

## GROWTH MANAGEMENT COORDINATION

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## POLICY 1161

## GROWTH MANAGEMENT

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA HAS THE AUTHORITY TO OPERATE, CONTROL AND SUPERVISE ALL FREE PUBLIC SCHOOLS WITHIN THE SCHOOL DISTRICT, AND MAY EXERCISE ANY POWER EXCEPT AS EXPRESSLY PROHIBITED BY THE FLORIDA CONSTITUTION OR GENERAL LAW. (SECTION 1001.32, F.S. AND ARTICLE IX, FLORIDA CONSTITUTION) THE SCHOOL BOARD MUST DEVELOP AND ADOPT RULES, REGULATIONS, POLICIES AND PROGRAMS WHICH CONTRIBUTE TO THE EFFICIENT OPERATION AND GENERAL IMPROVEMENT OF THE DISTRICT SCHOOL SYSTEM. (SECTION 1001.41, F.S.) THE SCHOOL BOARD EXERCISES THESE POWERS OVER MATTERS SUCH AS THE SITING, PLANNING, FUNDING AND CONSTRUCTION OF SCHOOL FACILITIES, AND THE DETERMINATION OF SCHOOL BOUNDARIES, STANDARDS AND STUDENT ASSIGNMENTS. THE PURPOSE OF THIS POLICY IS TO GENERALLY ADDRESS GROWTH MANAGEMENT REQUIREMENTS CONTAINED IN APPLICABLE SECTIONS OF SECTION 163 AND SECTION 1013, F.S., WHICH REQUIRE COORDINATION AND COLLABORATIVE PLANNING BETWEEN LOCAL SCHOOL DISTRICTS AND LOCAL GOVERNMENTS REGARDING THE IMPLEMENTATION AND CONTINUANCE OF PUBLIC SCHOOL CONCURRENCY AND GROWTH MANAGEMENT ISSUES AS THEY PERTAIN TO THE PROVISION AND AVAILABILITY OF PUBLIC SCHOOL FACILITIES TO ACCOMMODATE GROWTH FROM PROPOSED RESIDENTIAL DEVELOPMENT.

## RULES

## A. General Rules

1. The School District shall continue to participate in collaborative planning processes with Broward County and the cities located in Broward County, Florida (collectively referred to as "Local Government" and the cities are referred to as the "Municipalities"), including, but not limited to, projects such as the study to update student generation rates and school impact fee schedule contained in the Broward County Land Development Code (BCLDC), and population projections and residential development trends.
2. The study to update the student generation rates and school impact fee schedule shall be conducted at least once every three years by the School Board in coordination with Broward County and the Municipalities. The next update to the generation rates and school impact fee schedule shall be commenced no later than three (3) years from the effective date the previous study recommendations were adopted into the BCLDC by the Broward County Commission.

3. The School District shall continue to participate in collaborative planning processes with the State of Florida, the South Florida Regional Planning Council (SFRPC), Broward County, Municipalities and other applicable governmental agencies to address potential impacts from proposed legislation, policies and regulations affecting the District's school facilities. In response, the District shall as necessary provide written comments to the agencies regarding the potential impact from such legislation and regulations on Broward County Public School facilities.
4. The School District shall continue to attend applicable Broward County, Municipalities, and other reviewing agencies public hearing's and/or meeting's to monitor and address issues that may potentially impact Broward County Public School facilities.
5. The School Board is committed to constructing future school facilities based on urban school concept(s) adopted by the Board, when feasible and practical as determined by the School Board.
6. The School District shall charge a non-refundable application fee that is payable to the School Board to defray the cost to review development applications such as plan review and consistency determinations, plats, site plans (or functional equivalent), and matters related to public school concurrency and growth management reviews and determinations. Payment shall be required prior to the commencement of the review of a development application. The application fee schedule shall be as depicted in Exhibit "A", and shall be adjusted annually by the District effective January 1 of each subsequent year by the change reflected from the previous 12 month period of the anticipated costs to the District for labor and materials required to provide these development review services.
7. The School District shall charge a non-refundable cost recovery fee to offset professional and legal services incurred by the District for school concurrency and growth management related reviews, including the preparation and processing of binding agreements related to projects requiring proportionate share mitigation. Such cost shall reflect the actual costs charged to, or incurred by the District for these matters. The specific cost recovery procedures are contained in Exhibit "B", attached hereto and incorporated herein by reference.

#### **B. Plan Review; Consistency Determination Rules**

1. To the extent required by Section 163.3174, Florida Statutes, and the Amended Interlocal Agreement for Public School Facility Planning, as may be amended from time to time, the School Board shall appoint a School District staff member(s) to be its representative

on the County and each respective Municipality's local planning agency (LPA). Notification of the staff member's name, title and address shall be submitted in a timely manner to the applicable LPA.

