

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

**SUBJECT: THAT THE SCHOOL BOARD OF MIAMI-DADE COUNTY,  
FLORIDA:**

1. AUTHORIZE THE SUPERINTENDENT TO ACCEPT A GRANT IN THE AMOUNT OF APPROXIMATELY \$9.8 MILLION FROM THE STATE OF FLORIDA, UNDER THE SECTION 16 LANDS PROVISION ("GRANT"), TO BE USED TOWARD THE PREVIOUSLY BOARD-APPROVED ACQUISITION OF THE YOUNG WOMEN'S PREPARATORY ACADEMY LOCATED AT 1150 S.W. 1 STREET, MIAMI, FL; AND
2. AUTHORIZE THE SUPERINTENDENT TO FINALIZE NEGOTIATIONS AND EXECUTE THE AGREEMENT FOR INTERGOVERNMENTAL CONVEYANCE OF PROPERTY BY AND BETWEEN THE BOARD AND MIAMI-DADE COUNTY ("AGREEMENT"); AND
3. ADOPT RESOLUTION NO. 17-100, DESIGNATING AN APPROXIMATE 1.4-ACRE BOARD-OWNED SITE LOCATED AT THE SOUTHWEST CORNER OF N.W. 12 STREET AND 136 AVENUE UNNECESSARY FOR EDUCATIONAL PURPOSES, AND APPROVING ITS CONVEYANCE TO MIAMI-DADE COUNTY FOR PUBLIC USE, CONTINGENT ON APPROVAL OF THE GRANT BY THE STATE OF FLORIDA, WHICH RESOLUTION SHALL BE AUTOMATICALLY RESCINDED IN THE EVENT THE GRANT IS NOT APPROVED, OR ANY OF THE PRE-CONDITIONS TO CLOSING OF THE AGREEMENT ARE NOT MET; AND
4. AUTHORIZE THE SUPERINTENDENT TO FINALIZE NEGOTIATIONS AND EXECUTE ANY OTHER DOCUMENT(S) REQUIRED TO EFFECTUATE RECEIPT OF THE GRANT

**COMMITTEE: FACILITIES AND CONSTRUCTION**

**LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES**

### Introduction

At its meeting of August 10, 2016, the School Board of Miami-Dade County, Florida ("Board") approved Item F-1 authorizing acquisition of the Young Women's Preparatory Academy ("YWPA") property, located at 1150 S.W. 1 Street, Miami, FL 33130. The approval included exercising the purchase option, which has since been effectuated through a 10 percent deposit of \$1.5 million, with the balance to be paid at closing, currently scheduled to occur on March 30, 2018. The August 10, 2016 item alluded to a possible grant from the State of Florida, under the Section 16 Lands program, that might help offset a portion of the acquisition cost. The Land Ordinance of 1785 is the legislation under which a mechanism for funding public education was originally federally established, with Section 16 in each township reserved for the benefit of public schools. Pursuant to the enabling legislation in the State of Florida, proceeds of a sale of Section 16 lands must be remitted to the appropriate School District and be used for acquisition of school buildings or land for schools.

### Background Information

The Florida Department of Environmental Protection ("FDEP") currently leases Section 16 to Miami-Dade County ("County"), and the County in turn subleases the northwest corner of Section 16 to a private entity for recreational purposes. Section 16 mostly lies within the County's Lake Belt area. Over the last few months, FDEP, FDOE, the County and Cemex have been discussing a possible multi-party transaction through which: 1) the South Florida Water Management District ("SFWMD") would acquire approximately 1,080 acres of preservation wetlands in the Pennsuco area from Cemex; 2) the County would release its leasehold interest in Section 16; 3) Cemex would acquire Section 16 from the State, with approximately \$9.8M resulting from this acquisition to be used toward the acquisition of the YWPA; and 4) in consideration of the County's loss of recreational space in Section 16, and receipt by the School Board of approximately \$9.8M from the Section 16 sale, the Board would convey to the County, for nominal consideration, the approximate 1.4-acre site located at the Southwest corner of N.W. 12 Street and 136 Avenue for public use. The Board previously authorized at its meeting of January 25, 2017, negotiations with the County on the subject site; two Board-commissioned appraisals of same reflect values of \$1,200,000 and \$1,260,000.

### Additional Information

Through the diligent efforts of all the parties, a number of action items are scheduled for consideration, among them: 1) a resolution by the Board of County Commissioners at the October 3, 2017 meeting, sponsored by Commissioner Pepe Diaz, authorizing the release of the County's leasehold interest in Section 16 and acceptance of the above referenced Board-owned site; 2) the present School Board action, including Resolution No. 17-100 (see Attachment A); 3) approval by the Governing Board of the SFWMD of the Pennsuco wetlands purchase at a meeting scheduled for October 12, 2017; 4) approval by the State of Florida Acquisition and Restoration Council (ARC) of the sale of the Section 16 lands at its October 20, 2017 meeting or as soon as practicable thereafter; and 5) approval by the Florida Cabinet of ARC's recommendation.

Additionally, subject to Board approval of this item, the District and County will enter into an Agreement For Intergovernmental Conveyance of Property By and Between the Board and County, to effectuate the transfer of Board-owned land to the County, in conformance with Board Policy 7315 – Disposal of Surplus Land and Other Real Property (see Attachment B). Should one or more of the parties not approve their respective enabling item(s), then the above referenced Section 16 lands grant will not be realized and the acquisition of the YWPA will be funded entirely by the District, with the required amount fully available in the capital budget. In expectation however, that the various transactions will be approved by all the parties, the anticipated \$9.8M Section 16 lands grant will allow that same amount to be available to fund other capital needs, based on recommended allocations to be submitted to the Board at a future meeting.

