

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(L)(1)(A)  
06-26-07

**OFFICIAL FILE COPY  
CLERK OF THE BOARD  
OF COUNTY COMMISSIONERS  
MIAMI-DADE COUNTY, FLORIDA**

RESOLUTION NO. R-760-07

RESOLUTION APPROVING INTERLOCAL AGREEMENT WITH THE TOWN OF CUTLER BAY TO TRANSFER QUALITY NEIGHBORHOOD IMPROVEMENT PROGRAM (QNIP) FUNDS IN AN AMOUNT NOT TO EXCEED \$523,000 FOR VARIOUS PARK CONSTRUCTION/RENOVATION PROJECTS AT BEL AIRE, CUTLER RIDGE, FRANJO, LINCOLN CITY PARK #2, SAGA BAY, SAGA LAKE, AND WHISPERING PINES PARK

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the Interlocal Agreement between Miami-Dade County and the Town of Cutler Bay for the transfer of QNIP funds in an amount not to exceed \$523,000 for various park construction/renovation projects at Bel Aire, Cutler Ridge, Franjo, Lincoln City Park #2, Saga Bay, Saga Lake, and Whispering Pines Park in substantially the form attached hereto and made a part thereof; and authorizes the County Mayor or his designee to execute same for and on behalf of Miami-Dade County.

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



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

**DATE:** June 26, 2007

**FROM:** Murray A. Greenberg  
County Attorney

**SUBJECT:** Agenda Item No. 8(L)(1)(A)

**Please note any items checked.**

- "4-Day Rule" ("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
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

|                                    |     |                    |     |
|------------------------------------|-----|--------------------|-----|
| Bruno A. Barreiro, Chairman        | aye |                    |     |
| Barbara J. Jordan, Vice-Chairwoman | aye |                    |     |
| Jose "Pepe" Diaz                   | aye | Audrey M. Edmonson | aye |
| Carlos A. Gimenez                  | aye | Sally A. Heyman    | aye |
| Joe A. Martinez                    | aye | Dennis C. Moss     | aye |
| Dorrin D. Rolle                    | aye | Natacha Seijas     | aye |
| Katy Sorenson                      | aye | Rebeca Sosa        | aye |
| Sen. Javier D. Souto               | aye |                    |     |

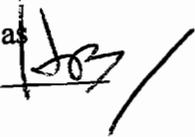
The Chairperson thereupon declared the resolution duly passed and adopted this 26<sup>th</sup> day of June, 2007. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK



By: **KAY SULLIVAN**  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency. 

Hugo Benitez

**INTERLOCAL AGREEMENT**  
**BETWEEN MIAMI-DADE COUNTY AND TOWN OF CUTLER BAY**  
**FOR DISTRIBUTION OF QUALITY NEIGHBORHOOD IMPROVEMENT FUNDS**  
**(QNIP)**

This Agreement, made this \_\_\_\_ day of \_\_\_\_\_, 2007, by and between Miami-Dade County, a political subdivision of the State of Florida (hereinafter referred to as "County") located at 111 N.W. 1<sup>st</sup> Street, Miami, FL 33128-1912, and the Town of Cutler Bay having offices at 10720 Caribbean Boulevard, Suite 105, Cutler Bay, FL 33189 (hereinafter referred to as "Town").

WHEREAS, the unincorporated portion of District 8 which comprises the incorporated Town of Cutler Bay, Florida was given commitments prior to incorporation as projects to be funded in whole or in part in such portion of District 8 from the proceeds of the County's Public Service Tax Revenue Bonds (UMSA Public Improvements), Series 1999, Public Service Tax Revenue Bonds (UMSA Public Improvements), Series 2002 and Public Service Tax Revenue Bonds (UMSA Public Improvements), Series 2006 (the "County Bonds"); and

WHEREAS, the Miami-Dade County Park and Recreation Department has identified funding available for projects that have not been completed; and

WHEREAS, the Town has requested that the remaining balance in the QNIP fund for Parks related projects be disbursed to the Town for use on parks projects until the amount is depleted,

NOW THEREFORE, in consideration of the mutual covenants recorded herein, the parties hereto agree as follows:

I. **AMOUNT PAYABLE.** The County agrees to disburse to the Town an amount not to exceed \$523,000 to fund, in whole or in part, the construction or rehabilitation of park projects in the parks listed in Attachment A. It is expressly understood that the County shall not be responsible for any costs in excess of \$523,000 incurred in the construction/renovation of the parks listed in Attachment A. The Town shall be responsible for the construction or rehabilitation of the parks listed in Attachment A.

