



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ITEM No.:

L-1.

MEETING DATE	2020-09-01 10:05 - School Board Operational Meeting
AGENDA ITEM	ITEMS
CATEGORY	L. OFFICE OF PORTFOLIO SERVICES
DEPARTMENT	Facility Planning and Real Estate

Special Order Request

Yes No

Time

Open Agenda

Yes No

TITLE:

Interlocal Agreement Related to School Impact Fee Monies

REQUESTED ACTION:

Approve the Interlocal Agreement Related to School Impact Fee Monies between The School Board of Broward County, Florida (SBBC) and the Board of County Commissioners, Broward County (BCC).

SUMMARY EXPLANATION AND BACKGROUND:

In the Fall of 1982, SBBC and the BCC, entered into the Agreement between Broward County and The School Board of Broward County, Florida, relating to Educational Impact Fee Monies (Initial Agreement).

See Supporting Docs for continuation of Summary Explanation and Background.

This Agreement has been reviewed and approved as to form and legal content by the Office of the General Counsel, and upon approval by the School Board will be transmitted to Broward County for BCC's formal action.

SCHOOL BOARD GOALS:

Goal 1: High Quality Instruction Goal 2: Safe & Supportive Environment Goal 3: Effective Communication

FINANCIAL IMPACT:

There is no financial impact to the School District.

EXHIBITS: (List)

(1) Continuation of Summary Explanation and Background (2) Executive Summary (3) Interlocal Agreement Related to School Impact Fee Monies (4) Agreement between Broward County and The School Board of Broward County, FL Relating to School Impact Fee Monies (5) Timeline - Student Generation Rate/School Impact Fee Study Update

BOARD ACTION:

APPROVED

(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Chris O. Akagbosu

Phone: 754-321-2162

Name:

Phone:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Senior Leader & Title

John Sullivan - Task Assignment

Signature

John J. Sullivan

8/24/2020, 9:18:59 AM

Approved In Open Board Meeting On:

SEP 01 2020

By:

School Board Chair

Electronic Signature

Form #4189 Revised 07/25/2019

RWR/ JS/COA/MH:ts

Continuation of Summary Explanation and Background

The primary purpose of the Initial Agreement was to comply with pertinent Sections of the Broward County Land Development Code (BCLDC) and ensure that the educational impact fees (school impact fees) enabled for collection by the BCLDC, is remitted to SBBC as stated in the Initial Agreement "...to be spent by the Board in its sole discretion subject to such agreements between the County and Board as may be necessary to ensure that the requirements of said Sections and other applicable laws are met."

Section 5-182(m) of the BCLDC delineates four (4) service areas (which are commonly referred to as school impact fee zones) for the collection and expenditure of school impact fees. Thus, in compliance with the provisions of the BCLDC, Broward County collects, categorizes, and documents school impact fees by each specific service area, and remits the collected monies, quarterly, to Broward County Public Schools (BCPS). Also, per the BCLDC and the Initial Agreement, such monies shall be spent by SBBC for related projects located within each service area to ensure that the developer who paid such school impact fees to mitigate the impact anticipated from their proposed residential development to BCPS, benefits from the expenditure of the amount paid.

Consistent with provisions of the Third Amended and Restated Interlocal Agreement for Public School Facility Planning (TRILA) and School Board Policy 1161, BCPS in coordination with Broward County and municipalities, conducted an update to the Student Generation Rate and School Impact Fee Study (SGR/SIF Update Study). Subsequently, in the fall of 2019, SBBC transmitted Resolution No. 20-03 to the BCC, with request that the BCC amend the BCLDC, and adopt recommendations contained in the SGR/SIF Update Study, into the BCLDC. Formal action by the BCC regarding this request is pending but would be proceeding as delineated in the attached timeline for the SGR/SIF Update Study.

However, during this interim period, and as part of the efforts to implement the necessary due diligence prior to formal action by the BCC regarding the SGR/SIF Update Study recommendations, Broward County staff contacted BCPS staff, with the request that the current four (4) service areas, delineated in the BCLDC, should be modified and increased to be the same as the seven (7) planning areas codified in School Board Policy 1161. It should be noted that the planning areas are routinely utilized by BCPS for the review of pertinent proposed residential development and related planning purposes. As a component of this modification, Broward County staff also requested that related language should be drafted for incorporation into the BCLDC. As communicated by Broward County staff, reasons behind the request are to further ensure consistency with related school impact fee legislature that became law in 2019, and to also ensure further legal defensibility regarding the collection and expenditure of school impact fees in Broward County.