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

1. authorize the Superintendent to accept a Grant in the amount of approximately \$9.8 million from the State of Florida, under the Section 16 Lands provision ("Grant"), to be used toward the previously Board-approved acquisition of the Young Women's Preparatory Academy located at 1150 S.W. 1 Street, Miami, FL; and
2. authorize the Superintendent to finalize negotiations and execute the Agreement For Intergovernmental Conveyance of Property By and Between the Board and County ("Agreement"); and
3. adopt Resolution No. 17-100, designating an approximate 1.4-acre Board-owned site located at the Southwest corner of N.W. 12 Street and 136 Avenue unnecessary for educational purposes, and approving its conveyance to Miami-Dade County for public use, contingent on approval of the Grant by the State of Florida, which Resolution shall be automatically rescinded in the event the Grant is not approved, or any of the pre-conditions to Closing of the Agreement are not met; and
4. authorize the Superintendent to finalize negotiations and execute any other document(s) required to effectuate receipt of the Grant.

JGT:arc

**ATTACHMENT "A"**

**RESOLUTION NO. 17-100**

**A RESOLUTION OF THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA ("BOARD"), DETERMINING THAT CERTAIN BOARD-OWNED LAND IS UNNECESSARY FOR EDUCATIONAL PURPOSES; PROVIDING FOR AUTHORITY TO CONVEY; AND ESTABLISHING EFFECTIVE DATE**

**WHEREAS**, at its meeting of August 10, 2016, the Board approved agenda item F-1 (Board Action #118,359), to exercise its option to purchase the Young Women's Preparatory Academy, located at 1150 S.W. 1 Street, Miami, Florida; and

**WHEREAS**, the above agenda item alluded to the possibility of receiving grant funds from the State of Florida under the Section 16 Lands program, under which a mechanism for funding public education was established, with Section 16 lands in each Township reserved for the benefit of public schools; and

**WHEREAS**, the Florida Department of Environmental Protection currently leases Section 16 land to Miami-Dade County ("County"), and the County in turn subleases the northwest corner of Section 16 to a private entity for recreational purposes. The School District has continued to work with representatives of several State Agencies as well as the County, to facilitate the possible funding of a portion of the acquisition costs of the Young Women's Preparatory Academy through the Section 16 Lands program; and

**WHEREAS**, negotiations among a number of Parties have been completed, resulting in a multi-party transaction through which (1) the County would release its leasehold interest in Section 16; (2) Cemex would acquire the Section 16 lands from the State, with approximately \$9,800,000 resulting from this acquisition to be used toward the purchase by the Board of the Young Women's Preparatory Academy; and (3) in consideration of the County's loss of recreational space in Section 16, and receipt by the School Board of approximately \$9,800,000 from the Section 16 sale, the Board would convey to the County, for nominal consideration, the approximate 1.4-acre vacant Board-owned site located at the Southwest corner of NW 12 Street and 136 Avenue, Miami, Florida (the "Site") for public use; and

**WHEREAS**, after due consideration and consultation, the Board has determined that the Site described in Exhibit 1 attached hereto, is unnecessary for educational purposes, and conveyance thereof to the County is deemed to be in the best interest of the public; and

**WHEREAS**, in the event the State of Florida Acquisition and

Restoration Council, and Board of Trustees of the Internal Improvement Trust Fund do not approve the proposed transaction, or should any of the pre-conditions to Closing, as set forth in the Agreement For Intergovernmental Conveyance of Property By and Between the Board and County not be met, the designation of the Site as being unnecessary for educational purposes shall be automatically rescinded.

**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 designates the Site described in Exhibit 1 attached hereto as unnecessary for educational purposes, and conveyance thereof to the County to be deemed in the best interest of the public.

SECTION 3. The Superintendent and/or the Chair are hereby authorized to execute all documents which may be required in order to effectuate the conveyance of the subject School Board-owned property to the County.

SECTION 4. In the event, the State of Florida Acquisition and Restoration Council, and Board of Trustees of the Internal Improvement Trust Fund do not approve the proposed transaction, or should any of the pre-conditions to Closing, as set forth in the Agreement For Intergovernmental Conveyance of Property By and Between the Board and County not be met, the designation of the Site as unnecessary for educational purposes shall be automatically rescinded.

SECTION 5. This Resolution shall take effect immediately upon its passage.

ADOPTED this 11<sup>th</sup> day of October, A.D., 2017.

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

\_\_\_\_\_  
Dr. Lawrence S. Feldman, Chair

ATTEST:

\_\_\_\_\_  
Alberto M. Carvalho, Secretary

Exhibit 1  
to Resolution No. 17-100

**Description of The Site:**

**Location:** Southwest corner of NW 12 Street and 136 Avenue,  
Unincorporated Miami-Dade County, Florida

**Folio:** 30-3952-038-1160

**Legal description:** Legal description as per Exhibit "1-A" attached hereto.  
Subject to: All conditions, restrictions, easements, zoning  
and other limitations of record, if any.