II. **SCOPE OF SERVICES.** The Town agrees to only use these funds for the construction/renovation of those parks, which is incorporated herein and attached hereto as Attachment A.

III. **EFFECTIVE TERM.** The effective term of this Agreement shall be from \_\_\_\_\_, 2007 to \_\_\_\_\_, 200\_\_.

IV. **MUTUAL INDEMNIFICATION.**

A. **Government Entity.** The County and the Town shall indemnify and hold harmless each other and their officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense and appeal, which the County or Town or their officers, employees, agents or instrumentalities may

# Memorandum



**Date:** June 26, 2007

Agenda Item No. 8(L)(1)(A)

**To:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

**From:** George M. Burgess  
County Manager

A handwritten signature in black ink, appearing to read "George M. Burgess", written over the printed name of the County Manager.

**Subject:** Interlocal Agreement with Town of Cutler Bay to Transfer Quality Neighborhood Improvement Program Funding for Completion of Park Projects

## Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution allowing the County Mayor or his designee to enter into an Interlocal Agreement (Attachment 1) with the Town of Cutler Bay (Town) for the transfer of Quality Neighborhood Improvement Program (QNIP) funds in an amount not to exceed \$523,000, for the construction/renovation of park projects within Bel Aire, Cutler Ridge, Franjo, Lincoln City Park #2, Saga Bay, Saga Lake, and Whispering Pines Parks (Exhibit A of Attachment 1) and that the Board approve such Interlocal Agreement.

## Scope

The transfer of the QNIP funding will impact the Town, which is located in Miami-Dade County, Commission District 8.

## Fiscal Impact/Funding Source

The QNIP funding was previously allocated to the Park and Recreation Department benefiting parks which are currently being transferred to the Town concurrently with this agreement. The transfer of this funding will not impact any other park projects.

## Track Record/Monitor

Upon execution of the interlocal agreement the Incorporation and Annexation Section of the Office of Strategic Business Management will process the transfer of the QNIP funds to the Town. Any audits required by the interlocal agreement will be performed by the Miami-Dade County Office of the Inspector General.

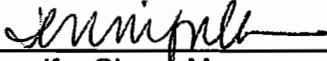
## Background

The QNIP funding was allocated to parks within Commission District 8 prior to the incorporation of the Town. As a separate agenda item, an agreement has been prepared for Board consideration to transfer these parks to the Town of Cutler Bay. As part of the bond issuance, the Park and Recreation Department (Department) planned several projects within those parks. This funding will be used by the Town for capital type improvements and renovations at the parks listed in Exhibit A in accordance with the bond issuance.

Honorable Chairman Bruno A. Barriero  
and Members, Board of County Commissioners  
Page 2

The QNIP bond debt service is being paid through utility taxes. When the QNIP bonds were issued the taxes pledged to the debt service included the revenues now attributable to the Town. As a condition of incorporation, the Town is paying its share of the debt service on the QNIP bonds. The funding being transferred to the Town can only be used at the locations designated in Exhibit A.

Attachments



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Jennifer Glazer-Moon  
Director, Office of Strategic Business Management

cmo14007

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incur 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 other party or its employees, agents, servants, partners, principals or subcontractors or any other third party. The County or 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 other party, where applicable, including appellate proceedings and shall pay all costs, judgments, and attorney's fees which may issue thereon. Provided, however, the indemnification shall only be to the extent and within the limitations of Section 768.28 Florida Statutes.

