

RESOLUTION NO. R-2-2006-6

A RESOLUTION OF THE CHAIRMAN AND BOARDMEMBERS OF THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY, APPROVING THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF NORTH MIAMI, FLORIDA AND THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY RELATING TO THE SITE CLEARING AND GRUBBING OF RUCK'S PARK; AUTHORIZING THE CHAIRMAN AND EXECUTIVE DIRECTOR TO EXECUTE THE INTERLOCAL AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the North Miami Community Redevelopment Agency (the "CRA") is the owner of certain real property commonly know as Ruck's Park; and

WHEREAS, the CRA desires to implement a development plan for Ruck's Park as an affordable housing project in accordance with its community redevelopment plan and related redevelopment activities; and

WHEREAS, the City of North Miami (the "City") desire to assist the CRA with the development of Ruck's Park an affordable housing project by providing site clearing and grubbing services, subject to the terms and provisions of the Interlocal Agreement attached hereto as Exhibit "A" and by this reference made a part hereof.

NOW, THEREFORE, BE IT RESOLVED BY THE CHAIRMAN AND BOARDMEMBERS OF THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY:

Section 1. The recitals in the whereas clauses are true and correct, and incorporated into this Resolution.

Section 2. The Interlocal Agreement as attached hereto as Exhibit "A" is hereby approved together with such non-material changes as may be requested by the City and acceptable to the Executive Director and approved as to form and legality by the CRA Attorney.

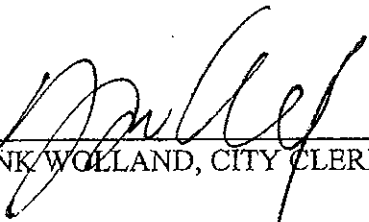
Section 3. The Chairman and Executive Director of the CRA are hereby authorized to execute the Interlocal Agreement.

Section 4. This resolution shall take effect immediately upon approval.

PASSED AND ADOPTED by a 4-0 vote of the Board of the North Miami Community Redevelopment Agency, this 28th day of February, 2006.


ATTEST:

NORTH MIAMI COMMUNITY
REDEVELOPMENT AGENCY


FRANK WOLLAND, CITY CLERK


KEVIN A. BURNS, CHAIR

APPROVED AS TO FORM:


GRAY ROBINSON, P.A.
CRA ATTORNEY

SPONSORED BY: ADMINISTRATION

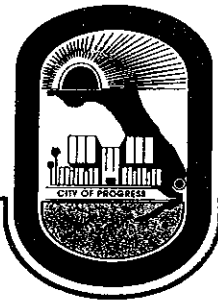
Moved by: Michael R. Blynn

Seconded by: Scott Galvin

Vote:

Chair Kevin A. Burns
Boardmember Michael R. Blynn
Boardmember Jacques A. Despinosse
Boardmember Scott Galvin
Boardmember Marie Erlande Steril

<u>X</u>	(Yes)	_____	(No)	
<u>X</u>	(Yes)	_____	(No)	
_____	(Yes)	_____	(No)	Absent
<u>X</u>	(Yes)	_____	(No)	
<u>X</u>	(Yes)	_____	(No)	



City of North Miami

776 Northeast 125th Street, P.O. Box 619085, North Miami, Florida 33261-9085

City Hall: (305) 893-6511

Barry Kutun
City Attorney

March 20, 2006

Steven W. Zelkowitz, Esquire
GREENBERG, TRAUIG, P.A.
1221 Brickell Avenue
Miami, FL 33131

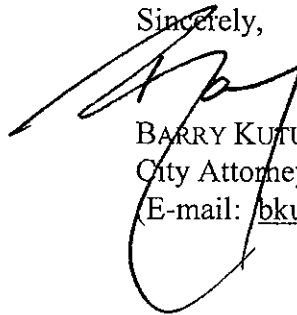
Re: Interlocal Agreement between the North Miami Community Redevelopment Agency and the City of North Miami

Dear Steve:

Attached is one (1) fully executed Interlocal Agreement regarding the above-referenced matter. The other original will be put in safekeeping in the City Clerk's office, as this office is the records custodian for the City of North Miami.

Should you have any questions, please do not hesitate to call me at the above-letterhead telephone number.

