

RESOLUTION N° 08162006RE3

A RESOLUTION OF THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN PROPERTIES DESCRIBED HEREIN, SAID LAND SITUATED, LYING AND BEING WITHIN THE SCHOOL DISTRICT OF PALM BEACH COUNTY, FLORIDA, AND DECLARING THAT THE ACQUISITION AND USE OF SAID PROPERTY, TO BE A PUBLIC NECESSITY; AUTHORIZING THE FILING OF AN EMINENT DOMAIN LAWSUIT PURSUANT TO CHAPTERS 73 AND 74, FLORIDA STATUTES.

WHEREAS, the Department of Real Estate Services of the School District of Palm Beach County, Florida, has recommended the acquisition of certain real property, in fee simple, and easement the legal description of which is contained in Exhibit "A" attached hereto and incorporated herein (hereinafter the "Property"); and

WHEREAS, pursuant to Article IX, Section 4(b) of the Constitution of the State of Florida, the School Board of Palm Beach County, Florida (the School Board) operates, controls and supervises public schools within the School District consistent with the statutory powers of Chapter 1013, F.S. and those rules, policies and regulations adopted by the School Board and/or pursuant to the Florida Administrative Code; and

WHEREAS, pursuant to Section 1013.24, F.S., the School Board has the authority and right to take private property by eminent domain for public purposes or uses; and

WHEREAS, the School Board has considered alternative means of accomplishing the construction of 03-MM Pahokee Middle School campus and has determined that the Property is necessary for the construction; and

WHEREAS, the acquisition of the Property is necessary for the School Board construction of the 03-MM Pahokee Middle School campus and in order to carry out public school purposes; and

WHEREAS, the School Board has determined that the use of the Property is necessary to construct the 03-MM Pahokee Middle School campus, and ancillary facilities for the use, safety and/or benefit of public school children and that these activities are for public purposes; and

WHEREAS, the School Board has taken into consideration all of the relevant environmental factors and determined that the acquisition of the Property would not adversely impact the natural environment; and

WHEREAS, the School Board has taken into consideration all relevant safety factors related to the acquisition of the Property; and

WHEREAS, the acquisition of the Property is consistent with the School Board's long-range planning program, specifically its adopted FY2006-FY2010 Five Year Capital Plan; and

WHEREAS, the estate or interest to be taken is fee simple title together with an easement to the Property; and

WHEREAS, the School Board has budgeted funds for the acquisition of the fee simple title and easement to the Property; and

WHEREAS, all necessary conditions precedent to the consideration and adoption of this Resolution have occurred or have been performed; and

WHEREAS, the School Board has identified the boundaries of the area to be acquired and a boundary location map illustrating the location and boundaries of the Property is attached hereto and incorporated herein as Exhibit "B"; and

WHEREAS, in order to accomplish the acquisition of the Property, it is necessary for the School Board to exercise its power of eminent domain as authorized by Section 1013.24, F.S., and Chapters 73 and 74, F.S.

NOW, THEREFORE, be it resolved by the School Board of Palm Beach County, Florida, that:

1. The School District's Board hereby adopts, as true and correct, and hereby incorporates those matters set forth in the foregoing whereas clauses as its official findings.

2. The Department of Real Estate Services of the School District is directed to take the necessary steps to acquire the Property, including but not limited to hiring real estate appraisers to secure appraisals of value of the Property .

3. The Chief Counsel is directed to take the necessary steps to acquire the Property, including but not limited to, employing outside attorneys if in the opinion of the Chief Counsel the complexity or workload exceeds the ability of in-house staff to handle, and to file, if necessary, a petition for Eminent Domain to acquire the Property.

4. The School Board's designated attorney is hereby authorized and directed to proceed to take all necessary steps, including the hiring of accountants, planners, appraisers and expert witnesses to acquire the Property by eminent domain in the name of the School Board, and to have prepared in the name of the School Board all papers, pleadings and other instruments or documents required for that purpose, and to see that all eminent domain proceedings are prosecuted to take fee simple title, together with an easement, and possession of the Property pursuant to Chapters 73 and 74, F.S.

5. The School Board's designated attorney is hereby authorized and directed to take such further actions as are reasonably required to fully accomplish the purposes herein above directed.

6. The School Board's staff is hereby authorized and directed to take such further actions as are reasonably required to fully accomplish the purposes herein above directed.

BE IT FURTHER RESOLVED, that the Property described on Exhibit "A" is to be used for the following public purposes: to construct the 03-MM Pahokee Middle School campus, and ancillary facilities for the use, safety and/or benefit of public school children in accordance with The School Board of Palm Beach County, Florida's adopted FY2006-FY2010 Five Year Capital Plan.

ADOPTED THIS _____ day of _____, 2006.

THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA

By: _____
Thomas E. Lynch, Chairman

Attest: _____
Arthur C. Johnson Ph.D.,
Superintendent

Filed in the Board Minutes Office this _____ day of _____ 2006.

REVIEWED AND APPROVED

Board Secretary

I, _____ BOARD SECRETARY DO ATTEST THAT THE ABOVE IS A TRUE ORIGINAL RESOLUTION ADOPTED BY THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, ON _____



School Board Attorney, Blair R. LittleJohn, III

BOARD SECRETARY

Exhibit "A"

William B. Shirley and Barbara W. Shirley
1531 Bacon Point
Pahokee, Florida 33476-2427

Property Control No: Portion of 48-37-42-17-02-004-0010

Legal Description: Tracts 4, 5, and 6 of OKEELANTA PLANTATION COMPANY'S SUBDIVISION, according to the plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, Plat Book 16, page 34, LESS AND EXCLUDING the West 1, 130 feet thereof.

And

The North 210 feet of tract 7 of OKEELANTA PLANTATION COMPANY'S SUBDIVISION, according to the plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, Plat Book 16, Page 34, LESS AND EXCLUDING:

- (a) The West 995 feet thereof.
- (b) The North 30 feet of the East 135 feet of the West 1,130 feet thereof.

A parcel of land containing 4.88 acres, more or less

Together with a nonexclusive easement for ingress, egress and public utility services over, under and across the following contiguous described lands:

The East 50 feet of the West 995 feet of the North 210 feet of Tract 7, of OKEELANTA PLANTATION COMPANY'S SUBDIVISION, according to the plat thereof on file in the office of the Clerk of the Circuit Court, in and for Palm Beach County, Florida, Plat Book 16, Page 34. (This description represents a Southerly extension of South Greenstar Avenue as to location and boundary)

Subject to the following terms and conditions:

- A. The fee title owner of the easement parcel shall have no duty to improve or maintain such easement in any manner and such easement is subject to the conditions of the land as existing on the date hereof.
- B. This easement shall terminate and be cancelled at any subsequent time the fee title owner thereof shall cause the same to be dedicated as a public right-of-way in a lawful manner and the fee title owner reserves the right to do so.