B. Term of Indemnification. The provisions of this section of indemnification shall survive the expiration or termination of this Agreement.

V. NOTICES. It is understood and agreed between the parties that any written notice delivered hereunder, when addresses and mailed or delivered to the parties at the following addresses is sufficiently delivered:

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

Copy To: Mitchell Bierman, Town Attorney  
2525 Ponce de Leon Avenue, suite 700  
Coral Gables, FL, 33134

County: Jorge M. Fernandez, Program Coordinator  
Incorporation and Annexation  
Office of Strategic Business Management  
111 N.W. 1<sup>st</sup> Street, 22<sup>nd</sup> Floor  
Miami, FL 33128

VI. AUTONOMY. Both parties agree that this Agreement recognizes the autonomy of and stipulates or implies no affiliation between the contracting parties. It is expressly understood and intended that the Town is only a recipient of funding support and is not an agent or instrumentality of the County. Furthermore, the Town's agents and employees are not agents, employees nor is the Town an instrumentality of the County.

VII. BREACH OF AGREEMENT: COUNTY REMEDIES.

A. Breach. A breach by the Town shall have occurred under this Agreement if (1) the Town uses the County funds allocated under this Agreement ineffectively, improperly, and/or for any purpose other than the construction or renovation of parks as listed in the Attachment A; (2) the Town refuses to allow the County access to records relating to this contract and the construction/renovation of parks projects; (3) the Town attempts to meet its obligations under this Agreement through fraud, misrepresentation or material misstatement; (4) the Town fails to fulfill in a proper manner any and all of its obligations, covenants, agreements and stipulations in this Agreement after notice from the County and a failure to cure such breach within 10 business days after receipt of the County's notice. Waiver of breach of any provisions of this Agreement shall not be

deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

B. County Remedies. If the Town breaches this Agreement, the County may pursue any or all of the following remedies:

1. The County may terminate this Agreement by giving written notice to the Town of such termination and specifying the effective date thereof at least five (5) days before the effective date of termination. In the event of termination, the Town shall reimburse the County for all County funds allocated to the Town under this agreement found to have been used improperly. The Town shall be responsible for all direct and indirect costs associated with such termination, including attorney's fees;

2. The County may seek enforcement of this Agreement including but not limited to filing an action with a court of appropriate jurisdiction. The Town shall be responsible for all direct and indirect costs associated with such enforcement, including attorney's fees;

3. Any other remedy available at law or equity.

C. Damages Sustained. Notwithstanding the above, the Town shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of this Agreement. The County may also pursue any remedies available at law or equity to compensate for any damages sustained by the breach. The Town shall be responsible for all direct and indirect costs associated with such action, including attorney's fees.

VIII. TERMINATION BY EITHER PARTY. Both parties agree that this Agreement may be terminated for cause by either party hereto by written notice to the other party of such intent to terminate at least five (5) days prior to the effective date of such termination.

IX. PAYMENT PROCEDURES. The County agrees to transfer QNIP funding to the Town based on the procedures outlined below:

A. Upon approval of this Agreement by the Miami-Dade County Board of County Commissioners, the Town Manager shall submit a letter to the Program Coordinator, Incorporation and Annexation Unit, Office of Strategic Business Management requesting the payment of the total approved funding, not to exceed \$523,000, to be released to the Town no later than 30 days of said request, solely for the purposes stated herein.

B. No Payment of Subcontractors. In no event shall County funds be advanced directly to any subcontractor to any Town agreements entered into hereunder.

X. USE OF FUNDS

A. Town shall only use County funds for the construction/renovation of parks listed in Attachment A. It is expressly understood that County funds shall not be used in any way at any other Town owned facilities. In the event the County in its sole discretion determines the Town has used funds in a manner that is not authorized by this

Agreement, the Town agrees to reimburse the County in full for any amounts used by the Town in a manner not authorized by this Agreement.