Sincerely,



BARRY KUTUN
City Attorney

E-mail: bkutun@northmiamifl.gov

BK:cse

Enclosure

C: V. Lynn Whitfield, Deputy City Attorney
Clarence Patterson, City Manager
Frank Wolland, City Clerk
Frank Schnidman, Executive Director, North Miami Community Redevelopment Agency

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INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (this "Agreement") is entered into this 28th day of February, 2006 between the **CITY OF NORTH MIAMI, FLORIDA**, a Florida municipal corporation (the "City") and the **NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY**, a public body corporate and politic (the "CRA") (the City and CRA are sometimes hereinafter referred to individually as a "Party" and collectively as the "Parties").

RECITALS

1. The CRA is the owner of certain real property commonly known as Ruck's Park more particularly described in Exhibit "A" attached to this Agreement and by this reference made a part hereof (the "Property").

2. The City desires to assist the CRA with the redevelopment of Property as an affordable housing project by performing site clearing and grubbing of the Property, all subject to the terms and provisions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Agency agree as follows:

Section 1. Recitals and Authority.

1.1 Recitals. The Recitals set forth above are true and correct and are incorporated in this Agreement by reference.

1.2 Authority. This Agreement is entered into by the Parties pursuant to Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," and Section 163.400, Florida Statutes, entitled "Cooperation by Public Bodies."

Section 2. Scope of Work.

2.1 The Work. The City shall perform or cause to be performed the scope of work set forth on Exhibit "B" attached to this Agreement and by this reference made a part hereof (collectively, the "Work"). The City may utilize City employees or subcontractor(s) to perform the Work and shall be responsible for the management, scheduling and coordination of the Work of its employees and subcontractors. The Work shall be commenced as soon as practicable following the execution of this Agreement by the Parties (the "Commencement Date"). Following the Commencement Date, the Work shall be prosecuted with diligence and continuity and shall be completed on or before April 30, 2006 (the "Completion Date"). For the purposes of this Agreement, the Work shall not be deemed to have been completed unless and until the CRA Executive Director has certified in his reasonable discretion that the Work has been completed. In the event the Work is not (a) commenced on or before the Commencement Date or (b) completed on or before the Completion Date, the CRA may upon written notice to the City

immediately terminate this Agreement. In the event of such termination, the CRA shall not be obligated to pay the City the Contract Sum (defined below) or any portion thereof for any portion of the completed Work and the City hereby waives any claim for such payment, it being acknowledged and agreed that time is of the essence with respect to this Agreement.

2.2 Permits. City, at its sole cost and expense, shall obtain all required permits and approvals from all governmental authorities having jurisdiction over the Work including preparing and filing the applications required for approval of governing authorities having jurisdiction over the Work to ensure that final approvals and permits for the performance of the Work are obtained prior to the Commencement Date.

2.3 Hazardous Substances. In the event the City encounters on the Property any hazardous substance (as such term is defined in applicable environmental laws), or what the City reasonably believes to be a hazardous substance, and which exists on the Property in a manner violative of any applicable environmental laws, the City shall immediately stop Work in the area affected and the City shall immediately report the condition to the CRA in writing.

2.4 Subcontracts. If the City elects to utilize subcontractor(s) to perform the Work or any portion thereof, the City shall select such subcontractor(s) in accordance with applicable law. The City shall contract solely in its own name and behalf, and not in the name or behalf of the CRA with the selected subcontractor(s). At a minimum, the subcontract shall (i) provide that the subcontractor shall perform its portion of the Work in accordance with all applicable provisions of this Agreement including the Commencement Date and Completion Date, (ii) require the subcontractor to provide insurance as set forth in Section 4.1 below naming the CRA as an additional insured and (iii) contain an indemnity and hold harmless by the subcontractor in favor of the City and CRA in the form set forth in Section 4.2 below (provided that such indemnity by the subcontractor shall not be limited to the provisions and monetary limitations of Section 768.28, Florida Statutes). The subcontract shall also provide that if this Agreement is terminated for any reason, the subcontractor shall, at the option of the CRA, perform its subcontract for CRA without additional or increased cost, provided the subcontractor is paid in accordance with its subcontract; provided, however, nothing contained herein shall create any obligation on the CRA to assume any subcontract or make any payment to any subcontractor unless the CRA chooses to request the subcontractor to perform pursuant to its subcontract and such subcontract is assigned to the CRA pursuant to an assignment in form and substance reasonable acceptable to the CRA, and nothing contained herein shall create any contractual relationship between the CRA and any subcontractor. The City shall provide the CRA with copies and all subcontracts prior to the commencement by such subcontractor(s) of the Work or any portion thereof.