To this end, BCPS and Broward County staff worked collaboratively to generate agreed upon language, and for prudence, also agreed to utilize the effective seven (7) School Board member district's, as the school impact fee zones for the collection and expenditure of school impact fees; reasons being that the seven (7) School Board member districts are closely aligned with the seven (7) planning areas, are cleanly aligned with traffic thoroughfares, and the districts are updated in conjunction with the United States census/related data.

To further ensure consistency, it should be noted that staff is processing necessary amendments to School Board Policy 1161 to state and depict the seven (7) School Board member districts as the planning areas. Thus, upon SBBC adoption of the amended School Board Policy 1161, moving forward, staff would henceforth utilize the planning areas for the review of pertinent proposed residential development and related planning purposes. Also, amendments proposed for incorporation into the BCLDC, would upon approval of the BCLDC by the BCC, replace the current four (4) service areas with the planning areas; and thereafter, the collection and expenditure of school impact fees will be based on the planning areas.

It should be noted that this New Agreement delineates and provides additional clarity on the following items SBBC can expend school impact fees for:

1. Utilize school impact monies to provide needed school facilities including, but not limited to, acquiring new school sites, the construction of new schools, classroom additions, addition to core capacities, and acquiring technology necessitated by the growth at those schools impacted by proposed residential developments.
2. If site constraints or other feasibility issues make it impracticable to provide the needed school facilities at identified primarily impacted schools, as feasible, reasonably provide the needed school facilities within the applicable planning area(s) that contain the primarily impacted schools, thus relieving overcrowding at the primarily impacted planning area(s).

3. If site constraints or other feasibility issues make it impracticable to provide the needed school facilities within the primarily impacted planning area(s) containing the primarily impacted schools, then SBBC may provide the needed school facilities within the planning area(s) adjacent to the primarily impacted planning area(s) in a manner that ensures that the impact of the proposed development continues to be reasonably mitigated and connected to, or have a rational nexus with, the expenditure of the collected impact fees and the benefits accruing to the new residential development.
4. SBBC may leverage school impact fees to pay for existing and new debt service or for previously approved projects provided there is a reasonable connection to, or a rational nexus, with the increased impact generated by the new residential development, consistent with the Florida Impact Fee Act.

Also, the New Agreement requires Broward County to remit the collected school impact fees to BCPS at least once every three (3) months and retain two percent (2%) as administrative costs it incurs regarding the collection and processing of the said fees.

Executive Summary

Interlocal Agreement Related to School Impact Fee Monies

As stated in the Agenda Request Form (ARF) for this item, the primary reason for the Interlocal Agreement Related to School Impact Fee Monies between The School Board of Broward County, Florida (SBBC) and the Board of County Commissioners, Broward County (BCC) (New Agreement) is to ensure the New Agreement's consistency to proposed amendments to the Broward County Land Development Code (BCLDC), and subsequent adoption of the same by the BCC, including to reflect as requested by Broward County, the change from the collection and expenditure of school impact fees in the existing four (4) school impact fee service areas, to the new seven (7) planning areas. It also allows for alignment of pertinent provisions of the New Agreement to the recommendations contained in the Student Generation Rate (SGR) and School Impact Fee (SIF) Study Update (SGR/SIF Study Update) that were approved by SBBC and transmitted to the BCC, via adopted Resolution No. 20-03.

For background purposes, the current Agreement between Broward County and The School Board of Broward County, Florida Relating to Educational Impact Fee Monies (Initial Agreement), which was entered into and approved by SBBC and the BCC in the fall of 1982, delineates the following:

1. Broward County agrees to remit at least every three (3) months to SBBC, the school impact fees collected in accordance with pertinent Sections of the BCLDC.
2. SBBC agrees to expend or encumber all remitted school impact fees it receives to "provide for the educational needs of future residents of proposed developments..."
 - a. Consistent with provisions of the pertinent Sections;
 - b. Consistent with the terms of agreements entered into between BCC and developers;
 - c. Only for the acquisition of school sites or the construction or expansion of new facilities for new users; and
 - d. Within a reasonable time upon receipt of the transmitted monies from the BCC.
3. SBBC agrees that the BCC is only an agent for the collection of school impact fees referenced in the Agreement, and SBBC shall be the real party in interest in any lawsuit instituted or made by developers, and SBBC agrees to take necessary steps to defend such lawsuit, intervene in the lawsuit if requested in writing by the BCC, and comply with court order regarding such lawsuit.
4. SBBC agrees to provide to the BCC, at least annually, within three (3) months from the end of SBBC's fiscal year, a report which specifies monies received by SBBC, and expenditure by site regarding the transmitted monies; also SBBC permits the BCC to inspect its financial records regarding the school impact fees.