B. **Adverse Actions or Proceeding.** The Town shall not utilize County funds to retain legal counsel for any action or proceeding against the County or any of its agents, instrumentalities, employees or officials. The Town shall not utilize County funds to provide legal representation, advice of counsel in any action or proceeding against the County or any of its agents, instrumentalities, employees or officials.

C. **Religious Purposes.** County funds shall not be used for religious purposes.

## **XI. RECORDS, REPORTS, AUDITS, MONITORING AND REVIEW.**

A. **Office of Miami-Dade County Inspector General.** Miami-Dade County has established the Office of Inspector General, which is empowered to perform random audits on all County Agreements throughout the duration of each Agreement. Grant recipients are exempt from paying the cost of the audit, which is normally ¼ of 1% of the total Agreement amount.

The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust programs, agreements, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in compliance with plans, specifications and applicable law.

The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Agreement. The Inspector General is empowered to retain the services of independent private sector inspectors general to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process including but not limited to project design, bid specifications, proposal submittals, activities of the Town, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with Agreement specifications and to detect fraud and corruption.

Upon ten (10) days prior written notice to the Town from the Inspector General or Independent Private sector Inspector General (IPSIG) retained by the Inspector General, the Town shall make all requested records and documents solely related to this Agreement available to the Inspector General or IPSIG for inspection and copying.

The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Town's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of this Agreement, including, but not limited to original estimate files, worksheets, proposals and Agreements from and with successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and Agreement documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance

proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

The provisions in this section shall apply to the Town, its officers, agents, employees, subcontractors and suppliers. The Town shall incorporate the provisions in this section in all subcontracts and all other agreements executed by the Town in connection with the performance of this Agreement.

## **XII. MISCELLANEOUS**

A. Publicity. By the acceptance of these funds, the Town recognizes the County as the funding source of the construction or rehabilitation of the parks listed on Attachment A. The Town shall ensure that all publicity, public relations, advertisements and signs recognize the County for the support of any projects funded through QNIP.

This is to include, but is not limited to, all posted signs, pamphlets, wall plaques, cornerstones, dedications, notices, flyers, brochures, news releases, media packages, promotions, and stationery. The use of the official County logo is permissible. The Town shall ensure that all media representatives, when inquiring about the activities funded by this Agreement, are informed that the County is a funding source.

B. Agreement Guidelines. This Agreement is made in the State of Florida and shall be governed according to the laws of the State of Florida. Proper venue for this Agreement shall be Miami-Dade County, Florida.

C. The County Mayor or His designee is authorized to make modifications to this Agreement on behalf of the County.

D. Headings, Use of Singular and Gender. Paragraph headings are for convenience only and are not intended to expand or restrict the scope or substance of the provisions of this Agreement. Wherever used herein, the singular shall include the plural and plural shall include the singular, and pronouns shall be read as masculine, feminine or neuter as the context requires.

E. Totality of Agreement/Severability of Provisions. This eight (8) page Agreement with its recitals on the first page of the Agreement and with its attachments as referenced below contain all the terms and conditions agreed upon by the parties.

Attachment A: List of Parks

No other Agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto. If any provision of this Agreement is held invalid or void, the remainder of this Agreement shall not be affected thereby, if such remainder would then continue to conform to the terms and requirements of applicable law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective and duly authorized officers as of the day and year first above written.

Attest:

TOWN OF CUTLER BAY  
a municipal corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Town Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
Town Attorney

MIAMI-DADE COUNTY  
A political subdivision of the State of Florida

By it's Board of County Commissioners:

By: \_\_\_\_\_  
County Mayor or designee

ATTEST:  
HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
County Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By \_\_\_\_\_  
County Attorney

**ATTACHMENT A**

**LIST OF PARKS**

|                       |
|-----------------------|
| BEL AIRE PARK         |
| CUTLER RIDGE PARK     |
| FRANJO PARK           |
| LINCOLN CITY PARK #2  |
| SAGA BAY PARK         |
| SAGA LAKE PARK        |
| WHISPERING PINES PARK |