CA087312

To Permanent Rules of Order of the Board of County Commissioners of Shelby County, Tennessee

SHELBY COUNTY BOARD OF COMMISSIONERS

AGENDA ROUTE SHEET

Referred to Commission Committee (name) Conservation

For Commission Action on (date) 5/12/08

DESCRIPTION OF ITEM:

RESOLUTION TO APPROVE THE TRANSFER OF NIKKI MCCRAY PARK, INCLUDING ALL EXISTING PARK IMPROVEMENTS, EQUIPMENT AND INVENTORY THEREON, TOGETHER WITH 17.756 ACRES OF LAND UPON WHICH THE PARK IS SITUATED, OWNED BY SHELBY COUNTY, FOR THE USE AND BENEFIT OF THE SHELBY COUNTY CONSERVATION BOARD, LOCATED AT 274 HARRIS PARK ROAD IN THE TOWN OF COLLIERVILLE, TENNESSEE, TO THE TOWN OF COLLIERVILLE, WITHOUT MONETARY CONSIDERATION, FOR ITS CONTINUED DEVELOPMENT, OPERATION AND MAINTENANCE FOR PUBLIC OUTDOOR RECREATIONAL PURPOSES.

Sponsored by: Commissioner Henri Brooks

CHECK ALL THAT APPLY BELOW:

__X__ This Action does NOT require expenditure of funds.

_____ This Item requires/approves expenditure of funds as follows (complete all that apply):

County General Funds: $_____ ; County CIP Funds- $_____

State Grant Funds: $_____; State Gas Tax Funds: $_____

Federal Grant Funds: $_____

Other funds (Specify source and amount): $_____

Other pass-thru funds (Specify source and amount): $ _____

Originating Department: Shelby County Real Estate

APPROVAL:

	(Type your name & phone #.)	(Initials)	(Date)
Dept. Head:	Tom Moss (901) 545-4440		4/18/08
Elected Official:			
Division Director:	TED FOX (901) 545-4260		4/23/08
CIP – A&F Director:			
Finance Dept:	Mike Swift 545-4269	MAS	4/25/08
County Attorney:	Pamela Sheffton 545 4362		4-24-08
CAO/Mayor:	James F. Huntzicker 545-4814		4/28/08

SUMMARY SHEET

I. Description of Item

A Resolution Approving the transfer of Nikki McCray Park totaling 17.756 acres of land upon which the park is situated, purchased in 1968, owned by Shelby County, for the use and benefit of the Shelby County Conservation Board, located at 274 Harris Park Road in the Town of Collierville, Tennessee, to the Town of Collierville, without monetary consideration, for its continued development, operation and maintenance for public outdoor recreational purposes; this park has been operated and maintained to-date since 1983 by the Town of Collierville under a long term lease, during which time the Town of Collierville has invested substantial funds in the improvements thereon.

II. Source and Amount of Funding

A. Amount Expended/Budget Line Item
NONE

B. All Costs (Direct/Indirect)
NONE

C. Additional or Subsequent Obligations or Expenses of Shelby County
NONE

III. Contract Items

Interagency Cooperation Contract

IV. Additional Information Relevant to Approval of the Item

The Shelby County Conservation Board reviewed this matter and afterwards, approved a motion during its regularly scheduled meeting on October 20, 2004 recommending the transfer of Nikki McCray Park to the Town of Collierville, without monetary consideration, under the provisions contained in the attached Interagency Cooperation Contract which require the Town of Collierville to continue the use of this property as a public park and to assume all grant obligations, if any, associated therewith.

ITEM #_____ Prepared by: Bill Goss

Commissioner _____ Approved by: _____
County Attorney

RESOLUTION TO APPROVE THE TRANSFER OF NIKKI MCCRAY PARK, INCLUDING ALL EXISTING PARK IMPROVEMENTS, EQUIPMENT AND INVENTORY THEREON, TOGETHER WITH 17.756 ACRES OF LAND UPON WHICH THE PARK IS SITUATED, OWNED BY SHELBY COUNTY, FOR THE USE AND BENEFIT OF THE SHELBY COUNTY CONSERVATION BOARD, LOCATED AT 274 HARRIS PARK ROAD IN THE TOWN OF COLLIERVILLE, TENNESSEE, TO THE TOWN OF COLLIERVILLE, WITHOUT MONETARY CONSIDERATION, FOR ITS CONTINUED DEVELOPMENT, OPERATION AND MAINTENANCE FOR PUBLIC OUTDOOR RECREATIONAL PURPOSES.

