

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

SUBJECT: APPROVAL OF SETTLEMENT AGREEMENT (AGREED ORDER OF TAKING AND STIPULATED FINAL JUDGMENT) IN THE CASE OF: STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION v. THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, et al., Circuit Court Case No. 14-26240-CA 31 (EMINENT DOMAIN ACTION AT SWEETWATER ELEMENTARY SCHOOL)

On October 13, 2014, the Florida Department of Transportation ("FDOT") filed an eminent domain action to acquire a portion of the campus at Sweetwater Elementary School, identified as "Parcel 118." FDOT asserted that it needs the subject property for the purpose of widening 107th Avenue in order to accommodate an increase in the number of existing lanes.

The parties have now reached a tentative agreement on the matter, which is expected to result in an "Agreed Order of Taking and Stipulated Final Judgment." The Court has provided the parties thirty (30) in which to finalize said settlement of the matter or to file proposed Orders of taking in the case. Accordingly, this item is being presented for the Board's consideration and seeks authorization for the Board Attorney to seek court approval of the Agreed Order of Taking and Stipulated Final Judgment. The Order of Taking will vest fee simple title to Parcel 118 ("Subject Parcel") in the Department and awarding full compensation to the School Board for the Department's acquisition of the Subject Parcel.

The essential terms of the proposed settlement are as follows:

- "Parcel 118," the property which is the subject of the taking is described as:

SECTION N/A (ITEM SEGMENT:
412479-3)

STATE ROAD: 985 (SW 107TH AVENUE) MIAMI-DADE
COUNTY DESCRIPTION: FEE SIMPLE

Parcel 118

FIN No. 412479-3

A portion of Tract 7, Block 3, RICHARDSON-KELLETT COMPANY, as recorded in Plat Book 1, at Page 19, of the Public Records of Miami-Dade County, Florida, said land lying and being in the Southwest ¼ (SW ¼) of Section 5, Township 54 South, Range 40 East, being more particularly described as follows:

Commence at the Northeast corner of the Southwest ¼ of said Section 5, said point being a 60D spike nail thence S 87°49'18" W, along the North line of the Southwest ¼ of said Section 5, for a distance of 2,634.81 feet to the Northwest corner of the Southwest ¼ of said Section

5; thence S 04°36'01" E, along the West line of the Southwest ¼ of said Section 5, for a distance of 674.87 feet; thence N 85°23'59" E at right angles to the last described course for a distance of 40.00 feet to a point on the Easterly existing Right-of-Way line of State Road No. 985 (S.W. 107th Avenue) as show on Florida Department of Transportation Right-of-Way Map for State Road No. 985 (S.W. 107th Avenue), Section 87519-2603 (87072), recorded in road Plat Book 112, at Page 69, of the Public Records of Miami-Dade County, Florida; said point being the POINT OF BEGINNING of the following described parcel of land:

thence N 85°23'59" E for a distance of 13.22 feet; thence S 05°25'55" E for a distance of 305.34 feet; thence S 04°36'13" E for a distance of 167.44 feet; thence S 87°47'53" W for 17.67 feet to a point on the aforesaid Easterly existing Right-of-Way line of State Road No. 985 (SW 107th Avenue); thence N 04°36'01" W, along said Easterly Right-of-Way line of State Road No. 985 (S.W. 107th Avenue) for a distance of 472.01 feet to the POINT OF BEGINNING.

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- In full and complete settlement of the School Board's claims for compensation, the FDOT shall pay the sum of one million, two hundred eight thousand, six hundred and eighty-two dollars and no cents (\$1,208,682.00) by depositing the specified amount into the Registry of the Clerk of the Circuit Court. Said deposit shall be made within twenty (20) days from the date that the Agreed Order of Taking and Stipulated Final Judgment is entered.
 - In recognition that the Subject Parcel is a portion of a fully functional and operating elementary school (Sweetwater Elementary), FDOT and the School Board shall cooperate to enable FDOT to timely construct Project No. 412479-3 ("Project") and to enable the School Board to timely reconfigure bus and vehicular access, parking, drainage, lighting, landscaping, and related design elements along 107th Avenue upon the remainder School Board property adjacent to the subject Parcel.
 - The School Board shall have rent-free and extended possession of the subject Parcel through June 10, 2016 and shall have until August 15, 2016, to reconfigure or "cure" the remainder School Board property adjacent to the subject Parcel. The School Board, subject to the limitations of § 768.28, Florida Statutes, shall indemnify and hold FDOT harmless for any claims, suits, or demands that may arise during, or as a result of the School Board's extended possession of the subject Parcel.
 - The court will retain jurisdiction to award attorneys' fees, experts' fees, and litigation costs, taxable against FDOT, pursuant to applicable state law.

RECOMMENDED: That the School Board of Miami-Dade County, Florida, authorize the School Board Attorney to seek court approval of the "Agreed Order of Taking and Stipulated Final Judgment" in the matter of State of Florida Department of Transportation v. The School Board of Miami-Dade County, Florida, et al., Circuit Court Case No. 14-26240-CA 31, approving the settlement of the eminent domain action at Sweetwater Elementary School, vesting fee simple title to "Parcel 118" as described herein in the Florida Department of Transportation and awarding full compensation to the School Board for the Department's acquisition of the Subject Parcel.