

Office of School Facilities
Rose Diamond, Chief Facilities Officer

**SUBJECT: AUTHORIZATION FOR THE SUPERINTENDENT TO FINALIZE
NEGOTIATIONS AND EXECUTE AN INTERLOCAL
AGREEMENT WITH THE CITY OF MIAMI FOR THE USE OF
JORGE MAS CANOSA PARK, LOCATED AT 342 SW 7
AVENUE, ADJACENT TO ADA MERRITT ELEMENTARY
SCHOOL, FOR SCHOOL RECREATIONAL PURPOSES**

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

Since 2001, the City of Miami (City) has allowed use of the 3.44-acre Jorge Mas Canosa Park (f/k/a Riverside Park) for recreational activities associated with Ada Merritt Elementary School (School). Use of the Park has been through a City Permit For Use Of Park Facilities, which must be renewed on a regular basis. In addition, recreational activities on the Park site are limited by the type and state of repair of existing recreational improvements. The City has agreed to pursue long-term School use of the Park, including the ability for the District to make substantive recreational improvements to the Park, at District expense, for the benefit of students and local residents. The City has also agreed to make additional improvements and repairs to the Park, at City expense, to the mutual benefit of both parties.

In consideration for District use of the Park, the City has asked for use of a portion of the former Buena Vista Elementary School site (3001 NW 2 Avenue), for use as a community "Plazita". City and District staff is currently formalizing proposed terms and conditions of such an agreement, which will be brought to the Board for consideration at a future meeting.

It is recommended that the Superintendent be authorized to finalize negotiations and execute a lease agreement with the City for use of the Park under, substantially, the following terms and conditions:

- a 20-year base term;
- one additional 10-year option period, upon the consent of the City Manager, not to be unreasonably withheld, with a minimum of 180 days prior written notice to the City;
- rent at \$1 per year;
- the District, at its sole cost and expense, shall construct certain improvements within the Park including a Physical Education shelter, modifications to the basketball courts, installation of new fencing and a new concrete walkway. The cost for this work is estimated at \$342,000;

- upon completion of the work by the District, title to all improvements shall immediately vest with the City;
- unless otherwise agreed to by the School Administrator and City Parks Director, the School shall have non-exclusive use of the Park from 7:00 am to 3:30 pm each regular school day, during the regular school year. In addition, the City shall issue a Permit For Use Of Park Facilities to allow the School sole use of the Physical Education Shelter, Baseball Field and Hard-court areas from 8:30 am to 11:30 am and 1:00 pm to 3:00 pm, during each day that the School uses the Park;
- the District shall not permit any mechanics, laborers, material persons, or other liens to be filed against the Park as a result of any work, labor, services or materials supplied by the District under this Agreement;
- the School shall provide routine custodial and janitorial maintenance of the portions of the Park used by it. The City shall provide routine custodial and specialized maintenance at all other times, and shall maintain all improvements located in the Park, including those installed now or in the future by the District;
- the City shall furnish and pay for all electricity, water and sewer, trash removal and any other utilities necessary to operate the Park;
- subject to the limitations of Section 768.28, Florida Statutes, the Board shall provide evidence of an ongoing self-insurance program for Public Liability, Automobile Liability and Workers' Compensation Insurance covering the Board's Officers, members and employees, which self-insurance program shall be maintained in full force and effect at all times throughout the base term of this Agreement and through any periods of extensions;
- subject to the limitations of Section 768.28, Florida Statutes, the City and District shall each indemnify, hold harmless and defend the other against any claims, suits, actions, damages or causes of action arising during the other parties use and occupancy of the Park;
- if the Park is damaged by fire, the elements, accident, or other casualty but is not rendered untenable, the City shall promptly cause such damage to be repaired. If the casualty renders the Park partially untenable, then the City shall cause such damage to be repaired, provided such damage was not caused by the negligence of the District. If the Park is rendered wholly untenable, and the City elects not to repair such damage, the City shall so notify the District that it intends to terminate this Agreement. In that event, the District may elect to receive the full amount of the insurance proceeds from the City, and fund the difference, if necessary, to reconstruct the Park to a usable condition for the District's recreational program. In the alternative, should such a casualty occur during the twenty (20) year base term of this Agreement, the District may instead elect to receive from the City a prorated portion of the City's insurance proceeds

covering only those improvements made by the District, with a cap of \$342,000, as amortized on a straight-line basis over the twenty (20) year base term of this Agreement. Should the District elect not to repair the Park to a usable condition for its recreational program, as described above, within one-hundred eighty (180) days of the casualty, then the City may terminate this Agreement by giving the Board notice at least ninety (90) days prior to such termination. If such notice is given, the rights and obligations of the parties shall cease as of the date of such notice;

- in the event of default by the City, which default is not cured, resulting in termination of this Agreement by the District, the City shall reimburse the District for the unamortized portion of the improvements made by the District, in an amount not to exceed \$342,000. In the event this Agreement is terminated by the City as a result of a default by the District, which default is not cured, the District shall not be entitled to reimbursement of the unamortized cost of the Improvements;
- in the event the City intends to terminate this Agreement for cause, other than Damage or Destruction or Governmental Purposes, including without limitation any action challenging the validity of this Agreement, the City shall first place the District in Default, and provide the District with the specified period of time within which to cure the default. In the event the District fails to cure the Default and the City then terminates this Agreement, the City shall have no liability for any expenses incurred in connection with the improvements to the Park or operation of the Park. In the event the City terminates this Agreement without cause, it shall provide the District with a minimum of one (1) year prior written notice, and shall then reimburse the District for the unamortized portion of the improvements made by the District, in an amount not to exceed \$342,000. Notwithstanding any other provisions included within this Agreement, the District shall have the right to cancel this Agreement at any time, without penalty, by providing the City with a minimum of one (1) year advance written notice. In such an event, the District shall not be entitled to reimbursement of the unamortized cost of its improvements; and
- for purposes of this Agreement, the Superintendent of Schools or his designee shall be the parties designated by the Board to grant or deny all approvals and provide any other coordination required by this Agreement dealing with the design and construction of the Park improvements, and in addition, the Superintendent of Schools shall be the party designated by the Board to grant or deny any other approvals required by this Agreement, or to cancel this Agreement.

The School Principal, Associate Superintendent for School Operations, Regional Superintendent, Regional Center IV, Construction Officer, Office of School Facility Construction and Maintenance Officer, Facilities Operations, Maintenance 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 an Interlocal Agreement with the City of Miami for the use of a Jorge Mas Canosa Park, located at 342 SW 7 Avenue, adjacent to Ada Merritt Elementary School, substantially in conformance with the terms and conditions noted above, including the construction of capital improvements estimated to cost \$342,000.

MAL:srj

LOCATION MAP

