

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.