**EXHIBIT "1-A"**

**TO**

**RESOLUTION NO. 17-100**

**{CONSISTING OF 3 PAGES, INCLUDING THIS PAGE}**

## Exhibit "1-A"

### LEGAL DESCRIPTION:

A portion of Tract "B", SUPERIOR HOMES ESTATES, according to the plot thereof, as recorded in Plat Book 145 at Page 83, of the Public Records of Dade County, Florida, more particularly described as follows:

Commence at the N.W. corner of Excess Government Lot 2, between Townships 53 and 54 South, Range 39 East, Dade County, Florida; thence run N 89deg 41min 12sec E along the North line of said Excess Government Lot 2, for 300.09 feet to the N.W. corner of said Tract "B"; thence run S 02deg 00min 28sec E for a distance of 80.04 feet to the Point of Beginning of the hereinafter described parcel of land; thence run N 89deg 41min 12sec E along a line 80.00 feet South and parallel with the North line of said Excess Government Lot 2 for a distance of 353.03 feet to a point of curvature of a circular curve; thence run Southeasterly along said curve to the right, concave to the Southwest, having a radius of 25.00 feet, and a central angle of 92deg 15min 24sec for an arc distance of 40.25 feet to a point of tangency; thence run S 01deg 55min 36sec W for a distance of 110.59 feet to a point of curvature of a circular curve; thence run Southwesterly along said curve to the right, concave to the Northwest having a radius of 25.00 feet, and a central angle of 87deg 44min 36sec for an arc distance of 38.29 feet to a point of tangency; thence run S 89deg 41min 12sec W along a line 240.51 feet South and parallel with the North line of said Excess Government Lot 2 for a distance of 166.68 feet to a point of curvature of a circular curve; thence run Southwesterly along said curve to the left, concave to the Southeast, having a radius of 75.00 feet, and a central angle of 68deg 50min 20sec, for an arc distance of 87.49 feet to a point; thence run S 89deg 41min 12sec W along a line 286.01 feet South and parallel with the North line of said Excess Government Lot 2 for a distance of 107.07 to a point on the West line of the aforementioned Tract "B"; thence run N 02deg 00min 28sec W along the West line of said Tract "B" for a distance of 206.11 feet to the Point of Beginning, Containing 1.50 Acres more or less.

*Less the following legal description:*



A portion of Tract "A", Block 5 of RIVIERA TRACE FIRST ADDITION, according to the Plat thereof, recorded in Plat Book 153, Page 76, of the Public Records of Miami-Dade County, Florida, lying in the Northwest one-quarter (N.W. 1/4) of Excess Lot 2, lying between Townships 53 and 54 South, Range 39 East, Miami-Dade County, Florida, and being more particularly described as follows:

BEGIN at the Northwest corner of said Tract "A" Plat Book 153, Page 76; thence run North  $89^{\circ}41'35''$  East along the North line of said Tract "A" and the South line of N.W. 12 Street for a distance of 74.50 feet to a Point of Non-Tangent Intersection with the arc of a circular curve, concave to the Southeast and with said Point of Non-Tangent Intersection bearing North  $41^{\circ}13'45''$  West from the center of said curve; thence Southwesterly along the arc of said curve, having a radius of 1,076.00 feet and a central angle of  $05^{\circ}19'00''$  for 99.84 feet to the Point of Non-Tangent Intersection with the West line of said Tract "A" bearing North  $02^{\circ}08'03''$  West, with said Point of Non-Tangent Intersection bearing North  $46^{\circ}32'43''$  West from the center of said curve; thence North  $02^{\circ}08'03''$  West along said West line for a distance of 58.84 feet to the POINT OF BEGINNING.

**AGREEMENT  
FOR  
INTERGOVERNMENTAL CONVEYANCE OF PROPERTY  
BY AND BETWEEN  
THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA  
AND  
MIAMI-DADE COUNTY**

Dated \_\_\_\_\_, 201\_\_

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Exhibit "A" – Legal Description of School Board Property  
Exhibit "B" – Deed of Conveyance  
Exhibit "C" – County Site Access Agreement  
Exhibit "D" – Section 16 Land Closing Documentation

## AGREEMENT FOR INTERGOVERNMENTAL CONVEYANCE OF PROPERTY

THIS AGREEMENT FOR INTERGOVERNMENTAL CONVEYANCE OF PROPERTY ("Agreement") is made on \_\_\_\_\_, 201\_\_ by and between THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a body corporate and politic, an instrumentality of the State of Florida ("School Board"), and MIAMI-DADE COUNTY, a political subdivision of the State of Florida ("County"). The School Board and County are sometimes referred to herein individually as a "Party", and collectively as the "Parties".

### RECITALS

A. The School Board is the fee simple owner of the real property described in Exhibit "A" attached (the real property and such property and rights as are applicable thereto are referred to herein as the "School Board Property").

B. The County has requested that the School Board convey to the County the School Board Property to be owned, used, maintained and operated by the County for a public purpose.

C. The School Board has considered the County's above request.

D. The School Board and the County desire to enter into this Agreement pursuant to which the School Board will convey the School Board Property to the County in accordance with and subject to the terms and conditions hereinafter set forth.

E. The Miami-Dade County Board of County Commissioners has approved entering into this Agreement at its regularly scheduled Commission Meeting of \_\_\_\_ (Resolution No. R-\_\_\_\_\_).

F. The School Board approved entering into the Agreement at its regularly scheduled Board Meeting of \_\_\_\_\_ (Agenda item # \_\_\_\_\_).

NOW, THEREFORE, in consideration of the foregoing, the terms and conditions, promises and covenants contained herein, and the sum of TEN DOLLARS (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. Recitals Incorporated. The above recitals are true and are incorporated into this Agreement.

2. Agreement to Convey School Board Property. School Board agrees to convey to County the School Board Property, consisting of approximately 1.445 acres, more or less, in fee simple, subject to conditions set forth herein:

(a) **Ownership & Operation for a Public Purpose.** It is understood and agreed that the School Board Property shall be owned and operated by the County for a public purpose.