2. The School District shall review comprehensive plan amendment, rezoning and Development of Regional Impact (DRI) applications, including applications containing the allocation of flexibility/reserve units. Such review shall be classified as "Public Schools Consistency Review (Schools Consistency Review)". At a minimum, the information required in the submitted application shall include the following:
  - a. The name of the applicant;
  - b. The project name and number;
  - c. Current and proposed use;
  - d. Existing and proposed land use and zoning designation;
  - e. Existing permitted residential units and type (and bedroom mix, if known);
  - f. Proposed residential units and type (and bedroom mix, if known);
  - g. Size of site in acres;
  - h. Survey location map, and;
  - i. Section, township and range.

Upon receipt of a properly completed application, the School District shall no later than forty-five (45) days from receipt, provide written comments to the applicant and applicable governing authority.

3. In order to adequately address the net student impacts anticipated from proposed Regional Activity Centers (RAC), Local Activity Centers (LAC), Transit Oriented Corridor (TOC), Transit Oriented Development (TOD) or similar land use plan amendment applications, the School Board encourages Broward County and its Municipalities to implement the following procedures:
  - a. Prior to School District review of a submitted Broward County Land Use Plan (BCLUP) application containing increased residential units, pre-application meeting(s) arranged by the applicant or the Broward County Planning Council (BCPC), in coordination with the School District shall take place. The following shall be invited to participate in such meeting(s): 1) the applicant 2) the adjacent local government(s) and 3) other pertinent governmental stakeholders. The purpose of the meeting(s) will be to (i) estimate the potential cumulative impact of the application and other application(s) containing increased residential units that may be proposed by the adjacent local government(s), and (ii) explore/reach consensus on the appropriate school capacity solutions that may be jointly

provided by the local governments, or as a result of local government conditions of approval.

- b. In such instances where the applicant has not participated in the requested pre-application meeting(s), the BCPC will be requested to defer and not consider the application until the pre-application meeting(s) has taken place and the necessary school capacity solutions/voluntary mitigation has been addressed to the satisfaction of the School District.
4. The review of comprehensive plan amendment, rezoning, and DRI applications, including applications containing the allocation of flexibility/reserve units regarding Schools Consistency Review shall be conducted utilizing data that is based upon the School District's Seven Planning Areas (Exhibit "C"), or subsequent Areas as amended from time to time. The written comments provided by the School District to the County, Municipalities and other entities regarding such applications shall at a minimum specify:
    - a. The student impact(s) anticipated to result from the development proposal;
    - b. The ~~permanent~~ capacity of the impacted school(s) at the time of review using capacity formulas as defined by the Florida Department of Education;
    - c. The twentieth-day student enrollment of the impacted school(s) at the time of review;
    - d. The twentieth-day student enrollment and ~~the permanent~~ capacity of the impacted Planning Area(s) at the time of review. The ~~permanent~~ capacity will be based on capacity formulas as defined by the Florida Department of Education;
    - e. The Ten year student enrollment projections of the impacted Planning Area(s);
    - f. The planned capacity improvement(s);
    - g. Contain a statement that the written report regarding the application is advisory only, and;
    - h. Contain a statement that the application will be subject to public school concurrency review at the time of plat, site plan (or functional equivalent) review. Also, the capacity as referenced herein shall be consistent with the effective capacity utilized in public school concurrency determination, and as specifically described in the public school concurrency Rules of this Policy. School capacity will be reported consistent with Department of Education, Florida Inventory of School Houses (FISH).
  5. If the Schools Consistency Review identifies that sufficient capacity is not available in the Planning Area, or anticipated in the Ten-Year portion of the District Educational Facilities Plan, or is anticipated in the Ten-Year Plan, but is unfunded within the last five-year portion of the Plan to serve the development, the applicant may choose to offer

and the School Board may consider voluntary mitigation to address the anticipated student impact. This does not preclude an applicant from offering the School Board voluntary mitigation when sufficient capacity is available. Such voluntary mitigation shall include but not limited to the following mitigation options:

- a. The dedication of real property to provide needed school site(s) required to accommodate the proposed development. The need for the number of elementary, middle and high schools students triggering such dedication shall be as stated in Rule C, Public School Concurrency Rules;
- b. The payment of monies to construct and/or the construction of the needed school(s);
- c. Pay the project cost for the construction of a public school facility incorporating urban school concept(s) adopted by the School Board, as stated in Rule C, Public School Concurrency Rules;
- d. The modification and/or addition to an existing public school facility;
- e. Other mitigation proposal(s) that the Local Government and/or Developer may bring forth. However, any such proposal(s) shall be reviewed by the Superintendent or designee and must be deemed to be acceptable for School District purposes.

The proposal of any of the above listed options shall be subject to specific School Board approval and if accepted by the School Board, shall be memorialized in a legally binding agreement approved by the School Board. The terms and conditions regarding each of the above options shall be as required in this Policy.