Sponsored by: Commissioner Henri Brooks

WHEREAS, Shelby County Government and the Shelby County Conservation Board, due to budgetary constraints, are desirous of decreasing their ongoing expense of developing, operating and maintaining a county-wide park system by transferring the ownership of all existing County owned parks, located within each municipality and its annexation reserve areas, along with all obligations, duties, responsibilities and liabilities associated therewith, to the respective municipal government for its continued development, operation, maintenance and use of the parks for public outdoor recreational purposes; and

WHEREAS, In 1968, Shelby County, for the use and benefit of the Shelby County Conservation Board, purchased a 17.756 acre tract of land, by Warranty Deed of record as described in the Register's Office of Shelby County, Tennessee, in the Register's Official Record Book under Instrument No. E1 1864, located at 274 Harris Park Road in Collierville, Tennessee, and further identified as Shelby County Tax Parcel No. C0244 00911, upon which tract of land Nikki McCray Park has subsequently been constructed and developed by the Board but operated and maintained to-date since 1983 by the Town of Collierville under a long term lease; and

WHEREAS, The Town of Collierville is agreeable to take over the ownership, operation, maintenance, and future development of Nikki McCray Park (including the land, existing park improvements, equipment, and inventory thereon), along with all of the obligations, duties, responsibilities and liabilities associated therewith; and

WHEREAS, The Shelby County Conservation Board reviewed this matter and afterwards, approved a motion during its regularly scheduled meeting on October 20, 2004 recommending the transfer of Nikki McCray Park to the Town of Collierville, without monetary consideration, under certain terms and conditions contained in the attached Interagency Cooperation Contract, which is hereby incorporated by reference; and

WHEREAS, The general public would best be served having all of its local parks under direct ownership by the municipal government having jurisdiction of the areas within which the parks are located, therefore, it is deemed to be in the best interest of Shelby County and the Shelby County Conservation Board to transfer the ownership, operation, maintenance, and future development of Nikki McCray Park (including the hereinabove described land, existing park improvements, equipment, and inventory thereon), along with all of the obligations, duties, responsibilities and liabilities associated therewith to the Town of Collierville, without monetary consideration, under the terms

and conditions contained in the aforedescribed Interagency Cooperation Contract.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the aforedescribed transfer the ownership, operation, maintenance, and future development of Nikki McCray Park (including the hereinabove described land, existing park improvements, equipment, and inventory thereon), along with all of the obligations, duties, responsibilities and liabilities associated therewith to the Town of Collierville, without monetary consideration, under the terms and conditions contained in the aforedescribed Interagency Cooperation Contract be and the same are hereby approved.

BE IT FURTHER RESOLVED, That the Mayor be and he is authorized to execute the attached Interagency Cooperation Contract and any other documents, including but not limited to a Quit Claim Deed and Bill of Sale, necessary to effect the transfer of ownership, operation, maintenance, and future development of Nikki McCray Park (including the hereinabove described land, existing park improvements, equipment, and inventory thereon), along with all of the obligations, duties, responsibilities and liabilities associated therewith to the Town of Collierville for the aforementioned purpose.

_____
A C Wharton, Jr.
County Mayor

Date: _____

ATTEST:

_____
Clerk of County Commission

ADOPTED _____

COPY

INTERAGENCY COOPERATION CONTRACT FOR THE TRANSFER OF NIKKI MCCRAY PARK BY THE COUNTY OF SHELBY TO THE TOWN OF COLLIERVILLE

THIS AGREEMENT RELATING TO THE TRANSFER OF NIKKI MCCRAY PARK BY THE COUNTY OF SHELBY TO THE TOWN OF COLLIERVILLE (the "Agreement"), dated the _____ day of _____, 2008, by and between Shelby County, Tennessee, a Political Subdivision of the State of Tennessee (the "County"), Shelby County, Tennessee, a Political Subdivision of the State of Tennessee, acting through the Shelby County Conservation Board (the "Board") and the Town of Collierville, Tennessee, a Municipal Corporation of the State of Tennessee (the "Town").