(b) **Pre-Conditions to Closing.** The conditions noted in Section 12 of this Agreement shall have been fully complied with by all applicable parties prior to the closing of this transaction ("**Closing**").

3. **Nominal Consideration.** The School Board agrees to convey to the County the School Board Property for the Sum of TEN DOLLARS (\$10.00), in "AS IS" "WHERE IS" condition, with no representations of any kind whatsoever including, without limitation, as to marketability of title and physical condition of the School Board Property. The conveyance shall be subject to satisfactory compliance, to the School Board's sole discretion, of all pre-conditions to the closing of the transaction as defined and set forth below.

4. **Title and Survey as to School Board Property.**

(a) Within forty-five (45) days after Effective Date, as hereinafter defined, the County, at its cost and expense, may obtain the following: (i) a title report issued by a title insurance company acceptable to the County ("**County Title Company**") enabling a title agent selected by the County to issue an ALTA Form B title insurance commitment ("**County Commitment**") covering the School Board Property, whereby the County Title Company agrees to issue an ALTA Form B owner's policy of title insurance ("**County Title Policy**") at Closing, subject only to the matters ("**County Acceptable Exceptions**") which do not adversely affect marketability of title to the School Board Property, and (ii) hard copies of all exceptions to title set forth in the County Commitment (collectively, the "**County Title Evidence**"). The County may select its own title agent.

(b) Within forty-five (45) days after Effective Date, the County shall have the right, at its option, at the County's sole cost and expense, to obtain an up-to-date survey of the School Board Property (certified to a date after the Effective Date) prepared in accordance with the minimum technical standards imposed by the Florida Board of Land Surveyors and under seal, which survey shall be certified to the County and the County Title Company ("**County Survey**"). If obtained by the County, the County Survey shall be considered as a part of the County Title Evidence for purposes of this Paragraph 4.

(c) The County shall review the County Title Evidence and shall, within forty-five (45) days following the Effective Date, provide the School Board with a Title Objection Notice ("**County Title Objection Notice**") of any matters in the County Title Evidence adversely affecting the marketability of title to the School Board Property ("**County Title Defects**"). Upon receipt of the County Title Objection Notice, School Board shall use commercially reasonable effort to cure such County Title Defects. In the event that School Board is unable to cure the County Title Defects within fifteen (15) days of receipt of the County Title Objection Notice ("**County Title Cure Period**") after using commercially reasonable effort to do so, which shall not include litigation, School Board shall notify the County in writing as to which County Title Defects remain uncured on or before the end of the

County Title Cure Period, and the County, at the County's option, may: (i) elect to accept title to the School Board Property subject to the County Title Defects (in which event the remaining County Title Defects shall be deemed County Acceptable Exceptions); or (ii) terminate this Agreement by written notice thereof to School Board, whereupon this Agreement shall be terminated, and both Parties shall thereafter be released from all further obligations hereunder (except matters stated herein to specifically survive termination of this Agreement). At Closing, School Board shall provide the County with a gap affidavit in form and substance reasonably acceptable to the County and the County Title Company to permit the County Title Company to insure against adverse matters first appearing in the Public Records on a date subsequent to the effective date of the County Commitment and prior to the recording of the Deed as permitted and in accordance with the requirements of Section 627.7841, Florida Statutes. School Board agrees that it will not take any action after the Effective Date of this Agreement which shall affect the status of title to the School Board Property. The County shall have the right to obtain updated County Title Evidence prior to Closing, and School Board shall be required to use commercially reasonable effort, but not engage in litigation, to cure any County Title Defects first appearing in such updated Title Evidence, except in compliance with this Agreement.

5. **Inspections by the County of School Board Property.**

(a) School Board shall grant County access to the School Board Property for the purpose of conducting due diligence activities, -immediately following Effective Date, under an Access Agreement To Conduct Site Related Due Diligence Investigations On Board-owned Land dated \_\_\_\_\_, 2017, ("**County Site Access Agreement**"), attached hereto and incorporated into this Agreement as **Exhibit "C"**. The terms and conditions of this Agreement relating to due diligence investigations shall serve to complement and expand rather than to substitute the terms and conditions of the County Site Access Agreement. As of the Effective Date, County has not yet had an opportunity to complete its required due diligence and to fully review and evaluate this transaction.

(b) The County, its agents, employees and representatives shall have access to the School Board Property subject to all applicable laws, including but not limited to environmental laws, at all times subsequent to the Effective Date, and prior to the Closing or earlier termination of this Agreement, with full right to: (a) inspect the School Board Property, and (b) to conduct any and all inspections, investigations and tests thereon, including, but not limited to, soil borings and hazardous waste studies, and to make such other examinations with respect thereto as the County, its counsel, licensed engineers, surveyors, appraisers, or other representatives may deem reasonably necessary ("**County's Due Diligence Investigations**"). Any Due Diligence Investigations of the School Board Property by the County and all costs and expenses in connection with the County's Due Diligence Investigations of the School Board Property shall be at the sole cost of the County and shall be performed in a manner not to unreasonably interfere with School Board's ownership of the School Board Property. The County shall remove or bond any lien of any type, which attaches to the School Board Property by virtue of any of the County's Due Diligence Investigations. Upon completion of any such Due Diligence