5. The BCC shall bill SBBC annually for the monies collected and provide supporting and cost detail for the administrative costs incurred by BCC; but which administrative charge shall not exceed two percent (2%).

As stated in the ARF, the New Agreement delineates and provides additional clarity on a menu of items SBBC can expend school impact fees for, which included as articulated in Paragraph 3.2.1 the following:

“Primarily, The School Board shall utilize school impact monies to provide needed school facilities including, but not limited to, acquiring new school sites, construction of new schools, classroom additions, addition to core capacities, and acquiring technology necessitated by the growth, at those schools identified in the School Capacity Availability Determination (“SCAD”) Letter, issued by The School Board, as being impacted by the development proposed by the applicant;”, and in Paragraph 3.2.4, the following:

“The School Board may leverage school impact fees to pay for existing and new debt service or for previously approved projects, provided there is a reasonable connection to, or a rational nexus with, the increased impact generated by the new residential development, consistent with the Florida Impact Fee Act.”

Based on the timeline for the SGR/SIF Study Update, which is attached herein, the BCC is slated to take formal action to amend the BCLDC, and adopt recommendations contained in the SGR/SIF Study Update, into the BCLDC sometime in the fall of 2020. Furthermore, Broward County staff has communicated that the BCC will also take formal action on this New Agreement at the same meeting in 2020, when it considers and takes formal action regarding the BCLDC.

Return recorded document to:
Josie P. Sesodia, Director
Broward County Planning and
Development Management Division
115 South Andrews Avenue, Room 329K
Fort Lauderdale, FL 33301

Document prepared by:
Maite Azcoitia, Deputy County Attorney
Broward County Attorney's Office
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, FL 33301

INTERLOCAL AGREEMENT RELATED TO
SCHOOL IMPACT FEE MONIES

This Interlocal Agreement ("Agreement") is made and entered into between Broward County, a political subdivision of the State of Florida, hereinafter referred to as "County," by and through its Board of County Commissioners, and The School Board of Broward County, Florida, a political subdivision of the State of Florida, hereinafter referred to as "The School Board" (collectively referred to as the "Parties").

A. This Agreement is entered into pursuant to Section 163.01, Florida Statutes, also known as the "Florida Interlocal Cooperation Act of 1969."

B. Section 163.31801, Florida Statutes, the "Florida Impact Fee Act," recognizes impact fees as an important source of revenue for local governments to use in funding infrastructure necessitated by new growth.

C. The Florida Impact Fee Act requires that: (1) impact fees be reasonably connected to, or have a rational nexus with, the increased impact generated by the new residential construction; (2) impact fee revenues be specifically earmarked to acquire, construct, or improve capital facilities to benefit new users; and (3) impact fee revenues not be used to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential construction.

D. Pursuant to Section 11.01(B) of the Broward County Charter, County enacted the Broward County Land Development Code, Chapter 5, Article IX, of the Broward County Code of Ordinances ("Land Development Code"), applicable countywide, establishing processes and requirements for the issuance of permits for the development of land within Broward County.

E. On September 14, 2017, County approved a Third Amended and Restated Interlocal Agreement for Public School Facility Planning, Broward County, Florida ("ILA"), among County, The

School Board, and twenty-seven (27) municipalities in Broward County related to school concurrency.

F. Pursuant to the terms of the ILA, The School Board in coordination with the County and the Municipalities is required to cause an update of student generation rates associated with new residential development to be conducted at least every three (3) years.

G. Section 5-182 of the Land Development Code incorporates the results of updates provided by The School Board pursuant to the ILA to establish student generation rates and applicable school impact fees to be paid by developers of residential development to provide for the educational needs of the residents of the new dwelling units.

H. The Parties entered into that Agreement Relating to Educational Impact Fee Monies that was executed by County on December 1, 1982, and The School Board on October 7, 1982, that provides for County's collection and remission of school impact fee monies to The School Board ("1982 Agreement"), to be spent by The School Board to substantially benefit the residents of new development.

