

Office of School Facilities  
Rose Diamond, Chief Facilities Officer

**SUBJECT:            AUTHORIZATION FOR THE SUPERINTENDENT TO FINALIZE  
NEGOTIATIONS AND EXECUTE A LEASE AGREEMENT WITH  
THE CITY OF NORTH MIAMI FOR USE OF A PORTION OF  
BENJAMIN FRANKLIN ELEMENTARY SCHOOL, LOCATED AT  
13100 NW 12 AVENUE, NORTH MIAMI, AS A CITY PARK**

**COMMITTEE:        FACILITIES AND CONSTRUCTION REFORM**

Since 1953, the City of North Miami (City), has utilized the north portion of Benjamin Franklin Elementary School, located at 13100 NW 12 Avenue, as Benjamin Franklin Park (Park). The current lease agreement will expire in 2015. The City has received funding through the Safe Neighborhood Parks Bond Program to redevelop the Park into a soccer complex (see attached Exhibit "A"), which requires a minimum lease term of 25 years. Therefore, it is recommended that the Superintendent be authorized to finalize negotiations and execute a lease agreement with the City, under substantially the following terms and conditions:

- a 25 year base term, with two 10-year renewal options thereafter, at the mutual agreement of the parties, at an annual rental rate of \$1;
- the City, at its sole cost and expense, shall construct a soccer complex on the Park site. Work shall include upgrading and relocating light poles, modifying fences, redesigning the drainage system, re-contouring the field area, and replacing the irrigation system and grass;
- the District shall have full control, custody, right and use of the Park improvements during regular school hours on regular school days;
- the City shall have full control, custody, right and use of the Park site at all other times;
- all improvements made to the Park site by the City are to conform to the State Building Code and any other applicable codes and regulations;
- the Board and City each covenant and agree to indemnify, hold harmless and defend the other, from and against any and all claims, suits, actions, damages or causes of action arising from or in connection with the use and occupancy of the Park site during the term of this Agreement, for any personal injury, loss of life or damage to property sustained in or about the Park site, to the extent of the limitations included within Section 768.28, Florida Statutes;

- other than for damage caused exclusively by District use, the City shall be responsible for all maintenance and repair of the Park site, including, without limitation, irrigation and fertilization of grounds, mowing of turf, pruning of trees, repair of light, water and sewer systems, cleaning of restrooms, maintenance of fields, bleachers, walks and paved play areas and general maintenance and cleaning of the grounds;
- the City shall insure or self insure its interest in the building fixtures, improvements and all other real and personal property to the extent necessary or appropriate and waives all rights to recovery for loss or damage of such property from the District by any cause whatsoever;
- the City shall be responsible for payment of all utility charges associated with its use of the Park site, including, but not limited to, connection and service charges for waste collection, electricity, water and sewer, storm water and for all other services, including telecommunications services ;
- should either party desire use of the Park site, or a portion thereof, during a time other than its regular period of use, it will request said use through the Park and Recreation Director and school site administrator, with a minimum of 48 hours advance notice. Approval of said requests shall not be unreasonably withheld;
- in the event use of the Park improvements by the District creates a cost to the City, beyond that which would normally be borne by the City (e.g. paper goods, janitorial services, field lighting, staff time, etc.), the District shall reimburse the City for same;
- the City may construct additional recreational facilities on the Park site in the future, at its sole cost and expense, subject to prior written approval of the District;
- the City shall have the right to cancel the Agreement at any time by give the District at least six months prior written notice. In that event, the Board shall retain ownership of all recreational improvements located on the Park site;
- the District shall only have the right to cancel the Agreement for cause, or should all or a portion of the Park site be required by the District to construct educational facilities. In either event, the Board may cancel this Agreement without penalty;
- either party may place the other in default, and cancel the Agreement, if the defaulting party fails to cure the default. Should the District default under the Agreement and fail to cure such default, resulting in the City canceling the Agreement, the Board will be required to reimburse the City for the unamortized portion of the capital improvement funds used by the City to make the improvements, in an amount of \$346,000, as amortized over the 25-year base term of this Agreement;

- in the event the Park site should be destroyed or so damaged by fire, windstorm or other casualty to the extent the Park improvements are rendered untenable or unfit for the purposes intended, the City shall have the right to cancel the Agreement by giving written notice to the Board. However, if the City fails to cancel the Agreement, the City shall cause all Park improvements to be repaired and placed in a safe, secure and useable condition and compatible for school and community recreational use, within 180 days from the date of said damage or destruction, or other reasonable period of time as mutually agreed to by the parties. Should the Park improvements not be repaired and rendered tenantable within the aforementioned time period, then the District may, at its sole option, place the City in default; and
- for purposes of this Agreement, the Superintendent of Schools shall be the party designated by the Board to grant or deny all approvals required by this Agreement, or to cancel this Agreement.

The Region Superintendent for Region Center 3, Assistant Superintendent for Regional Operations, Construction Officer, Assistant Superintendent for Full Service Schools, Maintenance Officer and Director of Advanced Planning, recommend entering into the proposed Agreement. The Agreement will be reviewed by the School Board Attorney's Office and Office of Risk and Benefits Management prior to execution.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida, authorize the Superintendent to finalize negotiations and execute a lease agreement with the City of North Miami for use of a portion of Benjamin Franklin Elementary School, as a City park, substantially in conformance with the terms and conditions noted above.

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