Investigations, the County shall restore any damage to the School Board Property caused by the County's Due Diligence Investigations. Subject to limitations of s. 768.28, F.S., the County hereby indemnifies and holds School Board harmless from all loss, cost, expense, excluding attorney fees and court costs resulting from the County's Due Diligence Investigations in connection with the School Board Property. Notwithstanding anything contained herein to the contrary, the County shall not indemnify or hold School Board harmless with respect to, and the County shall not be required to, remove, remediate, dispose or otherwise deal with any "Hazardous Substance" samplings derived from the School Board Property, or property containing Hazardous Substances which it finds in connection with its Due Diligence Investigations of the School Board Property. The indemnity obligations of this Paragraph shall survive Closing or earlier termination of this Agreement, and do not apply to (i) any loss, liability, cost or expense to the extent arising from or relating to the acts or omissions of School Board or its agents or consultants, (ii) any diminution in value of the School Board Property arising from or relating to matters discovered by the County during its Due Diligence Investigations, (iii) any latent defects in the School Board Property discovered by County, or (iv) the release or spread of any Hazardous Substance which is discovered (but not deposited) on or under the School Board Property by County.

The provisions of this Paragraph 5 shall survive any termination of this Agreement

6. **School Board's Representations.** The School Board Property shall be conveyed to County in "AS IS" "WHERE IS" condition and basis with all faults and without any warranty of any kind, either expressed or implied, except as provided for under Paragraph 6 of this Agreement and as follows:

(a) The School Board Property is not subject to any judgments, leases, tenancies or other occupancy proceedings.

(b) School Board has not received any written notice of any lawsuit, condemnation or eminent domain proceedings with respect to the School Board Property.

(c) School Board shall execute such affidavits as may be reasonably required by the County Title Company, in form and content acceptable to the School Board Attorney's Office, to issue the County Title Policy at Closing to County, subject only to the County Acceptable Exceptions.

(d) The execution, delivery and performance of this Agreement by School Board has been duly authorized and no consent of any other person or entity to such execution, delivery and performance is required to render this document a valid and binding instrument enforceable in accordance with its terms. If such consent were required, then School Board represents that all parties whose joinder may be required to make this Agreement valid, have joined, with respective joinders, if any, attached hereto. School Board's signature page to this Agreement is complete and correct.

(e) School Board represents that these representations are true as of Effective Date and that they will also be true as of Closing Date.



7. **County's Representations.** As a material inducement to School Board's entering into this Agreement, the County warrants and represents to and covenants with School Board that the following matters are true as of the Effective Date and that they will also be true as of Closing Date, unless otherwise stated in this Agreement.

The County represents, warrants and covenants unto School Board and agrees with School Board as follows:

(a) The execution, delivery and performance of this Agreement by the County has been duly authorized and no consent of any other person or entity, to such execution, delivery and performance is required to render this document a valid and binding instrument enforceable in accordance with its terms. The County's signature page to this Agreement is complete and correct.

(b) The School Board Property shall be owned and operated by the County for a public purpose.

(c) The County shall execute such affidavits as may be reasonably required by the School Board Attorney's Office in order to effectuate the Closing of this transaction and the Section 16 Land Closing, as hereinafter defined.

(d) At Closing, the County shall deliver to School Board an affidavit to such effect, which shall also state the County's tax identification. School Board shall be entitled to fully comply with Internal Revenue Code Section 1445 and all related sections and regulations, as same may be modified and amended from time to time, and the County shall act in accordance with all reasonable requirements of School Board to effect such full compliance by School Board.

8. **Governmental Approvals by County.** As it relates to the Section 16 Land which the County is leasing from the State of Florida, pursuant to that certain Lease Agreement by and between the County and the State of Florida, dated 08/09/1962, Lease No. 1795-S, as amended by that certain Amendment dated 10/12/1987, Lease #(2)1795, and further amended by that certain Amendment dated 09/22/1988, Lease #(2) 1795-A ("**Section 16 Property**"), the County, at its sole cost and expense, shall have provided to the School Board, by not later than \_\_\_\_\_, a certified copy of County Resolution approving execution of any and all documentation which may be required in order to deliver to the State of Florida, in accordance with the State of Florida's satisfaction, a release of the County lease(s) relating to the Section 16 Property and any other documentation which may be required from the County in order to fully release Section 16 Property and to comply with all required action on behalf of the County in order to effectuate the Closing in accordance with Sections 12, 13 & 14 of this Agreement (the "**Governmental Approvals**").

In the event that any Governmental Approval, or any other approval required under Section 12 hereof, has not been satisfied on or before \_\_\_\_\_, unless otherwise provided herein, School Board shall have the right to terminate this Agreement by written notice to County, whereupon this Agreement shall terminate and the Parties shall be released of all

further obligations each to the other hereunder except those matters specifically provided herein to survive the termination. Provided however, the deadline may be extended by mutual agreement of the Parties.

9. **Governmental Approvals by School Board.** The School Board is not obligated under this Agreement to procure any Governmental Approvals.

10. **Default.** An event of default shall be deemed to have occurred if either Party fails to observe or perform any covenant, condition or agreement of this Agreement, or breaches a representation contained herein, and such failure or breach continues for a period of thirty (30) days after written notice specifying such default and requesting that it be remedied is sent to the defaulting Party by the non-defaulting Party; provided, however, that if the default is curable but cannot be cured within thirty (30) days, then the defaulting Party shall have an additional thirty (30) day period, or as long as it may be mutually agreed to by the Parties, to cure such defect, so long as the defaulting Party promptly commences and diligently pursues the cure of such default to completion. If an event of default shall have occurred and shall continue beyond such cure period, then the non-defaulting Party shall be entitled to terminate this Agreement or to seek specific performance.