In exchange for the dedication of real property to provide needed school site(s) or construction of a public school facility, the District shall establish a mitigation bank for the Developer, which enables the Developer to use or sell the excess credit(s) derived from payment of the voluntary mitigation. The application of such credit(s) shall be limited to schools located within the Planning Area impacted by the development proposed in the application.

6. Developments where voluntary mitigation options have been accepted by the School Board as evidenced by an executed and recorded legally binding agreements between the School Board and other required parties shall be considered to have satisfied public school concurrency requirements consistent with the terms of those agreements.
7. The School District shall continue to monitor and review Broward County, Unincorporated Broward County and Municipal non-residential plat, rezoning, site plan, special exceptions, variances, vacation petitions and other applicable development

applications, and provide written comments regarding the potential impact of proposals in such development applications to Broward County Public School facilities.

8. The School Board shall continue to participate in the Broward County land use plan amendment process through its School Board appointed Board Member on the Broward County Planning Council.

### C. Public School Concurrency Rules

#### 1. General

- a. To satisfy the public school concurrency requirements, the School District shall review residential plat, site plan (or functional equivalent) applications to determine their potential impact on Broward County Public School facilities consistent with the Amended, and the Second Amended Interlocal Agreement for Public School Facility Planning.
- b. The areas for the implementation of public school concurrency requirements in Broward County shall be known as Concurrency Service Areas (CSA), and such CSAs shall be the approved school boundaries for elementary, middle and high schools as annually adopted by the School Board. For the purposes of public school concurrency, such CSAs shall be effective on the first day of the school year, and end on the last day before the beginning of the next school year.
- c. The ~~L~~Level of ~~s~~Service ~~s~~Standards (LOS) to ensure that the capacity of schools is sufficient to support student growth anticipated from residential developments proposed in plat, site plan (or functional equivalent) applications shall commencing at the beginning of the 2010/11 school year through the end of the 2018/19 school year, be 100% gross capacity (which consists of permanent and relocatable classrooms) for each CSA, and commencing at the beginning of the 2019/20 school year revert back to ~~be~~ 110% of the permanent FISH capacity contained in the LOS Plan for each CSA. The LOS shall be achieved and maintained within the period covered by the five-year schedule of capital improvements contained in the effective Five-Year Adopted District Educational Facilities Plan (DEFP).
- d. To maintain the adopted LOS, the School Board may if necessary, utilize relocatable classrooms (portables) on a temporary basis as an operational solution during the replacement or expansion of District school facilities, or at Exceptional Student Education cluster sites, or in the case of a disaster or emergency.

- e. The closing of a charter school that would result in the students attending such charter school(s) to return and be enrolled at the traditional public schools shall be considered an emergency.

## 2. Review Process

- a. The effective adopted student generation rate(s) contained in the Broward County Land Development Code (BCLDC) shall be utilized to determine the potential student impact anticipated from the residential development proposed in submitted applications. When calculating the potential student impact, should the calculated impact be .5 students or greater, the impact shall be rounded up to the next whole number.
- b. The School District shall review, on a first come, first serve basis, completed Public School Impact Applications (PSIA).
- c. In the re-review of submitted applications, and to determine the appropriate application fee due for such re-reviews, a major re-review shall constitute the review of resubmitted applications containing changes to fifty (50%) percent or greater of the number of residential units proposed in the original application, or changes to the project's boundary or revision to a proposed mitigation option previously accepted by the District for School Board consideration. Minor re-review shall constitute the review of resubmitted applications containing changes to less than fifty (50%) percent of the number of residential units proposed in the original application or a change of unit type and/or bedroom mix.
- d. The School District shall utilize as base data the Twentieth Day student enrollment statistical data, commencing at the beginning of the 2010/11 school year through the end of the 2018/19 school year, the effective 100% gross capacity data, and at the beginning of the 2019/20 school year, the effective permanent capacity data as adjusted to 110%, the five year student enrollment projections, and capacity improvements contained in the first three years of the Five-Year Adopted DEFP in the review to determine the potential student impact of proposed development on Broward County Public Schools.
- e. The School District shall determine the potential student impact from proposed residential development on the effective CSAs by performing the following procedure:

- (1) Determine the CSAs and school levels affected by the development. To adequately determine the impact of a proposed residential development on the appropriate CSA(s), the boundary indicating where the residential units will be constructed must be clearly depicted in the submitted plat, site plan (or functional equivalent) application. If such boundary is not clearly depicted, and
  - (i) If the perimeter or general boundary depicted for the plat, site plan (or functional equivalent) impact multiple schools of the same type (such as multiple elementary, middle and high schools), the review to determine the impact of the application shall be based on the CSA(s) where the majority of the plat, site plan (or functional equivalent) boundary falls; and
  - (ii) If commencing at the beginning of the 2010/11 school year through the end of the 2018/19 school year one or more of such impacted ~~CSA(s)~~ and school level(s) ~~is~~ above 100% gross capacity, and commencing at the beginning of the 2019/20 school year one or more of such impacted CSA(s) and school level(s) is above 110% LOS, and capacity is determined not to be available upon implementation of the review procedure described herein, the plat, site plan (or functional equivalent) will be determined not to have satisfied public school concurrency requirements for the school level(s) and as applicable, the Developer may pursue measures stated herein regarding applications that fail to meet public school concurrency requirements;
- (2) In the utilization of the base statistical data referenced herein, the student(s) anticipated from proposed development(s) shall be added to the then current twentieth day student enrollment data, and into the first two years of the five year student enrollment projections;
- (3) Based on the statistical data for the applicable LOS timeframes, determine if the affected CSA(s) is at or below 100% gross LOS capacity or 110% permanent LOS capacity respectively, and;
  - (i) If the CSA(s) is at or below 100% gross LOS capacity or at or below 110% LOS capacity or below and students generated do not cause the CSA(s) to exceed 110% the effective adopted LOS, the application will be determined to have met public school concurrency requirements.

- (ii) If it is determined that the affected CSA(s) is above ~~110%~~ the effective adopted LOS at any time during the three year timeframe, which includes the then current effective school year and next subsequent two school years, or student(s) generated by the development causes the CSA(s) to exceed the effective adopted ~~110%~~ LOS during the stated three year timeframe, the data shall be measured against permanent capacity addition(s) contained within the first three years of the Adopted Five-Year DEFP that is either funded for construction, under construction, or will be completed and available during the three year timeframe, and upon such measurement, and as applicable for the stated LOS timeframes if it is determined that excess gross or permanent capacity will be available to accommodate the deficit student(s) anticipated from the development, the application will be determined to have met public school concurrency requirements;

Upon determinations made above, the School District shall issue a Preliminary School Concurrency Availability Determination Letter (Preliminary SCAD Letter) indicating that the proposed development has satisfied public school concurrency requirements. Such Preliminary SCAD Letter shall be valid until the end of the then current school year or 180 days, whichever is greater, for maximum number of student(s) generated for each school level by the residential type, total number of units, and bedroom mix contained in the Preliminary SCAD Letter and conditioned upon final approval by the applicable governmental body. Upon receiving notification from the local government indicating that the proposed development has received final approval from the governing body, a Final SCAD Letter shall be issued as provided herein;

- (4) No later than fifteen (15) days prior to the expiration of an issued Preliminary SCAD Letter, the applicant may send written notice to the School District requesting an extension of the soon to be expired Preliminary SCAD Letter. Included in such a notice shall be credible evidence that supports the reason for such extension. Upon receipt of such notice and satisfaction that the requested extension is valid, the District may issue a one time extension of no more than an additional 180 days for the Preliminary SCAD Letter. However, failure to provide timely written notice to the District will result in the expiration of the Preliminary SCAD Letter;

- (5) If based on the statistical data, the affected CSA(s) is above the effective adopted 110% LOS in the then current effective school year and next subsequent two school years, or student(s) generated by the development causes the CSA(s) to exceed the effective adopted 110% LOS at any time during the stated three year timeframe when measured against permanent capacity that is either under construction, funded for construction or will be completed and available within the first three years of the Adopted Five-Year DEFP, and as applicable for the stated LOS timeframes, ~~permanent~~ capacity will not be available within the first three years of the Adopted Five-Year DEFP to accommodate the deficit student(s) anticipated from the development; and therefore, the application will be determined not to have met public school concurrency requirements;
- (6) If it is determined that based on the effective LOS that sufficient ~~permanent~~ capacity will not be available within the first three years of the effective Adopted Five-Year DEFP to accommodate the anticipated deficit student(s), the impacted CSA(s) will be examined to determine if an alternative enrollment option in Policy 5000 has been utilized to maximize capacity within the CSA(s), and if so, determine if excess capacity from such maximization is available to accommodate the deficit anticipated student(s);
- (7) If excess capacity is not available, all CSAs immediately adjacent to the primary impacted CSA(s) shall be examined for potential excess capacity. Upon examination and determination that the immediately adjacent CSA(s) have sufficient capacity to accommodate the deficit students, the Capacity Allocation Team (CAT) will at its scheduled meeting determine if such capacity could be assigned to serve the development. Such determination shall be based the following general guidelines:
- (i) The total needed capacity must be substantially available within a single adjacent CSA;
  - (ii) Capacity shall be assigned to the adjacent CSA(s), which is geographically closest to the subject development, and has sufficient excess capacity to absorb the development's impact;
  - (iii) The assignment of capacity shall comply with the "Guidelines for the Establishment of Boundaries and Attendance Areas" contained in School Board Policy 5000;
  - (iv) Capacity shall only be allocated to an adjacent CSA within the same School District Planning Area; and

- (v) The assignment shall not jeopardize a school's ability to meet the class size constitutional amendment.

