

Memorandum



Date: May 3, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Resolution Authorizing Miami-Dade Transit to Enter into an Interlocal Agreement with the Town of Cutler Bay to Transfer Ownership of the Existing 33 Bus Passenger Shelters and 37 Bus Passenger Shelters Located in the Town's Municipal Boundaries from the County to the Town

Agenda Item No. 8(J)(1)(D)

This item was amended at the April 11, 2011 Regional Transportation Committee meeting to include the condition that if the Town of Cutler Bay chooses to allow advertisements on its bus passenger benches and/or shelters in the future, it will access the same advertising contract utilized by Miami-Dade County to the extent the County adopts a policy prospectively requiring other municipalities to do the same.

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing Miami-Dade Transit (MDT) to enter into an Interlocal Agreement with the Town of Cutler Bay (Town) to effectuate the transfer from Miami-Dade County (County) to the Town the existing 33 bus passenger shelters and 37 bus passenger benches located within their municipal boundaries.

SCOPE

The bus passenger shelters and bus passenger benches are located in Commission Districts 8 and 9.

FISCAL IMPACT/FUNDING SOURCE

There is a minimal cost savings to MDT in transferring 33 bus passenger shelters and 37 bus passenger benches to the Town of Cutler Bay as MDT will no longer be responsible for their maintenance.

TRACK RECORD/MONITOR

The project manager responsible for managing MDT's bus passenger shelter advertising and maintenance program is Clinton Forbes, Senior Executive Assistant, MDT. The staff responsible for managing the existing Bus Passenger Bench contract is Steve Chayt, Chief, MDT Facilities Maintenance.

BACKGROUND

In November 2005, the Town of Cutler Bay incorporated. Currently, there are 33 bus passenger shelters and 37 bus passenger benches within the Town limits maintained by Miami-Dade County. On October 8, 2009, MDT entered into a Letter Agreement with the Town to reimburse the Town for advertising revenues received for advertising sold at the 33 bus passenger shelters and 37 bus passenger benches from February 2006 through November 9, 2009.

MDT estimates that the depreciated value of the 33 bus passenger shelters is less than \$200,000. MDT currently owes the town approximately \$40,000 in advertising revenue from November 9, 2009 through October 1, 2010. MDT and the Town have mutually agreed to absolve the balances due between them to effectuate the transfer.


Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: May 3, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(J)(1)(D)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(J)(1)(D)
5-3-11

RESOLUTION NO. _____

RESOLUTION AUTHORIZING MIAMI-DADE COUNTY TO TRANSFER OWNERSHIP OF THE 37 EXISTING BUS PASSENGERS BENCHES AND 33 BUS PASSENGER SHELTERS LOCATED IN THE TOWN OF CUTLER BAY TO THE TOWN OF CUTLER BAY AND AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE THE ATTACHED INTERLOCAL AGREEMENT

WHEREAS, Miami-Dade County (the "County") currently owns 37 bus passenger benches and 33 bus shelters in areas which were previously a part of unincorporated Miami-Dade County, but are now within the municipal boundaries of the Town of Cutler Bay (the "Town"); and

WHEREAS, upon execution of the attached Interlocal Agreement, the Town will clean and maintain the 37 passenger benches and 33 bus passenger shelters at its own expense for the benefit of transit customers and constituents currently using these bus benches and bus shelters; and

WHEREAS, the Town will assume complete liability for the 37 bus passenger benches and 33 bus passenger shelters upon execution of the attached Interlocal Agreement with the County, which will effectively establish the formal transfer of the bus benches and bus shelters from the County to the Town~~[[;]]>>; and<<¹~~

>>WHEREAS, the Town does not currently plan on allowing advertising on its bus passenger benches or shelters. The County and Town agree that there is an economy of scale

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted, words underscored and/or >>double arrowed<< constitute the amendment proposed.

such that, in the future, if the Town wishes to allow advertising on its bus passenger benches or shelters it is preferable and more efficient to access the County's existing contract,<<

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board authorizes the transfer of the 37 bus passenger benches and 33 bus passenger shelters to the Town of Cutler Bay >>subject to the condition that if the Town of Cutler Bay chooses to allow advertisements on its bus passenger benches and/or shelters in the future it will access the same advertising contract utilized by Miami-Dade County to the extent the County adopts a policy prospectively requiring other municipalities to do the same<< and authorizes the County Mayor or Mayor's designee to execute the Interlocal Agreement ~~[[in substantially the same form attached hereto]]~~ >>subject to the addition of language establishing that if the Town of Cutler Bay chooses to allow advertisement on its bus passenger benches and/or shelters in the future it will access the same advertising contract utilized by Miami-Dade County<<.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Jose "Pepe" Diaz	Sally A. Heyman
Barbara J. Jordan	Jean Monestime
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of May, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Bruce Libhaber

**Interlocal Agreement Between
Miami-Dade County and the Town of Cutler Bay
Allowing for the Transfer and Use of Bus Passenger Benches and For the
Transfer and Use of Bus Passenger Shelters**

This is an Interlocal Agreement, made and entered into by and between: Miami-Dade County, a political subdivision of the State of Florida, hereinafter referred to as "the County," and the Town of Cutler Bay, a municipal corporation of the State of Florida, hereinafter referred to as "the Town."