11. **Real Property Taxes, Assessments and Liens.** This transaction is an intergovernmental conveyance of real property. As it relates to the School Board Property, there shall be no proration of taxes or certified and pending assessments inasmuch as the School Board is immune from the payment of taxes through the date of Closing, and the County is exempt from payment of taxes subsequent to Closing.

12. **Pre-condition to Closing.** An express condition precedent to each Party's obligation to close the transaction contemplated by this Agreement is the truth and correctness of all of the other Party's representations and warranties and fulfillment of all of the other Party's covenants (subject to the cure rights provided in Paragraph 10 of this Agreement) at all times during the term of this Agreement and as of Closing (with survival if applicable), including, without limitation, the proper execution and delivery of all closing documents to be delivered under this Agreement by the County, the School Board and Additional Parties, as defined below. In addition, the items described below shall be considered pre-conditions to School Board's obligation to close this transaction with the County:

(a) The Closing of this transaction shall take place not later than \_\_\_\_\_, the Parties agreeing that time is of the essence with respect to the Closing.

(b) Approval and due execution by all applicable governmental agencies including, without limitation, State of Florida Department of Education, State of Florida Department of Environmental Protection, South Florida Water Management District, and CEMEX ("Additional Parties") of all documentation required to effectuate the Section 16 Land Swap ("Section 16 Land Closing") on \_\_\_\_\_. All required documentation and funds from the County, the School Board and Additional Parties shall be duly delivered to Escrow Agent by not later than \_\_\_\_\_, in accordance with that certain agreement by and among the County, the School Board and Additional Parties as set forth in Section 12(g) below.

(c) Approval, due execution on behalf of the County, in its capacity as the Grantee herein, and the County in its capacity as Lessee under Section 16 Lands Lease Agreements, and timely delivery of all documentation, required to effectuate the Section 16 Land Closing not later than fifteen (15) days prior to Closing, including without limitation, the following: Release of Lease relating to Section 16 Land, Reconveyance and Option Agreement by and between the County and CEMEX, Escrow Agreement and any other documentation required for the Closing under this Agreement. A copy of the County Resolution relating thereto, incorporated into this Agreement by reference, shall have been delivered to the School Board by not later than \_\_\_\_.

(d) Approval and due execution by all Additional Parties of all documentation required to effectuate the Section 16 Land Closing on or before fifteen (15) days prior to Section 16 Land Closing, or such other time as may be unanimously agreed to by the County, School Board and all Additional Parties. All required documentation and funds shall be duly delivered to Escrow Agent in order for Escrow Agent to deliver the Section 16 Lands Grant to the School Board by not later than [72 hours] prior to Closing. The documentation required to be placed in escrow shall include, without limitation, the documentation listed in Exhibit "D", attached hereto and incorporated herein by reference.

(e) Approval, and proof thereof, of the Section 16 Land Grant to the School Board by the State of Florida Department of Education, and any other applicable jurisdictional agency, in an amount not less than TEN MILLION DOLLARS (\$10,000,000.00) or any other amount acceptable to the School Board, in its sole discretion ("**Section 16 Land Grant**"). The said sums shall be delivered via wire transfer to the School Board Attorney's Office, in escrow, within 48 hours prior to Closing.

(f) Acceptance of Section 16 Lands Grant by the School Board, and delivery of the full amount of the Section 16 Lands Grant to the School Board within 48 hours prior to Closing.

(g) Agreement by the County, the School Board and the Additional Parties to appoint [to be inserted upon selection] as Escrow Agent for Section 16 Land Closing. Escrow Agent's attorney's fees shall be borne equally by the Parties and the Additional Parties, each being responsible for a pro-rata share of such fees ("**Escrow Agreement**").

13. **Closing Costs.** The respective Parties shall bear the following costs:

(a) School Board shall be responsible for payment of its own legal fees.

(b) County shall be responsible for payment of (i) the recording cost of the Deed of the School Board Property, (ii) pursuant to Section 201.01, F.S., neither the School Board nor the County will be responsible for payment of documentary stamp tax and surtax for the School Board Property, (iii) the cost of the survey of the School Board Property, (iv) the cost of the County Commitment and the premium for the County Title Policy obtained by the

County for the School Board Property, (v) the cost of the title search fee for the issuance of the County Commitment, (vi) the cost of its Due Diligence Investigations, and (vii) payment of County's legal fees.

14. **Closing.** The Closing shall take place at the law offices of \_\_\_\_\_, Escrow Agent, in Miami-Dade County, Florida, located at \_\_\_\_\_, on \_\_\_\_\_ ("**Closing Date**"), unless extended by mutual agreement of the Parties.

At Closing the following shall occur:

(a) The Parties shall each have executed and shall deliver to the other the following documents:

(i) A Deed of Conveyance ("**School Board Deed**") in the form attached hereto as **Exhibit "B"**;

(ii) A customary no lien affidavit;

(iii) An affidavit of exclusive possession of the property being conveyed;

(iv) FIRPTA Affidavit;

(v) All documentation to be delivered to the School Board in full compliance of this Agreement.

(b) The County and School Board shall each execute counterpart closing statements in a customary form together with such other documents as are reasonably necessary to consummate the Closing.

(c) The School Board shall receive Section 16 Lands Grant by wire transfer.

(d) The Closing of this transaction shall take place simultaneously with, and subject to the Section 16 Land Closing. In the event that the Section 16 Land Closing does not take place, then this Agreement shall be deemed null and void *ab initio*.

15. **Possession at Closing.** As to the School Board Property, the Parties agree that possession shall be delivered at Closing.