I. In furtherance of the 1982 Agreement, Section 5-182 of the Land Development Code provides for County's collection of school impact fee monies on behalf of The School Board, with said monies being deposited into a nonlapsing trust fund for the applicable planning areas, and remission of school impact fee monies collected to The School Board from time to time.

J. Sections 1013.02 and 1013.35, Florida Statutes, provide that The School Board must prepare an annual District Educational Facilities Plan ("DEFP") that includes long-range planning for establishing and maintaining educational facilities to provide for the public educational needs of students within Broward County.

K. The Parties are desirous of amending, restating, and superseding the 1982 Agreement in order to provide for County's continued collection of school impact fees and remission to The School Board for The School Board's expenditure to substantially benefit the residents of the developed area consistent with the provisions of the Land Development Code, as amended, the Florida Impact Fee Act, and The School Board's Five-Year DEFP, as such DEFP may be amended.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations herein, the Parties agree as follows:

1. The foregoing Recitals are true and correct and form a material part of this Agreement upon which the Parties have relied.

2. County Responsibilities.
 - 2.1. At the time of building permit, County shall assess and collect school impact fees in accordance with Section 5-182 of the Land Development Code and Section 27-66 of the Broward County Code of Ordinances, as each may be amended.
 - 2.2. At least every three (3) months, County shall remit to The School Board ninety-eight percent (98%) of school impact fee monies collected by County, as adjusted for any refunds as set forth in Section 2.3.1., below. County shall retain two percent (2%) of collected school impact fee monies to recoup administrative costs incurred in the collection of school impact fees pursuant to this Agreement.
 - 2.3. County shall process applications from a fee title holder ("applicant") for refund of school impact fees, pursuant to Section 5-184 of the Land Development Code, as follows:
 - 2.3.1. For applications for refund pursuant to Section 5-184(b)(2)d)1) of the Land Development Code, where (i) no building permit application was filed within thirty (30) days after the approval authorized under Section 27-66 of the Broward County Code of Ordinances; (ii) the building permit application has expired or been withdrawn; or (iii) the building permit was issued and has expired, upon County's confirmation of (i), (ii), or (iii), with notification to The School Board, County shall refund school impact fee monies received to the applicant.
 - 2.3.2. For applications for refund pursuant to Section 5-184(b)(2)d)2) of the Land Development Code, where it is alleged that The School Board has not expended or encumbered the school impact fee monies that are in control of The School Board, consistent with Section 163.31801, Florida Statutes, the County shall forward the application to The School Board no later than fifteen (15) days after receipt of the application. "Expended or encumbered" is defined in Section 5-184(b)(2)d)2) of the Land Development Code.
 - 2.4. With the quarterly remission of school impact fee monies, County shall provide The School Board with the following information for school impact fee monies collected and refunds provided consistent with Section 2.3:
 - 2.4.1. The name, number, site address, and planning area location information of each plat and address if known;
 - 2.4.2. The number of residential units within the approved plat or plat note amendment; and

2.4.3. The amount of school impact fee monies collected for each plat.

3. The School Board Responsibilities.

3.1. Consistent with the requirements of the Florida Impact Fee Act and the Land Development Code, as each may be amended, and applicable law, The School Board shall ensure that school impact fee monies are expended for the acquisition of school sites or the provision of facilities, as identified in The School Board's currently effective Five-Year DEFP, to substantially benefit the residents of the developed area as follows:

3.1.1. The School Board's expenditure of school impact fee monies shall be reasonably connected to, or have a rational nexus with, the benefits accruing to the new residential construction; and

3.1.2. The School Board shall not use school impact fee monies to pay new or existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential construction.

3.2. The School Board shall utilize school impact fee monies as follows:

3.2.1. Primarily, The School Board shall utilize school impact monies to provide needed school facilities including, but not limited to, acquiring new school sites, construction of new schools, classroom additions, addition to core capacities, and acquiring technology necessitated by the growth, at those schools identified in the School Capacity Availability Determination ("SCAD") Letter, issued by The School Board, as being impacted by the development proposed by the applicant;

3.2.2. If site constraints or other feasibility issues make it impracticable for The School Board to provide the needed school facilities at the affected schools as set forth in Section 3.2.1., as feasible, The School Board will reasonably provide the needed school facilities within the applicable planning area(s) that contain the primarily impacted schools, thus relieving overcrowding at the primarily impacted planning area(s);

3.2.3. If site constraints or other feasibility issues make it impracticable for The School Board to provide the needed school facilities within the primarily impacted planning area(s) containing the primarily impacted schools, as set forth in Section 3.2.2., then The School Board may provide the needed school facilities within the planning area(s) adjacent to the primarily impacted planning area(s) in a manner that ensures that the impact of the

proposed development continues to be reasonably mitigated and connected to, or have a rational nexus with, the expenditure of the collected impact fees and the benefits accruing to the new residential development; or

3.2.4. The School Board may leverage school impact fees to pay for existing and new debt service or for previously approved projects, provided there is a reasonable connection to, or a rational nexus with, the increased impact generated by the new residential development, consistent with the Florida Impact Fee Act.

