

MIDLAND PARK PUBLIC SCHOOLS
Midland Park, NJ

Supplemental Agenda - January 16, 2007

B. Finance Committee - (R. Schiffer, Chairperson)

S-1 Approve the following Resolution:

RESOLUTION

Motion made by: *R. Schiffer*

Seconded by: *Ms Anders*

WHEREAS, the Midland Park Board of Education advertised for bid proposals in connection with a land lease for the construction of a self-supporting wireless telecommunications monopole, and ancillary wireless telephone support equipment and structures with simultaneous leasing and co-location of up to four (4) additional carriers at the same site; and

WHEREAS, bids were received by the Midland Park Board of Education on December 5, 2005 in connection therewith; and

WHEREAS, at a public meeting held on December 6, 2005 the Board approved the award of a bid in the amount of \$31,189.00, for the first year of the Agreement, to Omnipoint Communications, Inc., Parsippany, New Jersey, in accordance with the terms of the bid proposal dated December 5, 2005, subject to approval by the Commissioner of Education, as required by

allocation, contribute and/or bear responsibility for the cost of making any improvements to the leased premises and with respect to the "Co-Location Agreement" required by Section 3.4.1 of the specifications to be entered into by all successful bidders; and

WHEREAS, as a result of the foregoing, the Midland Park Board of Education has been

WHEREAS, by said Resolution, the Midland Park Board of Education authorized the Board President to prepare and execute a land lease for the construction of the self-supporting wireless telecommunications monopole with the successful bidder, all in accordance with the specifications upon which such bid was submitted; and

WHEREAS, among other provisions of the specifications, the Midland Park Board of Education provided (in Section 3.1 thereof) that "All successful bidders shall be required to enter into a Lease Agreement with the Board of Education of Midland Park in the form satisfactory to the Board of Education;" and further provided (in Section 3.4.1 thereof) that "The Board of Education shall provide for simultaneous leasing of the leased premises to other bidders under a lease identical in form except as to the accepted rent bid for each successful bidder. Said Lease Agreement shall among other things, be subject to approval by the Board of Education and shall describe how the successful bidders shall share, divide, allocate, contribute and/or bear responsibility for the cost of making any improvements to the leased premises. All successful bidders shall be required to enter into a "Co-Location Agreement" with each other that shall state the rights and responsibilities to each other. Each successful bidder shall contribute a pro rata share to the cost of construction of the monopole. The Board of Education shall consider the bidder with the highest accepted bid the Lead Bidder. ***"; and

WHEREAS, as of this date, the Midland Park Board of Education has been unable to reach agreement with the successful bidder with respect to the terms of the Lease Agreement required by Section 3.1 of the specifications and, thus, has also been unable to reach agreement with other bidders with respect to Lease Agreements with such other bidders and, more particularly, with respect to the manner in which the successful bidder shall share, divide,

2

unable to either seek or to obtain approval of the Commissioner of Education as required by N.J.S.A. 18A:20-8.2.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. Based upon the inability of the Midland Park Board of Education to negotiate a Lease Agreement in a form satisfactory to it with the successful bidder, Omnipoint Communications, Inc. and its inability, based thereon, to enter into simultaneous Lease Agreements with others, the Midland Park Board of Education does hereby rescind the action taken at its public meeting on December 6, 2005 and authorizes and directs the Board Secretary to immediately notify Omnipoint Communications, Inc., by means of transmitting to it a copy of the within Resolution, of the action taken by the Board, as set forth above.

2. The Midland Park Board of Education does also hereby rescind the Owner's Consent executed on July 27, 2006 by which the Board authorized Omnipoint to make application to the Zoning Board of Adjustment of the Borough of Midland Park.

PASSED UNANIMOUSLY
BY THE BOARD —

9-0

1-16-07