16. **Brokers.** The Parties each represent and warrant to the other that there are no real estate brokers or salesmen involved in this transaction. If any claim for a brokerage fee or commission in connection with this transaction is made by any broker, salesman or finder claiming to have dealt by, through or on behalf of one of the Parties hereto ("**Indemnitor**"), Indemnitor shall indemnify, defend and hold harmless the other Party hereunder ("**Indemnitee**"), and Indemnitee's officers, directors, agents and representatives, from and against any and all liabilities, damages, claims, costs, fees and expenses whatsoever, including reasonable attorneys'

fees and court costs through all trial and all appellate levels with respect to said claim for brokerage, within the limitations and to the limits of Section 768.28, Florida Statutes.

The provisions of this Paragraph shall survive the Closing and any cancellation or earlier termination of this Agreement.

17. **Assignability.** Neither School Board nor the County may assign their respective rights or duties under this Agreement.

18. **Notices.** Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed given if delivered by hand, sent by recognized overnight courier (such as Federal Express), transmitted via email, facsimile transmission or mailed by certified or registered mail, return receipt requested, in a postage pre-paid envelope, and addressed as follows:

**If to School Board:** The School Board of Miami-Dade County, Florida  
1450 N.E. 2nd Avenue, Suite 912  
Miami, Florida 33132  
Attention: Superintendent of Schools

**with a copy to:** The School Board of Miami-Dade County, Florida  
1450 N.E. 2<sup>nd</sup> Avenue, Suite 525  
Miami, Florida 33132  
Attention: Jaime G. Torrens, Chief Facilities Officer  
(305) 995-7285 phone  
(305) 995-4760 fax  
[JTorrens@dadeschools.net](mailto:JTorrens@dadeschools.net)

The School Board of Miami-Dade County, Florida  
1450 N.E. 2<sup>nd</sup> Avenue, Suite 400  
Miami, Florida 33132  
Attention: School Board Attorney  
(305) 995-1304 phone  
[Walter.Harvey@dadeschools.net](mailto:Walter.Harvey@dadeschools.net)

**If to County:** Miami-Dade County  
Stephen P. Clark Center  
111 Northwest 1st Street, 29th Floor  
Miami, Florida 33128  
Attn: County Mayor

**With a copy to:**

Parks, Recreation and Open Spaces Department  
275 Northwest 2nd Street  
Miami, Florida 33128  
Attn: Maria Nardi and Alissa Turtletaub  
Phone: (305) 755-7952  
Email: [maria.nardi@miamidade.gov](mailto:maria.nardi@miamidade.gov)  
[Alissa.turtletaub@miamidade.gov](mailto:Alissa.turtletaub@miamidade.gov)

Miami-Dade County Attorney  
Stephen P. Clark Center  
111 Northwest 1st Street, 28th Floor  
Miami, Florida 33128  
Attn: Miguel A. Gonzalez, Assistant County Attorney  
Phone: (305) 375-3332  
Email: [gmiguel@miamidade.gov](mailto:gmiguel@miamidade.gov)

Notices personally delivered or sent by overnight courier shall be deemed given on the date of receipt, notices sent via email or facsimile transmission shall be deemed given upon transmission and notices sent via certified mail in accordance with the foregoing shall be deemed given two (2) days following the date upon which they are deposited in the U.S. Mails ("**Notice**").

19. **Risk of Loss.** If, prior to Closing, the School Board Property or any material portion thereof is destroyed or damaged or taken by eminent domain, School Board shall promptly notify the County, and the County shall have the option of either: (i) canceling this Agreement by delivery of written notice to School Board and both Parties shall be relieved of all further obligations under this Agreement except those which expressly survive the termination hereof; or (ii) the County may proceed with the Closing, whereupon the County shall be entitled to (and School Board shall assign to County all of School Board's interest in) all insurance and/or condemnation payments, awards and settlements applicable to the School Board Property. If County elects option (ii) above in connection with casualty to the School Board Property in which insurance proceeds are or will be paid and assigned to County.

20. **Miscellaneous.**

(a) **Governing Laws/ Venue/ Attorney's Fees.** This Agreement shall be construed and governed in accordance with laws of the State of Florida and in the event of any litigation hereunder, the venue for any such litigation, shall be in Miami-Dade County. In the event of litigation each Party shall be responsible for its own attorney's fees and costs from pre-trial level through all appeals.

(b) **Joint Preparation/ Word Format & Tracked.** All of the Parties to this Agreement have participated fully in the negotiation and preparation hereof and, accordingly, this Agreement shall not be more strictly construed against any one of the Parties hereto. All documents relating to this Agreement shall be delivered in Word format and duly tracked allowing recipient reviewer to accept or reject each proposed revision; otherwise, the

documentation shall not be deemed duly delivered. The final version of a document, fully approved by the Parties shall then be converted to a Pdf copy prior to routing for execution.

(c) **Severability.** In the event any provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or construed as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

(d) **Construction.** In construing this Agreement, the singular shall be deemed to plural, the plural shall be deemed to include the singular and the use of any gender and all captions and paragraph headings shall be disregarded.

(e) **Effective Date.** The effective date of this Agreement shall be the date on which the last of the Parties initials and/or signs this Agreement, which date shall be inserted below the signature block of the respective Party ("**Effective Date**"). Time is of the essence for all provisions of this Agreement. All time periods, unless otherwise provided, will be computed in calendar days. A calendar day is every day including Saturday, Sunday and national legal holidays ("**Calendar Day**"). However, if any deadline falls on a Saturday, Sunday or national legal holiday, performance will be due the next business day. All times periods will end at 11:59 pm, Eastern Time, of the appropriate day.