3.3. The School Board shall furnish to County, at least annually, and no later than within three (3) months after the end of The School Board's fiscal year, a report specifying The School Board's receipts and expenditures, by site and planning area, of the monies described in Section 2 herein. At all reasonable times during regular business hours of The School Board, The School Board shall permit County to inspect the financial records and account books of The School Board relating to school impact fee monies.

3.4. For applications for refunds pursuant to Section 5-184(b)(2)d)2) of the Land Development Code that have been forwarded to The School Board by County pursuant to Section 2.3.2. above, The School Board shall process said applications and provide the applicant, with a copy to County, either: (i) reasonable documentation evidencing the expenditure or encumbrance of school impact fee monies that were paid for the applicant's property; or (ii) a refund of any unexpended and unencumbered school impact fee monies that were paid for the applicant's property.

4. Effective Date; Term. This Agreement shall become effective upon execution by the Parties and recordation in the public records of Broward County, consistent with Section 163.01, Florida Statutes, and will continue in full force and effect unless terminated pursuant to Section 7 herein.

5. Sovereign Immunity. Nothing herein is intended to serve as a waiver of sovereign immunity by either Party nor will anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The School Board and County are each a political subdivision as defined in Section 768.28, Florida Statutes. Each Party shall be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law.

6. Active Defense; Indemnification. The Parties agree that County is relying on updates performed by The School Board's agent(s) for the establishment of student generation rates and school impact fees in the Land Development Code and that County is collecting school impact fees and processing refund applications on behalf of The School Board.

Additionally, and to the extent permitted by law, The School Board shall indemnify and hold harmless County and all of County's officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, caused or alleged to be caused, in whole or in part, as a result of ~~by~~ any intentional, reckless, or negligent act or omission of The School Board, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). In the event any Claim is brought against an Indemnified Party, The School Board shall, upon written notice from County, defend each Indemnified Party against each such Claim. The obligations of this Section 6 shall survive termination of this Agreement.

7. Termination. This Agreement may be terminated for cause by the governing Board of either Party if the Party in breach has not either (a) corrected the breach or (b) commenced reasonable efforts to correct the breach within sixty (60) calendar days after receipt of written notice from the aggrieved Party identifying the breach, or commenced reasonable efforts to correct the breach. This Agreement may also be terminated for convenience by the governing Board of either Party. Termination for convenience or cause shall be effective on the termination date stated in written notice provided by the terminating Party, which termination date shall be not less than ninety (90) calendar days after the date of such written notice.

7.1. This Agreement may be terminated for cause by County for reasons including, but not limited to, any of the following:

7.1.1. The School Board's failure to expend school impact fee monies consistent with the requirements of the Florida Impact Fee Act, the Land Development Code, as each may be amended, and applicable law;

7.1.2. The School Board's failure to provide report specifying The School Board's receipts and expenditures, by site and planning area, of the monies described in Section 2 herein; and

7.1.3. The School Board's failure to process school impact fee refund applications as set forth herein.

7.2. This Agreement may be terminated for cause by The School Board for County's failure to remit payment to The School Board on a quarterly basis, including all documentation set forth in Section 2.4.

7.3. Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

7.4. In the event this Agreement is terminated, County shall be paid for any services properly performed under this Agreement through the effective date of termination specified in the written notice of termination. The School Board shall be entitled to any school impact fee monies collected by County through the effective date of termination specified in the written notice of termination. No later than thirty (30) calendar days after the termination date, County shall remit ninety-eight percent (98%) of school impact fee monies collected by County through the termination date.

7.5. In addition to any right of termination stated in this Agreement, County or The School Board shall be entitled to seek any and all available remedies, whether stated in this Agreement or otherwise available at law or in equity.