Section 3. Compensation.

3.1 Contract Sum. It is the intent and agreement of the Parties that the CRA shall pay the City a Contract Sum for the Work. The Contract Sum shall be a lump sum in the amount of Two Hundred Thousand and 00/100 Dollars (\$200,000.00) and is intended to compensate the City for the Cost of the Work (defined below). Payment by the CRA of the Contract Sum for the Work shall be deemed full compensation to the City for the performance of this Agreement. It is also the intent and agreement of the Parties that the Contract Sum for the Work shall be a

guaranteed maximum price. In the event additional labor, costs or expenses are necessary to complete the Work, such amounts shall be the sole responsibility of City; it being acknowledged and agreed that the Contract Sum shall be the maximum amount the CRA shall be required to pay for the Work. In the event the Cost of the Work is less than the Contract Sum the City shall be entitled to retain the costs savings for its use and benefit. Payment to the City shall be made in accordance with Section 3.3 below.

3.2 Cost of Work. The term "Cost of the Work" shall mean those actual costs necessarily incurred and paid or payable by the City in connection with the proper performance of all the Work and shall include, but not be limited to: the following items: amounts payable to subcontractors, wages and salaries paid for labor in the direct employ of the City, cost of materials, cost of obtaining and using all utility services required for the Work; cost of removal of all debris; any permit fees; and the cost of required insurance.

3.3 Payment. Following completion of the Work, the City shall submit to the CRA for its approval an original request for payment (the "Request for Payment"). The Request for Payment shall include all final waivers of lien from subcontractor(s) and such supporting evidence as may be reasonably required by CRA, all in a form and substance acceptable to the CRA and CRA Attorney. Provided that the City submits all required documentation as required herein, CRA shall tender payment to the City within thirty (30) calendar days of receipt of the Request for Payment or sooner if practicable.

Section 4. Insurance; Indemnity.

4.1 Insurance. The City shall provide or cause to be provided comprehensive general liability insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury liability and property damage liability. The cost of this insurance is to be paid by the City. Upon execution of this Agreement, the City shall provide or cause to be provided to the CRA a certificate of insurance evidencing the required coverage and naming the CRA as an additional insured. In the event the City utilizes subcontractor(s) to perform the Work, the City shall not be required to provide insurance provided that the subcontractor(s) provide the insurance required herein and name the City and CRA as additional insureds.

4.2 Indemnity. Subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, the City agrees to indemnify and hold harmless the CRA, its board members and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the City and persons employed or utilized by the City in the performance of the Work.

Section 5. Safety And Protection.

5.1 Safety. The City shall be solely responsible for initiating, maintaining all safety precautions in connection with the Work. City shall comply with applicable laws and

regulations for safety or persons or property to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection.

5.2 Removal of Debris. During the performance of the Work, City shall keep the Property free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work, the City shall remove all waste materials, rubbish and debris from and about the Property.

Section 6. Miscellaneous.

6.1 Headings. The headings of the sections of this Agreement are for convenience only and do not affect meanings of any provisions hereof.

6.2 Amendment. The terms, covenants, conditions and provisions of this Agreement cannot be altered, changed, modified or added to, except in writing signed by the City and the CRA.

6.3 Third Party Beneficiaries. Except for any subcontractor(s), neither of the Parties intend to directly or substantially benefit any third party by this Agreement. Therefore, except for any subcontractor(s), the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

6.4 Construction. Both Parties have substantially contributed to the drafting and negotiation of this Agreement and this Agreement shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

6.5 Governing Law; Venue. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for litigation concerning this Agreement shall be in Miami-Dade County, Florida.

6.6 Invalidity. If any term or provision of this Agreement, or the application thereof to any person or circumstance is determined to be invalid or unenforceable, then to the extent that the invalidity or unenforceability thereof does not deprive a Party of a material benefit afforded by this Agreement, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected thereby, and each term and provision of this Agreement will be valid and will be enforced to the full extent permitted by law.