(f) **Counterparts.** This Agreement and any subsequent amendments hereto may be executed in any number of counterparts, each of which, when executed, shall be deemed to be an original, and all of which shall be deemed to be one and the same instrument. Facsimile transmission signatures shall be deemed original signatures.

(g) **Recordation.** Neither this Agreement nor any memorandum thereof shall be recorded in the public records of Miami-Dade County, Florida, except in connection with litigation.

(h) **Incorporation of Exhibits.** All of the Exhibits to this Agreement shall be incorporated into and made a part of this Agreement, as provided for herein.

(i) **Entire Agreement.** This Agreement and all Exhibits thereto and those agreements contemplated herein to be entered into in the future, shall constitute the entire agreement between the Parties as to the respective Properties, and supersede any other agreement or understanding of the Parties with respect to the matters herein contained. This Agreement may not be changed, altered or modified except in writing signed by the Party against whom enforcement of such a change would be sought. This Agreement shall be binding upon the Parties hereto and their respective legal representatives and successors. The Superintendent of Schools is authorized to amend, terminate or cancel this Agreement on behalf of the School Board.

(j) **Section 16 Land Closing.** Notwithstanding any provision contained in this Agreement to the contrary, the School Board's obligations under this Agreement are contingent upon the School Board's receipt of the written approval of any and all

documentation which may be required in order to effectuate the proposed Section 16 Land Closing by Additional Parties within fifteen (15) days prior to \_\_\_\_, or as may be extended at the School Board's sole discretion. In the event the Section 16 Land Closing does not take place, then this Agreement shall be null and void ab initio. No waiver of such condition shall be implied.

(k) **Force Majeure.** If the performance by either Party of any of its obligations hereunder is delayed by natural disaster, terrorist activity, war, labor dispute or matter beyond the control of such Party, without such Party's fault or negligence, then the Party affected shall notify the other Party in writing of the specific obligation delayed and the duration of the delay, and the deadline for completion of such obligation shall be extended by a like number of days. The foregoing shall not apply to any obligation to pay money due hereunder.

[SIGNATURE PAGES FOLLOW]



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

Signed, sealed and delivered  
in the presence of

**THE SCHOOL BOARD OF MIAMI-DADE  
COUNTY, FLORIDA**

Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

Printed Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:**

By: \_\_\_\_\_  
SCHOOL BOARD ATTORNEY

Date: \_\_\_\_\_

**RECOMMENDED:**

BY: \_\_\_\_\_  
CHIEF FACILITIES OFFICER

Date: \_\_\_\_\_

**APPROVED AS TO RISK  
MANAGEMENT ISSUES:**

By: \_\_\_\_\_  
OFFICE OF RISK MANAGEMENT

Date: \_\_\_\_\_

**APPROVED AS TO FINANCIAL  
SUFFICIENCY:**

By: \_\_\_\_\_  
TREASURER

Date: \_\_\_\_\_

WITNESSES:

MIAMI-DADE COUNTY, FLORIDA

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: Carlos G. Giménez

Title: Mayor

Date: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Approved as to legal sufficiency:

By: \_\_\_\_\_

County Attorney

**EXHIBIT "A"**

**TO**

**INTERGOVERNMENTAL CONVEYANCE OF PROPERTY**

**BY AND BETWEEN**

**THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA**

**AND**

**MIAMI-DADE COUNTY**

---

**LEGAL DESCRIPTION OF SCHOOL BOARD PROPERTY**

**RE: Folio #30-3952-038-1160**

**The above parcel consists of 1.445 acres, more or less**

EXHIBIT "B"

TO

INTERGOVERNMENTAL CONVEYANCE OF PROPERTY

BY AND BETWEEN

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

AND

MIAMI-DADE COUNTY

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DEED OF CONVEYANCE

EXHIBIT "C"

TO

INTERGOVERNMENTAL CONVEYANCE OF PROPERTY

BY AND BETWEEN

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

AND

MIAMI-DADE COUNTY

---

COUNTY SITE ACCESS AGREEMENT

EXHIBIT "D"

TO

INTERGOVERNMENTAL CONVEYANCE OF PROPERTY

BY AND BETWEEN

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

AND

MIAMI-DADE COUNTY

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SECTION 16 LAND CLOSING DOCUMENTATION

Documentation for the Section 16 Land Closing will include, without limitation, the following:

- A. Deed from CEMEX to SFWMD for the "hole in the donut" parcel in Pennsuco wetlands;
- B. Check from SFWMD for purchase of the parcel from CEMEX for \$5 Million;
- C. Release of Lease by Miami-Dade County of Section 16 Land, subject to D,E & H below;
- D. Reconveyance and Option Agreement by and between County and CEMEX
- E. Agreement between SB & County - to convey School Board-owned land to County to be used and operated for a public purpose;
- F. Deed from FL-DEP to CEMEX for Section 16 Lands
- G. Check from CEMEX for appraised value of Section 16 Lands toward the Prep School and remainder to go toward DOE's use;
- H. Deed from School Board to County for Board-owned vacant land for a public purpose;
- I. Grant to the School Board – Appraisals are pending; Grant to be not less than \$10 Million Dollars (or any other amount acceptable to the School Board, in its sole discretion);
- J. Check from School Board to Seller of Prep Academy for the difference between the \$15 Million Contract Price LESS \$1.5 (Option Deposit) = **\$13.5 Million or delta**; **NOTE:** Check to Escrow Agent from School Board for Delta [\$13.5M LESS Grant];
- K. Check to Owner of Preparatory Academy for \$13.5 Million;
- L. Deed from Owner of Prep Academy to School Board