The applicant and the local government with jurisdiction over the development will be noticed and invited to attend the scheduled meeting.

- (8) At the minimum, the CAT shall consist of the CSA(s) Area Superintendent or designee; ~~the Director, Capital Planning and Programming Department or designee;~~ the Director, Growth Management Department or designee; ~~and~~ the Director, School Boundaries Department or designee or in the event of departmental name changes, the directors or appointed administrators or designees of the succeeding departments whose membership and participation are vital to CAT functions. Subsequently, after examining relevant data regarding the application and the applicable CSA(s), the CAT shall determine whether excess capacity is available or not available to accommodate the deficit students. If it determines that capacity is available, it shall assign the needed capacity, and evidence of such assignment shall be provided in written form signed by the chairperson of the CAT. Record(s) of the assigned capacity shall be maintained by the School District, and utilized during the relevant school boundary process to ensure that the deficit students are accounted for in the applicable CSA(s). If the CAT determines that the identified excess capacity cannot be allocated to accommodate the deficit students, it shall state the reasons why such capacity cannot be allocated.
  - (i) If necessary, the CAT will reassign previously allocated adjacent capacity to achieve maximum utilization, except where such reassignment:
    - (a) Creates unacceptable transportation cost impacts due to natural or physical barriers; or
    - (b) Results in a violation of federal, State or School Board Policy.
- (9) Upon implementation of the above and a determination that capacity will not be available to accommodate the deficit students anticipated from the proposed development, the School District shall issue a Final SCAD Letter indicating that the proposed development has failed to meet public school concurrency requirements.

- (10) A Preliminary SCAD Letter indicating whether a proposed development has satisfied public school concurrency requirements shall as applicable be sent to the applicant and the local government with jurisdiction over the subject development no later than forty-five (45) days after receipt of the completed PSIA.
- (11) If the Final SCAD Letter states that the development has not satisfied public school concurrency requirements, the Final SCAD Letter shall state the basis for such determination, and the applicant shall have thirty (30) days to propose proportionate share mitigation to the School District. An applicant adversely impacted by a Final SCAD Letter determination may appeal such determination by written request to the School Board within the designated thirty (30) day time period. A timely request for an appeal shall stay the requirement for an applicant to propose proportionate share mitigation until the appeal has been resolved.
- (12) If the applicant proposes proportionate share mitigation within the thirty (30) day deadline, upon the subsequent acceptance of the proposed mitigation by the School Board, and upon the execution of a legally binding document between the School Board, the Local Government and the applicant, the District shall issue a Preliminary SCAD Letter which shall state that adequate capacity anticipated from the accepted proportionate share mitigation would be available to accommodate the student impact anticipated from the proposed development. If the proportionate share mitigation is not accepted by the School Board, the District shall issue a written notice to the applicant stating the basis upon which the mitigation proposal(s) was rejected.

### **3. Proportionate Share Mitigation**

- a. The School Board may consider proportionate share mitigation consistent with School Board Policy and the Amended Interlocal Agreement, as may be amended from time to time regarding public school concurrency. If a proposed mitigation option is accepted and deemed financially feasible by the School Board, the Local Government and the applicant will subsequently be required to enter into an enforceable binding agreement.
- b. The binding agreement shall be, reviewed and approved by the School Board and recorded in Broward County public records by the applicant prior to the satisfaction of the proportionate share mitigation due for the subject project. Subsequently, the applicant shall deliver a copy of the recorded agreement to the

School District and the local government with jurisdiction over the approval of the development order.

- c. An applicant may not propose a different proportionate share mitigation option once the initial proportionate share mitigation option has been accepted by the School Board.

#### 4. **Proportionate Share Mitigation Options**

- a. A development's total proportionate share mitigation value shall be determined as follows:
  - (1) The number of additional (deficit) students generated by the proposed development that would impact the school level(s) exceeding the adopted LOS, or that would cause the assigned school level(s) to exceed the adopted LOS, multiplied by the then current Florida Student Station Cost Factors for each school type determined at time of review; plus
  - (2) That development's share of the land acquisition cost for school sites, if any, as determined and published annually in the Adopted Five-Year DEFP.
  - (3) No land cost shall be applied to mitigation regarding real property that is already owned or controlled by the School District at the time the proposed proportionate share mitigation option is approved by the District for School Board consideration.
  - (4) Relocatable classrooms or facilities shall not be considered or accepted as an acceptable proportionate share mitigation option.
  - (5) At no time shall the total derived mitigation value be less than the then effective school impact fees that would be due at the time of payment for the proposed development.
- b. The proportionate share mitigation proposed to address the deficit student station(s) at the affected school level(s) shall equate to at least one permanent classroom when the following occurs: (i) The development generates the need for the additional capacity and that capacity is not available; (ii) No classroom additions are available within the first three years of the Adopted Five-Year DEFP to accommodate the deficit student(s) generated; and/or (iii) No School District funds are available to provide the needed classroom(s) to satisfy the

deficit.