8. Notices. Any and all notices given or required under this Agreement must be in writing and may be delivered in person or by United States Mail, postage prepaid, first class and certified, return receipt requested, addressed as follows:

To County:

Director, Planning and Development Management Division
115 South Andrews Avenue, Room 329K
Fort Lauderdale, FL 33301

With copy to:

County Administrator
115 South Andrews Avenue, Suite 409
Fort Lauderdale, FL 33301

To The School Board:

Superintendent of Schools
The School Board of Broward County, Florida
600 S.E. Third Avenue, 10th floor
Fort Lauderdale, FL 33301

With copy to:

Chief Financial Officer
The School Board of Broward County, Florida
600 S.E. Third Avenue, 10th floor
Fort Lauderdale, FL 33301

9. Assignment. County will perform the services provided for in this Agreement exclusively and solely for The School Board. Neither Party will have the right to assign this Agreement.

10. Amendment; Modification. No modification, amendment, or alterations in the terms or conditions contained herein will be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

11. Third Party Beneficiaries. Neither The School Board or County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

12. Waiver. The failure of either Party to enforce any provision of this Agreement will not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach under this Agreement will not be deemed a waiver of any subsequent breach.

13. Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part will be deemed severed from this Agreement and the balance of this Agreement will remain in full force and effect.

14. Prior Agreements; Entire Agreement. It is understood and agreed that this Agreement supersedes and replaces the 1982 Agreement and incorporates and includes all prior negotiations, agreements, or understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof will be predicated upon any prior representations or agreements, whether oral or written.

15. Independent Contractor. County and The School Board are independent contractors under this Agreement. Services provided by each Party pursuant to this Agreement will be subject to the supervision of that Party. Neither Party nor its agents will act as officers, employees, or agents of the other Party. This Agreement will not constitute or make the Parties a partnership or joint venture.

16. Choice of Law; Waiver of Jury Trial. Any controversies or legal problems arising out of this transaction and any action involving the enforcement or interpretation of any rights hereunder must be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and will be governed by the laws of the state of Florida. **BY ENTERING INTO THIS AGREEMENT, COUNTY AND THE SCHOOL BOARD HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

17. Public Records. The Parties shall comply with all public records requirements of Chapter 119, Florida Statutes, as may be required by law.

IF EITHER PARTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO A PARTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE BROWARD COUNTY CUSTODIAN OF PUBLIC RECORDS, ALBERT CUMMINGS, (954) 357-8695, ACUMMINGS@BROWARD.ORG, BROWARD COUNTY ENVIRONMENTAL PROTECTION AND GROWTH MANAGEMENT DEPARTMENT, PLANNING AND DEVELOPMENT MANAGEMENT DIVISION, ONE NORTH UNIVERSITY DRIVE, SUITE 102A, PLANTATION, FLORIDA 33324; OR THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, RISK MANAGEMENT DEPARTMENT, PUBLIC RECORDS DIVISION, 600 SOUTHEAST THIRD AVENUE, (754) 321-1900, OR RECORDREQUEST@BROWARDSCHOOLS.COM.

18. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision of Articles 1 through 23 of this Agreement, the provisions contained in Articles 1 through 23 shall prevail and be given effect.

19. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated.

20. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term of this Agreement. County's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party.

21. Drafting. This Agreement has been negotiated and drafted by the Parties hereto and will not be more strictly construed against either Party because of such Party's preparation of this Agreement.

22. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, will constitute one and the same agreement.

23. Recording. This Agreement will be recorded in the Public Records of Broward County in accordance with the Florida Interlocal Cooperation Act of 1969.

[Remainder of page intentionally left blank]


IN WITNESS WHEREOF, County and The School Board have executed this Interlocal Agreement Related to School Impact Fee Monies on the respective dates under each signature: Broward County, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the 10 day of September, 2020, and The School Board, signing by and through its Chair, duly authorized to execute same by action of The School Board on the 1st day of September, 2020.