WITNESSETH:

WHEREAS, the County owns approximately 37 bus benches in areas which was previously a part of unincorporated Miami-Dade County, but are now within the Town limits, as shown on Exhibit "A;" and

WHEREAS, the County owns approximately 33 bus shelters in areas which was previously a part of unincorporated Miami-Dade County, but are now within the Town limits, as shown on Exhibit "A;" and

WHEREAS, the County is willing to transfer ownership of said benches and shelters located within the Town; and

WHEREAS, the Town wishes to obtain and utilize said benches and shelters.

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, the County and the Town agree as follows:

**ARTICLE 1
DEFINITIONS**

- 1.1 "The County" shall include Miami-Dade County, the Miami-Dade Transit, and authorized representatives thereof.
- 1.2 "The Town" shall mean the Town of Cutler Bay and authorized representatives thereof.
- 1.3 "MDT" shall mean the Miami-Dade Transit and authorized representatives thereof.
- 1.4 "Bus Passenger Benches" shall mean those benches located within the Town at Miami-Dade Transit bus stops as of the effective date of this Interlocal Agreement.
- 1.5 "Bus Passenger Shelter" shall mean a roofed structure located at Miami-Dade Transit bus stops for the purpose of protecting passengers from the elements.
- 1.6 "Cemusa Miami, Ltd. (hereinafter "Cemusa")", its authorized representatives, and its successors and/or assignees shall mean the bus passenger shelter contractor.

- 1.7 "Bus Stop" shall mean the location designated by MDT for buses to stop for the purpose of loading and unloading passengers.
- 1.8 "Bus Stop Site" shall mean the area within a ten-foot radius of a bus passenger bench or shelter or, at those stops where no bench or shelter is installed, the area within a ten-foot radius of the stop sign.

ARTICLE 2 BUS PASSENGER BENCHES AND BUS PASSENGER SHELTERS

The County agrees to transfer to the Town title and possession of all Bus Passenger Benches and Bus Passenger Shelters located within the Town limits. As consideration for the transfer of all Bus Passenger Benches and Bus Passenger Shelters within the Town, the Town agrees to forgo all past advertising revenues for 2010 due to the Town pursuant to the Cemusa Agreement with the County, dated August 5, 2002. County extends no warranty, implied or expressed, as to fitness or condition of the benches and shelters transferred. It is expressly understood that the Town assumes ownership of the benches and shelters as is and in place.

Bus Passenger Benches and Bus Passenger Shelters shall be located only at authorized MDT bus stops or where the Town expressly allows.

The Town understands and acknowledges that the County has the right, at the County's sole discretion, to eliminate, move, or add bus stops. In the event of such action, the Town shall remove or relocate Bus Passenger Benches and Bus Passenger Shelters within ten (10) business days of receipt of notification.

ARTICLE 3 COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS

The Town and its contractors shall comply with all existing and future laws, statutes, ordinances, codes, rules, regulations, and procedural requirements, whether federal, State, or local, which are applicable, including but not limited to, the Americans with Disabilities Act (ADA). The Town shall be responsible for ensuring compliance of its employees, contractors, agents, or assigns with all applicable county, state, and federal requirements, including, but not limited to, all safety standards mandated by MDT relating to bus stops and amenities or structures located at bus stops. The Town shall be responsible for obtaining copies of the appropriate laws, regulations, ordinances, and documents and complying therewith.

The Town shall designate individual(s) to act as liaison to the County and notify the County thereof. The Town shall promptly notify the County of any changes.

The County shall designate individual(s) to act as liaison to the Town and notify the Town thereof. The County shall promptly notify the Town of any changes.

**ARTICLE 4
INDEMNIFICATION**

The Town shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may suffer as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Town or its employees, agents or instrumentalities. The Town shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments and attorneys' fees which may issue thereon. Provided, however, this indemnification shall only be to the extent of the limitations of Section 768.28, Florida Statutes, subject to the provisions of that Statute whereby the Town shall not be liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000 or any claim or judgment or portions thereof, which, when totaled with all other claims or judgments paid by the Town arising out of the same incident or occurrence, exceed the sum of \$200,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the Town.