- c. The mitigation to address the anticipated student impact(s) that would necessitate the need for school site(s) shall primarily be the dedication of real property.
- d. The proportionate share mitigation options to satisfy public school concurrency requirements shall include the following:
  - (1) Provide the needed school site(s) for elementary, middle or high school. Acceptability of dedicated land shall be subject to review and determination by the Superintendent or designee that the subject real property satisfies the educational and site requirements of the applicable School Board Policy. The timeframe for the conveyance of the dedicated land shall be as agreed to by the School Board, and specified in the binding agreement. The binding agreement shall provide a condition that no building permit(s) will be issued for residential units associated with the plat, site plan (or functional equivalent) until formal conveyance of the school site(s) to the School Board has occurred. If the appraised value of the dedicated site(s) is less than the school impact fees due for the project, the provision of additional funds towards construction of the school(s) or facilities will be required.
  - (2) Pay for the project cost for the construction of school(s) scheduled in the Adopted Five-Year DEFP to relieve the primarily impacted CSA(s) plus the cost of the land acquisition, if any, for school sites as determined and published annually in the Adopted Five-Year DEFP or pay the project cost amount deemed necessary in advance of the time set forth in the Adopted Five-Year DEFP. The costs associated with the identified mitigation shall be based on the estimated cost of the improvement on the date that the improvement is programmed for construction. Future costs will be calculated using estimated values at the time the mitigation is anticipated to commence. Unless otherwise agreed to by the School Board, payment of the total amount due shall be made no later than thirty (30) days after the first to occur, the plat, site plan (or functional equivalent) receives final approval from the local governing body. This option shall be subject to specific School Board approval.
  - (3) Pay for the project cost regarding the construction of a public school facility utilizing urban school concept(s) adopted by the School Board plus the cost of the land acquisition, if any. Also, the construction of such

facility shall meet the State of Florida and the School District's educational facility requirements. The costs associated with the identified mitigation shall be based on the estimated cost of the improvement on the date that the improvement is programmed for construction. Future costs will be calculated using estimated values at the time the mitigation is anticipated to commence. Unless otherwise agreed to by the School Board, payment of the total amount due shall be made no later than thirty (30) days after the first to occur, the plat, site plan (or functional equivalent) receives final approval from the local governing body. This option shall be subject to specific School Board approval.

- (4) Pay for one of the following:
- (i) Additions to the school(s) located within the primarily impacted CSA(s) or in CSA(s) located immediately adjacent to the primarily impacted CSA(s), as found in the current Adopted Five-Year DEFP, plus the cost of the land acquisition, if any, for school sites as determined and published annually in the Adopted Five-Year DEFP or pay the project cost amount deemed necessary in advance of the time set forth in the Adopted Five-Year DEFP. The costs associated with the identified mitigation shall be based on the estimated cost of the improvement on the date that the improvement is programmed for construction. Future costs will be calculated using estimated values at the time the mitigation is anticipated to commence.
  - (ii) Needed permanent capacity improvement(s) (e.g. classroom addition) at the primarily impacted CSA(s) or CSA(s) located immediately adjacent to the primarily impacted CSA(s) or provide the number of needed permanent classroom(s) (modular classrooms(s) or similar facility), and the cost of the land acquisition, if any, for school sites as determined and published annually in the Adopted Five-Year DEFP. Modular or similar approved facilities shall meet the State of Florida and the School Districts educational facility requirements.

Unless otherwise agreed to by the School Board, payment of the total amount due for 4(i) or 4(ii) above, shall be made no later than one year after the plat, site plan (or functional equivalent) receives final approval from the local governing body. This option shall be subject to specific School Board approval.

- (5) Allow proportionate share mitigation funding to be utilized at a charter school, which at a minimum meets all of the following criteria:
- (i) The charter school or charter school system is owned by a municipal government.
  - (ii) The charter school or charter school system has been in operation for a minimum of five years.
  - (iii) The charter school or charter school system provides a complete grade configuration for at least a primary learning center, elementary, middle or high school education.
  - (iv) The charter school is located within two miles of the proposed development or within the CSA(s) of the impacted public school(s).
  - (v) The charter school is built consistent with the state Rules for Educational facilities (SREF) which is contained within the Florida Building Code.
  - (vi) Adopt the same LOS contained in the Amended Agreement.
  - (vii) Adopt the Florida Department of Education (DOE) design criteria formulas to calculate student capacity.
  - (viii) Enroll student population at a 100% of the charter schools contract capacity.
  - (ix) Funding received shall be used pursuant to Section 1013.62, Florida Statutes.

