

Office of School Facilities
Raul F. Perez, Chief Facilities Design & Construction Officer

SUBJECT: AUTHORIZATION FOR THE SUPERINTENDENT TO EXECUTE AN AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE SCHOOL BOARD AND NEW CINGULAR WIRELESS PCS, LLC, A FOREIGN LIMITED LIABILITY COMPANY (“AT&T”), AUTHORIZED TO TRANSACT BUSINESS IN THE STATE OF FLORIDA, TO EXTEND THE LEASE TERM THROUGH DECEMBER 31, 2022 FOR CONTINUED USE BY AT&T OF AN EQUIPMENT ROOM AND A PORTION OF THE ROOF AT THE INTERNATIONAL STUDIES PREPARATORY ACADEMY, LOCATED AT 1570 MADRUGA AVENUE, CORAL GABLES, FOR AT&T TO PROVIDE CELLULAR COMMUNICATIONS SERVICES

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

Background

Since March 2008, New Cingular Wireless PCS, LLC, a foreign limited liability company, authorized to transact business in the State of Florida, and successor in interest to AT&T Wireless Services (“AT&T”), has leased an equipment room and a portion of the roof at the International Studies Preparatory Academy (“School”), located at 1570 Madruga Avenue, Coral Gables, to provide cellular communications services. AT&T initiated its cellular communications service at this location in March 1996 under a lease agreement with the former owner of the building. The Board purchased the building in 2008 as the future home of the School, and the lease agreement was amended at that time to establish the Board as the successor in interest to the former owner. Under the terms of the lease agreement, AT&T currently pays monthly rent to the District of \$4,558.29 for its use of the facilities, and provides additional funding as a reimbursement to the District for its prorata use of electricity. The current term of the lease agreement expires on June 30, 2021, and there are no renewal options remaining. The Central Region Superintendent has recommended that the District issue a public solicitation available to all cellular telecommunications providers, and enter into a new lease agreement for the installation and operation of cellular telecommunications equipment at the School.

School Board Policy 7535 – Submission Of Proposals For Telecommunications Facilities On Board-Owned Sites, establishes a method to solicit bids and select commercial cellular telecommunications providers. The Policy sets forth a process for

considering proposals for telecommunications facilities on Board-owned sites, fostering competition among telecommunications service providers, providing community notification, if appropriate, for proposed facilities, and including community participation in the review and recommendation process. Board Policy 7535 also establishes a Fact-Finding Telecommunications Committee (“TC”), comprised of District staff and community representatives. The purpose of the TC is to establish a process for considering proposals for telecommunications facilities on Board-owned sites, to ensure facilities comply with all applicable regulations, health and safety standards, and to make recommendations to the Board and Superintendent. In compliance with School Board Policy 9140e and a recent Florida Attorney General Opinion, a physical quorum must be present for all Board Advisory Committee meetings and maintained throughout the meeting. In addition, it is anticipated that one or more public meetings would be held at the impacted school, involving the PTSA, adjacent homeowners and other concerned parties. The ability to establish an in-person quorum for the TC and to hold public meetings with concerned citizens, has been significantly impacted due to the ongoing COVID-19 pandemic. Because of the need to secure citizen participants and convene the TC to establish business and financial criteria to be included as part of an Invitation To Bid, and to determine the apparent responsive and responsible bidder for consideration by the Board, it is highly unlikely that a successor entity will be selected prior to the June 30, 2021 expiration date of the current lease agreement.

Proposed Board Action

As indicated above, the current term of the lease agreement with AT&T will expire on June 30, 2021, and there are no extension periods remaining. Given the significant amount of time necessary to finalize the public solicitation process and select a successor cellular telecommunications provider, staff is recommending that the Board authorize the Superintendent to enter into an amendment to the existing lease agreement for the specific and limited purpose of extending the term for the period ending December 31, 2022, upon its determination that such an agreement would be in the best interest of the Board. This will provide continuity and ongoing collection of rent under the existing lease agreement for the specified period, with staff to be directed to finalize all requirements set forth in Board Policy 7535 in sufficient time to secure Board authorization to enter into a successor lease agreement with a commercial cellular telecommunication provider prior to December 31, 2022.

Proposed Lease Agreement

The Deputy Superintendent/Chief Operating Officer, School Operations, recommends entering into a lease amendment (“Lease Amendment”) with AT&T for this purpose. Accordingly, it is recommended that the Board authorize entering into a Lease Amendment with AT&T, under, substantially, the following terms and conditions:

- the lease term shall be amended to reflect a termination date of December 31, 2022, with no available extension periods beyond that date;
- the current rental rate of \$4,558.29 per month shall increase by 4% on July 1, 2021 to \$4,740.62 (\$56,887.44 per year), and will increase by an additional 4% on July 1, 2022 to \$4,930.24 per month for the remainder of the term;

- the District's standard language requiring compliance with the Jessica Lunsford Act shall be included;
- for purposes of the Lease Agreement, the Superintendent of Schools or his/her designee shall be the party designated by the Board to grant or deny any and all approvals or waivers under the Lease Agreement relating to routine operational issues; and
- in addition to the above, the Superintendent of Schools shall also be the party designated by the Board to execute amendments to the Lease Agreement within the authority granted to the Superintendent by the Board in the Lease Agreement, and to grant or deny any approvals or waivers required by the Lease Agreement, including placing AT&T in default, and canceling or terminating the Lease Agreement.

A companion agenda item is being brought to the Board at this meeting requesting a similar lease extension with Cellco Partnership.

The proposed Lease Amendment will be reviewed by the School Board Attorney's Office and the Office of Risk and Benefits Management for legal sufficiency and risk management issues, respectively, prior to execution.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, upon its determination that entering into the agreement described herein is in the best interest of the Board, authorize the Superintendent to:

- 1) execute an amendment to the Lease Agreement between the School Board and New Cingular Wireless PCS, LLC, a Foreign limited liability company ("AT&T"), authorized to transact business in the State of Florida, to extend the lease term through December 31, 2022 for continued use by AT&T of an equipment room and a portion of the roof at the International Studies Preparatory Academy, located at 1570 Madruga Avenue, Coral Gables, for AT&T to provide cellular communications services, and substantially in conformance with the other terms and conditions set forth in the agenda item; and
- 2) grant or deny all approvals or waivers required under the Lease Agreement, including, without limitation, canceling or terminating the Lease Agreement, and placing AT&T in default, as may be applicable.

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