WHEREAS, In 1968, the County, for the use and benefit of the Board, purchased a 17.756 acre tract of land, by Warranty Deed of record as described in the Register's Office of Shelby County, Tennessee, in the Register's Official Record Book under Instrument No. E1 1864, located at 274 Harris Park Road in Collierville, Tennessee, and further identified as Shelby County Tax Parcel No. C0244 00911, upon which **Nikki McCray Park** has subsequently been constructed, developed, operated and maintained to-date by the Board; and

WHEREAS, Part of the funds required to purchase these tracts of land and construct Nikki McCray Park improvements may have been secured through state and/or federal grants which, in that event, obligates the County and the Board to certain perpetual duties, responsibilities and liabilities associated with the construction, development, operation, maintenance and continued use of Nikki McCray Park for public outdoor recreational purposes; and

WHEREAS, The County and the Board, due to budgetary constraints, are desirous of decreasing their ongoing expense of developing, equipping, operating and maintaining a county-wide park system by transferring the ownership of all existing County owned parks, located within each municipality and its annexation reserve areas, along with all obligations, duties, responsibilities and liabilities associated therewith, to the respective municipal government for its continued development, equipment, operation, maintenance and use of the parks for public outdoor recreational purposes; and

WHEREAS, The Town is agreeable to take over the ownership, operation, maintenance, and future development of Nikki McCray Park (including the land, existing park improvements, equipment and inventory thereon) (the "Property"), along with all of the obligations, duties, responsibilities and liabilities associated therewith; and

WHEREAS, The general public would best be served having all of its local parks under direct ownership by the municipal government having jurisdiction of the areas within which the parks are located, therefore, it is deemed to be in the County's and the Board's best interest to transfer the above described Property to the Town under certain terms and conditions.

NOW THEREFORE, For and in consideration of the above stated purposes, as the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The County and the Board hereby agree to convey, grant, transfer and confirm unto the Town by Quit Claim Deed and Bill of Sale, the above referenced land commonly known as **Nikki McCray Park**, including therewith all existing park improvements, equipment and inventory thereon, in their existing condition, **AS IS, WHERE IS and WITH ALL FAULTS**. The County agrees to release the Town, its officers, agents and employees from any claim, cost, loss, liability, damage, expense, demand and cause of action arising from or related to any preexisting environmental conditions of the Property to the extent permitted by the laws of the State of Tennessee. The Town hereby accepts the Property accordingly. The County and the Board herein or otherwise make no warranties or representations expressed or implied, or arising by operation of law whatsoever in respect to the Property, including, but not limited to, any warranty or condition of habitability, merchantability, tenantability or fitness for a particular purpose. Furthermore, the Town, to the extent legally permitted, or anyone claiming by, through or under the Town, hereby fully releases the County and the Board, its officers, agents and employees from any claim, cost, loss, liability, damage, expense, demand and cause of action arising from or related to any construction, building or installation defects, errors, omissions, or other conditions affecting the Property.

2. The Town, at Closing (as between the Town, the County and the Board) shall become liable, obligated and responsible for and shall otherwise pay for the maintenance, repair, operation, administration, development and all other economic burdens of, pertaining to and associated with the Property arising as of and subsequent to the Closing date, including but not limited to any and all obligations of the County and the Board relating thereto as mandated by the State of Tennessee or Federal Government or any agency thereunder and all suits, claims, actions and damages, arising out of or due to any act, failure to act, occurrence or omission of the Town, its officers, agents or employees. In conjunction with the transfer of the Property and said obligations, duties, responsibilities and liabilities associated hereunder, the Town agrees to execute upon request any Transfer of Jurisdiction documents mandated by the State of Tennessee or Federal Government to formally effect the transfer of the same.

3. Utilities and other customarily prorated expenses and any contracts or agreements for services to the Property to be transferred to and assumed by the Town, to the extent paid for by the County or the Board, or required to be paid for by the County or the Board for a period after Closing, shall be prorated as of the Closing date. Other expenses relating to the Property up to the Closing date and all periods prior thereto including those required by any contract or agreement for any services to the Property and those incurred or ordered by the County or the Board or their agents which are not to be transferred and assumed by the Town, including, but not limited to administrative expenses of the County or the Board shall be paid for by the County or the Board, and the Town shall not be liable therefore. The County or the Board shall not assign to the Town and the Town shall not be entitled to any deposits held by any utility company or other company servicing the Property; but rather such deposits shall be returned to the County or the Board, and the Town shall arrange and bear all responsibility to arrange with all companies to have accounts styled in the Town's name beginning on the Closing date.

