SW 74th Avenue and SW 34th Street, Miami, FL, as unnecessary for educational purposes.

Section 4. The School Board of Miami-Dade County, Florida hereby authorizes the conveyance of the Site in accordance with terms and conditions of the Settlement Agreement, and further authorizes the Chair and the Superintendent of Schools to execute any and all documentation necessary to effectuate the conveyance of the Site in accordance herewith..

Section 5. In the event that all terms and conditions of the Settlement Agreement are not fully implemented as stipulated, the designation of the subject Site as unnecessary for educational purposes shall be automatically rescinded.

Section 6. This Resolution shall take effect immediately upon its passage.

ADOPTED this 11th day of May, A.D., 2011

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

PERLA TABARES HANTMAN, Chair

ATTEST:

ALBERTO M. CARVALHO, Secretary

EXHIBIT "A"

TO

RESOLUTION NO. 11-053

Description of The Site:

Location: Approximately 74th Avenue, SW & 34th Street, SW, Miami, FL (Miami-Dade County)

A portion of Folio: A portion of Folio # 30-4023-000-0197
Legal description: Legal description to be determined by the parties based on Survey of subject Site, as described in the Settlement Agreement relating to Case No. 07-125241-CA-09, which Survey shall be certified to the parties as provided for in the said Settlement Agreement.

Subject to: All conditions, restrictions, easements, zoning and other limitations of record, if any.