County

ATTEST:


Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

Broward County, by and through
its Board of County Commissioners

By 
Mayor
10th day of September, 2020



Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

Digitally signed by MAITE
AZCOITIA
Date: 2020.09.09 15:47:06
-04'00'
By MAITE AZCOITIA
Maite Azcoitia
Deputy County Attorney

INTERLOCAL AGREEMENT RELATED TO SCHOOL IMPACT FEE MONIES

The School Board

The School Board of Broward County, Florida

By Donna Korn
Donna P. Korn, Chair

1st day of September 2020

Attest:

By Robert C. Runcie
Robert C. Runcie, Superintendent of Schools

Approved as to form and Legal Content

By Barbara J. Myrick
Barbara J. Myrick, General Counsel

F - Fund 316
RECEIVED (new?)
PUPIL ACCOUNTING

U. V. ...
Impact Fee File
Mr. Larkin Mrs. Pulver
Mr. Marco Dr. McFatte
Mr. Lyons Dr. McComb

1982 DEC 14 AM 8:40

Office of Budget and Management Services

236 S.E. First Avenue
Fort Lauderdale, Florida 33301
(305) 765-5338



SCHOOL BOARD OF BROWARD COUNTY FLORIDA

December 8, 1982

Lo A. Villares

*W. Ferguson
H. Miller
Have the funds set up
the funds set up
separate fund.*

Dr. Robert Lewis, Director
Pupil Accounting
Broward County School Board
1320 Southwest Fourth Street
Fort Lauderdale, Florida 33312

Dear Dr. Lewis:

I have enclosed a copy of the agreement between Broward County and the School Board relating to educational impact fee monies. This agreement was approved by our Commission on November 23, 1982, item 51.

If I can be of any further assistance, please do not hesitate to call.

Yours truly,

John Canada

John Canada
Director

JC:DC:s

Enclosure



BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS

Marcia Beach Howard Craft Howard C. Forman Jack Fried Fran Gross Eve L. Savage Gerald F. Thompson

An Equal Opportunity Employer

A G R E E M E N T

Between

BROWARD COUNTY

and

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

relating to

EDUCATIONAL IMPACT FEE MONIES

A G R E E M E N T

Between

BROWARD COUNTY

and

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

relating to

EDUCATIONAL IMPACT FEE MONIES

This is an Agreement between Broward County, a political subdivision of the State of Florida, its successors and assigns, hereinafter referred to as "COUNTY," through its Board of County Commissioners,

AND

"THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA," an agency of the State of Florida, its successors and assigns, hereinafter referred to as "BOARD."

"WHEREAS, Subsection (d) of former Section 5-192 of the Broward County Code and Subsections (k) of present Sections 5-182 and 5-198 of said Code require the developer of land suitable for residential development to provide for the educational needs of the future residents of the platted area; and

WHEREAS, said Sections further provide that a developer may deposit certain amounts of money for such educational purposes into a nonlapsing trust fund established by the COUNTY; and

WHEREAS, said Sections further provide that the COUNTY shall remit to the BOARD, from time to time, monies from the trust fund thereby created, to be spent by the Board in its sole discretion subject to such agreements between the COUNTY and BOARD as may be necessary to ensure that the requirements of said Sections and other applicable laws are met; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, and promises hereinafter set forth, COUNTY and BOARD agree as follows:

1. COUNTY agrees to remit to BOARD, at least every three (3) months, any monies collected by COUNTY pursuant to Subsection (d) of former Section 5-192, Broward County Code, and Subsections (k) of present Sections 5-182 and 5-198 of said Code (all said Secti hereinafter referred to as "said Sections").

2. BOARD agrees to expend or encumber all monies so remitted to provide for the educational needs of future residents of proposed developments:
 - a. Consistently with the provisions of said Sections;
 - b. Consistently with the terms of any agreements entered into between developers and COUNTY, pursuant to which agreements said monies were deposited into such nonlapsing trust funds;
 - c. Only for the purpose of acquisition of school sites or the construction or expansion of new facilities for new users, in a manner that meets the principles set forth in Contractors and Builders Association v. City of Dunedin, 329 So.2d 314 (Fla. 1976); and
 - d. Within a reasonable time after receipt of such monies from COUNTY.
3. BOARD agrees that COUNTY is merely BOARD'S agent for the collection of the educational impact fee monies referred to herein, and not a principal; that BOARD is and shall be the real party in interest in any lawsuit instituted by, or claim made by, a developer or developers who have deposited monies into the nonlapsing trust fund established in accordance with said Sections, and BOARD agrees to undertake, without legal objection, the active defense of any such lawsuit or claim, by third party practice, or by intervening therein, if requested, in writing, by COUNTY, to do do, and to be bound by the final order of a court of competent jurisdiction relating to said monies, and to comply fully with any such final order.
4. BOARD agrees to furnish to COUNTY, at least annually, within three (3) months from the end of BOARD'S fiscal year, a report specifying the BOARD'S receipts, and expenditures, by site, of the monies described in paragraph 1 hereof, and to permit COUNTY, at all reasonable times during the regular business hours of BOARD'S administrative offices, to inspect the financial records and account books of BOARD relating to such monies.
5. The COUNTY will remit school impact fees generated to date and interest generated thereon to date, less \$152,315 in administrative costs incurred through January 31, 1982. Thereafter, the COUNTY will remit fees and interest earned thereon on a quarterly basis. The COUNTY will bill the BOARD annually and provide supporting cost detail for administrative costs incurred, not to exceed two percent of cash fees collected, or \$15,000, whichever is greater. For the year beginning February 1, 1983 and ending January 31, 1984 and for each year thereafter, the \$15,000 referred to above shall be adjusted according to the change, for that year, of the Consumer Price Index for All Urban Consumers as published by the U.S. Department of Labor.