4. The Closing of the transfer of the Property shall occur on the date and at the time the Quit Claim Deed and Bill of Sale are conveyed to the Town.

5. The Property shall continue to be used as a public park open and available to all citizens of Shelby County on a basis generally equal to the citizens of the Town. For purposes of this statement, the parties understand and acknowledge that there may be occasions and circumstances whereby citizens residing outside of the Town are charged user fees over and above the user fees, if

any, charged to the citizens of the Town. The County and Board agree that such user fees may be charged to citizens residing outside of the Town so long as said fees are fair and reasonable.

6. The Property shall continue to be owned by the Town so long it is utilized as a public park. If the Property ever ceases to be a public park, the Property shall revert back to the County.

7. The Town agrees to maintain the Property throughout its development in a neat, clean and orderly manner in accordance with state and local park maintenance standards.

8. The County or the Board may record this Agreement with the Office of the Shelby County Register if it deems same to be appropriate. The terms, conditions and covenants made herein shall survive the Closing, shall be a covenant running with the Property and shall be binding upon the Town, its successors, and assigns.

9. This Agreement shall be deemed drafted by both parties equally.

IN WITNESS WHEREOF, The parties hereto have caused this Agreement to be duly executed and delivered by their respective officials thereunto duly authorized as of the date first written above.

TOWN OF COLLIERVILLE, TENNESSEE

By: _____
Linda Kerley, Town Mayor

ATTEST:

By: _____
Town Clerk/Recorder

Approved as to Form:

By: _____
Town Attorney

Other Town Approvals:

By: _____
Director of Parks & Recreation

SHELBY COUNTY, TENNESSEE

By: _____
A C Wharton, Jr., County Mayor

SHELBY COUNTY, TENNESSEE, ACTING THROUGH THE SHELBY COUNTY CONSERVATION BOARD

By: John F. McCormick
John F. McCormick, Chairman
Shelby County Conservation Board

Approved as to Form:

By: CKinard
Assistant County Attorney

Other County Approvals:

By: Bill Cook
Conservation Board Director

By: Bill Gow
County Real Estate Manager

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared **JOHN F. McCORMICK**, with whom I am personally acquainted, and who upon oath acknowledged himself to be the **Chairman of the Shelby County Conservation Board**, the within named bargainor, and that he as such **Chairman**, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the **Shelby County Conservation Board** by himself as such **Chairman**.

WITNESS my hand and Notarial Seal, at office in the City of Memphis, in the County aforesaid, this 17th day of April, 2008.

William L. Goss
Notary Public

MY COMMISSION EXPIRES:

WILLIAM L. GOSS
STATE OF TENNESSEE NOTARY PUBLIC
SHELBY COUNTY
MY COMM EXP. 10-19-08

_____

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared **A C WHARTON, JR., Mayor of Shelby County, Tennessee**, with whom I am personally acquainted, and who upon oath acknowledged himself to be the **Mayor of Shelby County, Tennessee**, the within named bargainor, one of the counties of the State of Tennessee, and that he as such **Mayor** of said county, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of **Shelby County, Tennessee**, by himself as such **Mayor** of said **Shelby County, Tennessee**.

WITNESS my hand and Notarial Seal, at office in the City of Memphis, in the County aforesaid, this ____ day of _____, 2008.

_____
Notary Public

MY COMMISSION EXPIRES:

_____

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned, a Notary Public within and for said State and County, duly commissioned and qualified, personally appeared **LINDA KERLEY**, **Mayor of the Town of Collierville**, with whom I am personally acquainted, and who upon oath acknowledged herself to be the **Mayor of the Town of Collierville**, the within named bargainor, one of the municipal corporations of the State of Tennessee, and that she as such **Mayor** of said town, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the **Town of Collierville** by herself as such **Mayor** of said municipal corporation.

WITNESS my hand and Notarial Seal, at office in the Town of Collierville, in the County aforesaid, this ____ day of _____, 2008.

_____
Notary Public

MY COMMISSION EXPIRES:

_____