

Office of Superintendent of Schools
Board Meeting of December 14, 2016

November 29, 2016

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

SUBJECT: THAT THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, AUTHORIZE THE SUPERINTENDENT TO:

- 1) FINALIZE NEGOTIATIONS AND EXECUTE A USE AGREEMENT WITH THE CITY OF MIAMI BEACH ("CITY"), A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA, FOR USE OF THE FLAMINGO PARK BASEBALL STADIUM BY MIAMI BEACH SENIOR HIGH SCHOOL, LOCATED AT 2231 PRAIRIE AVENUE, MIAMI BEACH, FLORIDA 33139; AND
- 2) GRANT OR DENY ALL APPROVALS REQUIRED UNDER THE USE AGREEMENT, INCLUDING AMENDING ANY EXHIBITS, RENEWING, EXTENDING, CANCELLING OR TERMINATING THE USE AGREEMENT, AND PLACING THE CITY IN DEFAULT, AS MAY BE APPLICABLE

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

Since July 2001, the Board has utilized the baseball and softball facilities at the City of Miami Beach ("City") Flamingo Park Baseball Stadium ("Stadium") to serve the Miami Beach Senior High School ("School") baseball and softball programs, under a Use Agreement with the City. The current term of the Use Agreement will expire December 31, 2016, and the City has agreed to enter into a new Use Agreement in order to allow the School continued use of the Stadium without disruption. As in years past, the Use Agreement will provide facilities for all team practice and home games, and will be for a five-year period (January 1, 2017 through December 31, 2021), with the ability to extend the term for one additional five-year period.

The rental rate for the first year of the initial five year term will remain unchanged from the current rental rate at \$22,203.67. Each year thereafter, the annual rate shall be adjusted based on the percentage increase reflected in the United States Consumer Price Index for All Urban Consumers ("CPI"), one month prior to the expiration of the current rental period, which amount shall not exceed four percent (4%) from the preceeding year. This fee is intended to reimburse the City for the District's share of the

annual maintenance cost of the baseball/softball facilities.

The City has also advised that it is in the planning stages of developing a community Park adjacent to the School on the site of the former Par 3 Golf course, and is seeking possible use of a parking lot at the School by Park patrons during non-school hours. District and City staff are currently in discussion concerning a possible collaborative agreement to allow City use of the School parking lot, and School use of the Stadium, at no cost to the other. Should negotiations prove fruitful, District staff will bring an item to the Board at a subsequent meeting for consideration.

Proposed Use Agreement

The Deputy Superintendent/Chief Operating Officer, School Operations, recommends entering into the above referenced Use Agreement to provide uninterrupted use by the School of the baseball/softball facilities. Accordingly, it is recommended that the Board authorize entering into the Use Agreement with the City under, substantially, the following terms and conditions:

- Initial term of five (5) years (January 1, 2017 through December 31, 2021);
- The Board shall have the ability to extend the Use Agreement, under the same terms and conditions, for one (1) additional term of five (5) years from the expiration of the original term, subject to approval by the City, provided the Board is not in default and gives written notice to the City 180 days prior to the expiration of the initial term;
- The rental rate for the first year of the initial five year term will remain unchanged from the current rental rate at \$22,203.67. Each year thereafter, the annual rate shall be adjusted based on the percentage increase reflected in the CPI one month prior to the expiration of the current rental period, which amount shall not exceed four percent (4%) from the preceeding year;
- The School shall have use of the Stadium for a maximum of 110 days per year (use during baseball season shall consist of 92 practice days, 5 day games, and 13 night games; use during softball season shall consist of 10 day game and 100 practice days). Any additional usage by the School shall be subject to an additional fee;
- the City shall have full control, custody, right and use of the Stadium at all other times;
- In the event of default by the City, which default is not cured within the prescribed timeframe, the Board shall have the right to immediately cancel the Use Agreement;
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Agreement;

- The City shall be responsible for utilities, and all repair and maintenance of the facilities other than damage caused exclusively by the District during its period of use;
- The Board shall provide supervision during its period of use of the Stadium;
- In the event of any litigation between the Parties under the Use Agreement, each party shall be responsible for its own attorney's fees and court costs through trials and appellate levels;
- Each Party shall acknowledge and accept the authority of the other to request and authorize audits, inspections, and reviews, including, but not limited to, the authority to access the other's records, its legal representative's and contractor's records and the obligation of the other to retain and make those records available upon request;
- The City may terminate the Use Agreement with 60 days advance notice in the event it will construct improvements within the Stadium that preclude the School's use of the facilities, provided that cancellation by the City shall not be effective until completion of the then current baseball/softball season;
- In addition to the above, either Party may cancel the Use Agreement without cause or penalty, with one year's advance written notice, provided that cancellation by the City shall not be effective until completion of the then current baseball/softball season;
- The City and Board shall indemnify and hold the other harmless, to the extent of the limitations included within Florida Statutes, Section 768.28;
- For purposes of the Use Agreement, the Superintendent of Schools or his/her designee shall be the party designated by the Board to grant or deny all approvals required by the Use Agreement dealing with routine operations, construction of improvements within the Stadium, if any, or changing periods or schedules of use by either Party; and
- In addition to the above, for purposes of the Use Agreement, the Superintendent of Schools shall be the party designated by the Board to grant or deny any approvals required by the Use Agreement, including without limitation, amending any exhibits to the Use Agreement, placing the City in default, or renewing, extending, canceling or terminating the Use Agreement.

The proposed Use Agreement has been reviewed by the School Board Attorney's Office and the Office of Risk and Benefits Management for legal sufficiency and risk management issues, respectively, and found to be in compliance.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, authorize the Superintendent to:

- 1) finalize negotiations and execute a Use Agreement with the City of Miami Beach ("City"), a Municipal Corporation of the State of Florida, for use of the Flamingo Park Baseball Stadium by Miami Beach Senior High School, located at 2231 Prairie Avenue, Miami Beach, Florida 33139, under, substantially, the terms and conditions noted above; and
- 2) grant or deny all approvals required under the Use Agreement, including amending any exhibits, renewing, extending, canceling or terminating the Use Agreement, and placing the City in default, as may be applicable.

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