This option shall be subject to specific School Board approval. If the School Board rejects a proposal to allow proportionate share mitigation funding at a charter school, the Board shall state its reasoning for rejecting such proposal.

- (6) Other mitigation option(s) may be proposed by an applicant and shall be subject to specific School Board approval. The timeframe for payment of the total amount due or the provision of the specific proportionate share mitigation shall be as agreed to by the School Board and contained in the binding agreement.
- e. At the time a Developer proposes a proportionate share mitigation option in writing to the District, the Developer shall submit a construction schedule to the District indicating the anticipated dates for commencement of construction through completion of the development. If the submitted construction schedule indicates that the construction of the development will commence prior to the

payment due date(s) stated herein, the payment due date for the development will automatically be subject to an alternative payment timeframe that will be scheduled for School Board consideration. School Board consideration of an alternative payment timeframe for proportionate share mitigation shall at a minimum, be based on the following general criteria: 1. the magnitude and anticipated construction schedule for the proposed development; 2. the potential and logistics in coordinating the delivery of the capacity associated with the proposal with the construction schedule of projects contained within the Adopted Five-Year DEFP at the subject school(s); 3. and the specific mitigation option proposed, and the length of time needed to construct capacity associated with that option. The binding agreement shall include a requirement that construction of the project will not commence prior to the date specified in the submitted construction schedule.

- f. A proposed proportionate share mitigation option shall be reviewed by Proportionate Share Acceptance Group (PSAG), and if deemed to be acceptable for School District purposes shall be scheduled for School Board consideration. The Growth Management Department or succeeding Department in the event of Departmental name change shall be responsible for convening PSAG to make decisions regarding proposed proportionate share mitigation(s). At the minimum, PSAG shall consist of ~~the Director, Capital Planning and Programming Department or designee;~~ the Director, Capital Budget Department or designee; the Director, Growth Management Department or designee; ~~the Director, Real Estate and Environmental Planning Department or designee;~~ the Director, School Boundaries Department or designee, the Director, ~~Facilities Project Management Plans/Design;~~ or in the event of departmental name changes, the directors or appointed administrators or designees of the succeeding departments whose membership and participation are vital to PSAG functions; and the project manager of the CSA(s) impacted by the proposed development.
- g. The total amount committed to pay for permanent classroom additions or any of the listed mitigation options shall not be less than the then effective school impact fees due at the time of payment for the proposed units as calculated based upon the adopted school impact fee schedule specified in the BCLDC and due for the units. The school impact fee due for the project shall be considered included in the total proportionate share mitigation amount due or paid, and shall be credited toward the payment of the school impact fee. Specifics regarding the payment of the proportionate share mitigation shall be included within the binding agreement.

## 5. Formula for the Calculation of Proportionate Share Mitigation

a. The general formulas to calculate each proportionate share mitigation shall be as delineated below.

- (1) If a Developer elects the Dedication of School Sites option, the need for land shall be based on the factors delineated below:
  - (i) Elementary school site: The generation of between 830 to 1,200 elementary school students;
  - (ii) Middle school site: The generation of between 1,352 to 1,787 middle school students;
  - (iii) High school site: The generation of approximately 1,495 to 2,852 high school students; or
  - (iv) The stated sizes of elementary, middle and high school facilities as contained in each updated effective Five-Year District Educational Plant Survey.

Mitigation regarding the provision of school site(s) shall be based on the appraised value of the land measured against the cost per student station value amount due for the students generated.

- (2) Project cost for the construction of school(s) or additions to the CSA(s) located immediately adjacent to the primarily impacted CSA(s) as found in the current Adopted Five-Year DEFP.
  - (i) The formula regarding the above option shall at the minimum be based on the estimated cost of the improvement on the date that the improvement is programmed for construction consistent with the Amended Interlocal Agreement. Future costs will be calculated using estimated values at the time the mitigation is anticipated to commence.
- (3) Project cost regarding the construction of a public school facility based on urban school concept(s) adopted by the School Board.
  - (i) The formula regarding the above option shall at the minimum be based on the estimated cost of the improvement on the date that the improvement is programmed for construction consistent with the Amended Interlocal Agreement. Future costs will be calculated using estimated values at the time the mitigation is

anticipated to commence.