6.7 Waiver. No express or implied consent or waiver by a Party to or of any breach or dealt by the other Party in the performance by such other Party of its obligations under this Agreement will be deemed or construed to be a consent or waiver to or of any other breach or dealt in the performance by such other Party of the same or any other obligations of such other Party hereunder. Failure by a Party to complain of any act or failure to act of the other Party or to declare the other Party in default, irrespective of how long such failure continues will not constitute a waiver by such Party of its rights hereunder. The giving of consent by a Party in any

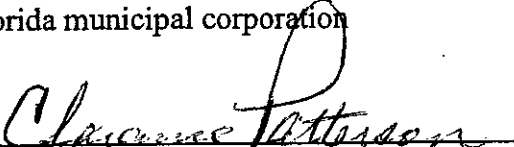
one instance will not limit or waive the necessity to obtain such Party's consent in any future instance.

6.8 Independent Contractor. In performing its obligations hereunder, the City shall be deemed an independent contractor and not an agent or employee of the CRA.


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IN WITNESS WHEREOF, the City and the CRA hereto have caused this Agreement to be executed as of the day and year first above written.

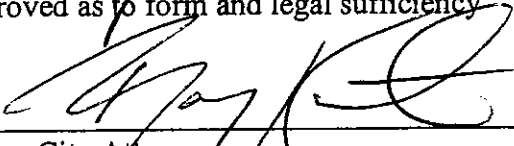
CITY OF NORTH MIAMI, FLORIDA,
a Florida municipal corporation

By: 
Clarence Patterson, City Manager


ATTEST:


By: 
Frank Wolland, City Clerk

Approved as to form and legal sufficiency

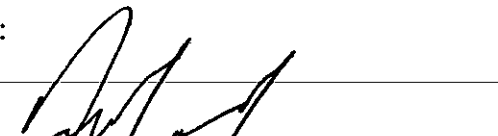
By: 
City Attorney

NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY,
a public body corporate and politic

By: 
Kevin A. Burns, Chairman

By: 
Frank Schnidman, Executive Director

Attest:

By: 
Frank Wolland, City Clerk

Approved as to form and legal sufficiency:

By: 
Gray Robinson, P.A., CRA Attorney

EXHIBIT "A"