IN WITNESS WHEREOF, COUNTY and BOARD have made and executed this Agreement on the respective dates under each signature; BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chairwoman, authorized to execute same by BOARD action on the 23 day of November, 1982, and THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA signing by and through _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS

Celene Bunn
County Administrator and Ex-Officio Clerk of the Board of County Commissioners of Broward County, Florida

By Jack Tread

____ day of dec, 1982

Approved as to form and legality by Office of General Counsel for Broward County, Florida
HARRY A. STEWART, General Counsel
Room 248, Courthouse
Fort Lauderdale, Florida 33301
Telephone: (305) 765-5105

By Edwin J. Stacker
Edwin J. Stacker
Assistant General Counsel

BOARD

WITNESS:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Nona Langlois
Ann G. Claws

By Donald J. Samuels

7 day of October, 1982

STUDENT GENERATION RATE/SCHOOL IMPACT FEE STUDY UPDATE
Meetings/Public Workshops/Hearings
Years 2016 - 2020

<u>Meetings, Public Workshops/ Hearings</u>	<u>Date</u>	<u>Time</u>	<u>Venue</u>
Study Standing Committee	1/31/17	2:00 pm	KCW
Oversight Committee*	4/12/17	12:00 Noon	KCW, School Board Meeting Room
Broward County Planning Council *	4/27/17	10:00 am	Broward County Governmental Center, Room 422
Staff Working Group	6/01/17	9:30 am	401 NW 70 th Terrace, 1 st Floor Plantation, FL 33317
Broward League of Cities	6/01/17	12:00 Noon	Colony West, 6800 NW 88 th Ave. Tamarac, FL
Oversight Committee*	6/14/17	12:00 Noon	KCW, School Board Meeting Room
General Public Workshop*	6/19/17	2:00 pm	Broward County Governmental Center, Room TBA
School Board Workshop*	6/20/17	10:00 am	KCW, School Board Meeting Room
Oversight Committee*	8/9/17	12:00 Noon	KCW, School Board Meeting Room
School Board Workshop*	8/25/17	1:00 pm	KCW, School Board Meeting Room
Staff Working Group (Status Report)	10/5/17	9:30 a.m.	401 NW 70 th Terrace, 1 st Floor Plantation, FL 33317
Oversight Committee (Status Report)*	10/11/17	12:00 Noon	KCW, School Board Meeting Room
School Board Workshop*	11/28/17	12:30 pm	KCW, School Board Meeting Room
School Board Workshop*	05/15/18	5:00 pm	KCW, School Board Meeting Room
Oversight Committee (Status Report)*	01/9/19	12:00 Noon	KCW, School Board Meeting Room
Oversight Committee*	04/17/19	12:00 Noon	KCW, School Board Meeting Room
Oversight Committee*	06/19/19	12:00 Noon	KCW, School Board Meeting Room
School Board Operational Meeting*	08/06/19	10:05 am	KCW, School Board Meeting Room (Transmittal of Study recommendations to County Commission for adoption into Broward County Land Development Code)
<i>Broward County Planning Council*</i>	<i>05/28/2020</i>	<i>10:00 am</i>	<i>Broward County Governmental Center (LPA Hearing)</i>
<i>Broward County Commission (Set Public Hearing)*</i>	<i>08/25/2020</i>	<i>10:00 am</i>	<i>Broward County Governmental Center Room No. 422</i>
<i>Broward County Commission (Adoption)*</i>	<i>09/10/2020</i>	<i>10:00 am</i>	<i>See above (Adoption of Study into Broward County Land Development Code)</i>

* Allows for public comment

** It should be noted that per state law, adopted impact fees ordinances shall become effective 90 days after their adoption date by the governing body