

## EXECUTIVE SUMMARY

### Third Amendment to Agreement of Sale and Purchase with D.R. Horton, Inc.

The South Area Portable Annex site (Parcel 235), which is approximately 27.092 acres, of which 4.989 acres consists of conservation area, is located at the southeast intersection of 172nd Avenue and Pines Boulevard in the City of Pembroke Pines (City). However, 2.617 acres of the Parcel is currently under a thirty (30) year lease (with 21 years remaining) to the City. Additionally, 99 portables are located on the Parcel.

As stated in the Agenda Request Form, the Agreement of Sale and Purchase between the School Board of Broward County, Florida (SBBC) and D.R. Horton, Inc., regarding the sale of the South Area Portable Annex 24.475 Acreage Site (Agreement) became effective on December 20, 2018. At that time and related to the Agreement, the land survey in the School's District real estate files for Parcel 235 (Property) indicated that the Property, minus the acreage leased to the City consisted of 24.257 acres. Upon the effectiveness of the Agreement, the implementation of certain provisions of the Agreement including Section 5, "Title" commenced; and during the title search called for in Section 5, the search revealed that a 0.218 sliver of land located adjacent to the Property, and owned by SBBC, was not reflected in recent past surveys and the latest land survey in the Broward County Public Schools (BCPS) school's real estate files for the Property; hence the reason for the First Amendment to Agreement of Sale and Purchase.

Thereafter, and upon additional due diligence by D.R. Horton, Inc., a Second Amendment to Agreement of Sale and Purchase (Second Amendment) was requested by D.R. Horton, Inc. to further clarify language in the Agreement regarding the release of extension fees due to SBBC, SBBC requirement to satisfy any outstanding title discrepancies needed to convey insurable and marketable title to the Property, SBBC's formal action to transfer entry and mineral rights to D.R. Horton, Inc., and requested modification to Section 20 (Agreement Administration) of the Agreement which would grant authority to the Superintendent of Schools or his/her designee to grant additional requested extensions. At the June 25, 2019 Regular School Board Meeting (RSBM), the Board voted not to amend language in the Agreement pertaining to the granting of authority to the Superintendent of Schools or his/her designee to approve additional extension and to establish a hard dollar amount in the event D.R. Horton, Inc. was to come back before the School Board to request for additional extensions. At this meeting, SBBC approved the Second Amendment as amended on the dais.

Staff has continued to work with D.R. Horton, Inc. to resolve lingering title issues discovered during D.R. Horton, Inc. title search. Such title search revealed that a 0.975-acre parcel of land located adjacent to the Property had been dedicated to Broward County Public Schools (BCPS) via an Easement Deed in 1995. Per the Easement Deed, BCPS was granted a perpetual right to the 0.975-acre parcel for the purpose of ingress and egress which included the rights to develop, construct, pave, mark, control, place roadway, and to place above ground and belowground utilities. All BCPS records, to include Broward County Property Appraiser records identified the 0.975-acre parcel as being SBBC owned, and such title defect was only made know to BCPS staff upon release of DR Horton, Inc. title search. Due to the SBBC inability to convey insurable and marketable title for this 0.975-acre parcel, DR Horton, Inc. has requested the 0.975-acre parcel be removed from the sale of the Property and that the purchase price be reduce according.

Upon receipt of D.R. Horton, Inc. request to remove the 0.975-acre parcel from the sale transaction and reduce the purchase price, BCPS staff consulted with BCPS legal counsel and SBBC's real estate cadre attorney to verify if D.R. Horton, Inc. title review of the 0.975-acre parcel was in fact correct. Feedback was SBBC did not own the 0.975-acre parcel and was granted limited rights via the Easement Deed for such purposes as described in the paragraph above. Upon this feedback, staff order three (3) appraisals to value the 0.975-acre parcel given the limited rights owned by the SBBC and averaged the three (3) opinions of values. Staff, via the SBBC's cadre attorney, communicated to D.R. Horton, Inc. the reduction amount to the purchase price staff would present to the SBBC for consideration.

As stated in the Agenda Request Form (ARF), in addition to D.R. Horton, Inc's. rights to three (3) ninety (90) day extensions during the Entitlement Approval Period granted as codified in the Second Amendment, D.R. Horton, Inc.,

is also requesting rights to extend the Entitlement Approval Period for an additional three (3) ninety (90) days, and which extensions shall be subject to extension fees as stated in the ARF. However, it should be noted that the fee amount (\$90,000.00) cited as due for each of the additional requested three (3) ninety (90) day extensions, was based on the dollar amount mandated by SBBC and codified in the Second Amendment. Thus, in summary, the reason for this Third Amendment to Agreement of Sale and Purchase are twofold:

1. The reduction in purchase price due to the removal of the 0.975-acre parcel from the sale transaction, and subsequent reduction in acreage from 24.475 acres to 23.50 acres.
2. DR Horton, Inc.'s request for rights to extend the Entitlement Approval Period for three (3) additional ninety (90) days, which would be in addition to DR Horton, Inc.'s current rights to extend the Entitlement Approval Period for three (3) ninety (90) day extensions as currently codified and enabled in the Second Amendment.