The County does hereby agree to indemnify and hold harmless the Town to the extent and within the limitations of Section 768.28, Florida Statutes, subject to the provisions of that Statute whereby the County shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000, or any claim or judgment or portions thereof, which, when totaled with all other occurrences, exceeds the sum of \$200,000, from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise solely as a result of the negligence of the County. However, nothing herein shall be deemed to indemnify the Town from any liability or claim arising out of the negligence or failure of performance of the Town or any unrelated third party.

**ARTICLE 5
MAINTENANCE**

The Town shall ensure that Bus Stops in the Town, including those where Bus Passenger Shelters and benches are located, are maintained in manner such that they remain free of graffiti, litter and debris.

**ARTICLE 6
TERM**

This Agreement shall commence upon approval of the Board of County Commissioners and the Town Council of the Town and the execution by the County Manager and Town Manager.

ARTICLE 7

MODIFICATIONS AND MISCELLANEOUS PROVISIONS

Unless provided otherwise elsewhere in this Agreement, amendments and modifications to this Agreement must be in writing and shall require the signatures of the County Manager and the Town Manager, or their designees, subject to authorization by their respective Boards.

The Town and the County agree that any more favorable position provided in any other County Bus shelter and/or Bus Bench transfer agreement would be offered to the Town for consideration.

**ARTICLE 8
NOTICES**

All notices and other communications required to be remitted pursuant to this Agreement to either party hereto shall be in writing and shall be delivered by verified facsimile transmission, electronic mail or U.S. postal service mail to the parties at the address indicated below:

FOR MIAMI-DADE COUNTY:
Miami-Dade Transit
701 N.W. 1st Court 17th Floor
Miami, FL 33136
Attention: Director, Miami-Dade Transit

Fax: (786) 469-5580

FOR TOWN
Town of Cutler Bay
10720 Caribbean Boulevard
Suite 105
Cutler Bay, FL 33189
Attention: Town Manager
Fax: (305)-234-4251

**ARTICLE 9
COMPLETE AGREEMENT**

This writing embodies the full and complete agreement of the parties. No other terms, conditions or modifications shall be binding upon the parties unless in writing and signed by the parties. This document shall be executed in four (4) counterparts, each of which shall be deemed an original.

**ARTICLE 10
GOVERNING LAW**

This Agreement shall be construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf as of the date first above written.

ATTEST:

MIAMI-DADE COUNTY, FLORIDA,
BY ITS BOARD OF COUNTY COMMISSIONERS

HARVEY RUVIN
CLERK OF THE BOARD

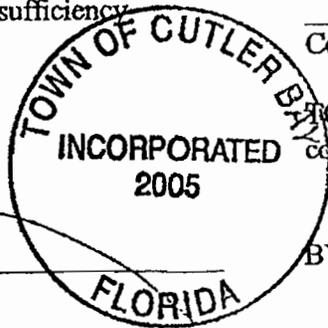
BY: _____
Deputy Clerk

BY: _____
County Manager

Approved by County Attorney
as to form and legal sufficiency

County Attorney

ATTEST:



TOWN OF CUTLER BAY, a municipal
corporation of the State of Florida

BY: _____
Town Clerk

BY: _____
Town Manager

(Affix Town Seal)

Approved by Town Attorney
as to form and legal sufficiency

Town Attorney

FLANAGAN & WILLIARD, P.A.

ATTORNEYS AT LAW

JEFFREY M. FLANAGAN
W. CHAD WILLIARD *
**Also licensed in Tennessee*

1450 MADRUGA AVENUE
SUITE 407
CORAL GABLES, FLORIDA 33146
TELEPHONE 305.444.1500
FACSIMILE 305.443.8617

March 4, 2011

Mr. Steven J. Alexander
Manager
Town of Cutler Bay
10720 Caribbean Boulevard
Suite 105
Cutler Bay, Florida 33189

Re: Bus Passenger Bench Advertising Contract

Dear Mr. Manager:

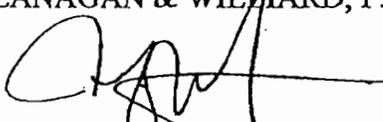
As you know, the undersigned represents Signal Outdoor Advertising, LLC (Signal). Signal is the current concessionaire with Miami-Dade County for the provision of advertising on the bus passenger benches in unincorporated Miami-Dade County.

Signal hereby consents to the transfer of Signal's contract with Miami-Dade County as it pertains to bus passenger benches located within the Town of Cutler Bay.

Please do not hesitate to contact me if you have any questions or need additional information.

Yours truly,

FLANAGAN & WILLIARD, P.A.



Jeffrey M. Flanagan, Esq.

c: Glen LeBlanc, Miami-Dade Transit
Signal Outdoor Advertising, LLC