A PORTION OF THE NORTHWEST ONE-QUARTER (N.W. $\frac{1}{4}$), OF THE SOUTHEAST ONE-QUARTER (S.E. $\frac{1}{4}$), OF THE SOUTHWEST ONE-QUARTER (S.W. $\frac{1}{4}$) OF SECTION 19, TOWNSHIP 52 SOUTH, RANGE 42 EAST, TOGETHER WITH A PORTION OF THE RIGHT-OF-WAY FOR N.E. 138th STREET (TO BE VACATED) AS SHOWN ON THE PLAT OF HYSTAN SUBDIVISION, RECORDED IN PLAT BOOK 66, PAGE 77 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID NORTHWEST ONE-QUARTER (N.W. $\frac{1}{4}$), OF THE SOUTHEAST ONE-QUARTER (S.E. $\frac{1}{4}$), OF THE SOUTHWEST ONE-QUARTER (S.W. $\frac{1}{4}$); THENCE SOUTH 00°04'49" WEST, ALONG A PORTION OF THE EAST LINE OF SAID NORTHWEST ONE-QUARTER (N.W. $\frac{1}{4}$), OF THE SOUTHEAST ONE-QUARTER (S.E. $\frac{1}{4}$), OF THE SOUTHWEST ONE-QUARTER (S.W. $\frac{1}{4}$), A DISTANCE OF 359.34 FEET; THENCE NORTH 89°57'26" WEST, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING; SAID POINT BEING ON THE WEST RIGHT-OF-WAY LINE OF N.E. 5th AVENUE; THENCE CONTINUE NORTH 89°57'26" WEST, A DISTANCE OF 167.71 FEET; THENCE SOUTH 00°19'48" WEST, A DISTANCE OF 170.00 FEET; THENCE NORTH 89°40'12" EAST, A DISTANCE OF 166.50 FEET TO A POINT ON SAID WEST RIGHT-OF-WAY LINE; THENCE SOUTH 00°04'49" WEST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 109.84 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF S.W. 137th STREET, SAID LINE ALSO BEING 25.00 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF SAID NORTHWEST ONE-QUARTER (N.W. $\frac{1}{4}$), OF THE SOUTHEAST ONE-QUARTER (S.E. $\frac{1}{4}$), OF THE SOUTHWEST ONE-QUARTER (S.W. $\frac{1}{4}$); THENCE NORTH 89°40'12" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 638.15 FEET TO A POINT ON THE WEST LINE OF SAID NORTHWEST ONE-QUARTER (N.W. $\frac{1}{4}$), OF THE SOUTHEAST ONE-QUARTER (S.E. $\frac{1}{4}$), OF THE SOUTHWEST ONE-QUARTER (S.W. $\frac{1}{4}$); THENCE NORTH 00°06'41" EAST, ALONG SAID WEST LINE, A DISTANCE OF 276.51 FEET; THENCE NORTH 89°40'12" EAST, A DISTANCE OF 229.94 FEET; THENCE NORTH 00°12'45" WEST, A DISTANCE OF 149.97 FEET; THENCE SOUTH 89°47'15" WEST, A DISTANCE OF 96.08 FEET TO A POINT ON THE EAST LINE OF SANTEE ESTATES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 115, PAGE 96 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE NORTH 00°06'41" EAST, ALONG SAID EAST LINE, A DISTANCE OF 187.34 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 1 OF SAID SANTEE ESTATES; THENCE NORTH 89°47'15" EAST, ALONG A LINE 25.00 FEET SOUTH AND PARALLEL WITH, AS MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF SAID NORTHWEST ONE-QUARTER (N.W. $\frac{1}{4}$), OF THE SOUTHEAST ONE-QUARTER (S.E. $\frac{1}{4}$), OF THE SOUTHWEST ONE-QUARTER (S.W. $\frac{1}{4}$) A DISTANCE OF 399.01 FEET TO A POINT ON THE EAST LINE OF THE WEST 532 FEET OF SAID NORTHWEST ONE-QUARTER (N.W. $\frac{1}{4}$), OF THE SOUTHEAST ONE-QUARTER (S.E. $\frac{1}{4}$), OF THE SOUTHWEST ONE-QUARTER (S.W. $\frac{1}{4}$), SAID LINE BEING COINCIDENT WITH THE WEST LINE OF SAID HYSTAN SUBDIVISION; THENCE SOUTH 00°06'41" WEST, ALONG SAID WEST LINE, A DISTANCE OF 281.60 FEET TO THE SOUTHWEST CORNER OF LOT 3 OF SAID HYSTAN SUBDIVISION; THENCE NORTH 89°43'44" EAST, ALONG THE SOUTH LINE OF SAID LOT 3 AND ITS EASTERLY EXTENTION A DISTANCE OF 105.96 FEET TO A POINT ON SAID WEST RIGHT-OF-WAY LINE OF N.E. 5th AVENUE; THENCE SOUTH 00°04'49" WEST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 52.74 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF NORTH MIAMI, MIAMI-DADE COUNTY FLORIDA AND CONTAINING 6.289 ACRES (273,962 SQUARE FEET) MORE OR LESS.

EXHIBIT "B"

SCOPE OF WORK

1. Site clearing and grubbing of the Property including all labor, supervision, transportation, equipment, tools, and all other services necessary to clear the Property. The foregoing shall not include: removal of the concrete vault located approximately 135' south of NE 139 Street and 90' west of the property line as it runs south from NE 139th Street; removal of the FPL building 30' north of the east 52' diameter concrete tank; the asphalt roadway from NE 137 Street up to the 2 story control house; the temporary fencing along the perimeter of the Property as to provide the necessary security.
2. The removal and disposal of the debris and materials from the Property including but not limited to trees, shrubbery, pavements, curbs, miscellaneous debris, piping, materials and concrete.
3. Disconnecting the electric lines at the pole to the FPL building.
4. Seeding the property with Bahia grass including the provision for temporary irrigation and monitoring until the grass roots.
5. Monitoring and securing the Property during the performance of the Work.
6. The removal and disposal of the existing fence, and installation of new permanent fencing to be placed around the Property's perimeter and providing for two secure access gates.