(4) Provision of a Classroom or Modular Classroom

If a Developer elects the provision of a classroom or modular classroom option, the number of students constituting an elementary, middle and high school(s) classroom shall be as delineated below:

- (i) Elementary: Eighteen (18) students;
- (ii) Middle: Twenty-two (22) students;
- (iii) High: Twenty-five (25) students; or
- (iv) The stated elementary, middle and high school(s) classrooms sizes as contained in each updated effective Five-Year District Educational Plant Survey. The cost for the provision of a classroom or modular classroom shall include the proportionate cost associated with the school level(s) core capacity and other related cost. Such cost shall be as determined and revised at the beginning of each fiscal year by the School District.

**6. Terms for Proportionate Share Mitigation**

- a. In exchange for payment towards the provision of student stations to equate full classroom(s), payment for the construction of a public school facility, or dedication of school site(s), the School District will establish a mitigation bank for the Developer, which would address credit(s) for permanent school capacity in excess of that which is required to serve the proposed residential development. In such scenario, the Developer will have the right to sell such credit(s) within the affected CSA or immediate adjacent CSA(s) for the excess permanent capacity, after receiving approval from the School District. Upon granting of such approval, the District shall send written notice to the Developer, with copy to Broward County and the Local Government issuing the development order or functional equivalent for the project.
- b. Upon payment towards the provision of student stations to equate full classroom(s) by the first Developer, the resulting excess capacity will not be considered available for use by a second or subsequent Developer whose reviewed development impacts the same school(s) that were impacted by the Developer with the right to sell the excess credit(s) until such credit(s) have been purchased by the second or subsequent Developer and approved by the District.
- c. Also, a subsequent Developer whose development impacts the same school(s)

that were primarily impacted by the Developer with the right to sell the excess credit(s), and who needs to satisfy public school concurrency requirements at such school(s), may purchase the actual capacity needed from the Developer with rights to the excess capacity. Sale and purchase of such capacity shall be limited to the actual capacity that is needed by the subsequent Developer.

- d. A subsequent Developer, who purchases needed credit(s) from the Developer with rights to the original capacity, shall provide the School District with a written proof or receipt of such purchase. At the minimum, the proof of purchase must state the following:
  - (1) The project name and School Board of Broward County, Florida (SBBC) project number;
  - (2) The number of proposed residential units (and bedroom mix, if known);
  - (3) School(s) affected by the development needing the credit(s);
  - (4) The number of elementary, middle and high school students associated with the needed capacity;
  - (5) The amount of capacity needed by the proposed development, and the amount purchased;
  - (6) The cost for each student station purchased and the total amount paid for the credit(s);
  - (7) Contact information (name, address, telephone number) of the Developer with rights to the credit(s);
  - (8) The transaction date, and the names and signatures of both the Developer with rights to the excess credit(s) and the purchaser of the credit(s).
- e. The price for each excess proportionate share mitigation credit sold shall not exceed the amount initially paid for the provision of the capacity.
- f. Based on data maintained by the District, if proportionate share credit(s) are available and needed by a subsequent Developer to satisfy proportionate share mitigation requirements, the then current holder of the credit(s) must sell and/or transfer the subject credit(s) within ninety (90) days upon notice from the District to the subsequent Developer or lose the right to be reimbursed for the unsold

credit(s), and the credit(s) shall thereafter be deemed to be relinquished.

- g. The Developer who initially paid the proportionate share mitigation amount due, may request in writing, a refund for monies paid to the District as evidenced by documentation maintained by the District,
  - (1) if the proposed development is not constructed in any part, or
  - (2) the plat, site plan (or functional equivalent) approval expires and the approval has not been extended and the monies have not been committed or used by the District to defray the school impacts originally anticipated to occur as a result of the proposed development, and
  - (3) none of the proportionate share mitigation credit(s) has been sold or transferred to subsequent Developer(s).
- h. The amount refunded to the Developer shall not exceed the exact amount originally paid.
- i. At the time the proportionate share mitigation monies are refunded to the Developer, the Final SCAD Letter indicating satisfaction of public school concurrency shall become null and void.

#### **7. Guidelines for the Expenditure of Proportionate Share Mitigation Funds**

- a. A mitigation contribution provided by a Developer to offset the impact of a residential development shall be directed by the School Board toward a permanent school capacity project identified in the first three years of the School Board's Adopted Five-Year DEFP, or as appropriate, scheduled as a new project in the first three years of the Adopted Five-Year DEFP. If the School Board accepts proportionate share mitigation which requires that it be scheduled as a new project in the first three years of the Adopted Five-Year DEFP, the action by the School Board shall automatically amend the Adopted Five-Year DEFP to include the proportionate share amount or value of the mitigation. Capacity projects identified within the first three (3) years of the Adopted Five-Year ~~Capital Facility Plan-DEFP~~ shall be considered as committed in accordance with the pertinent Sections of the Amended Interlocal Agreement.
- b. If capacity projects are planned in years four (4) or five (5) of the School Board's Adopted Five-Year DEFP within the same CSA as the proposed residential development, and if the School Board agrees, the Developer may pay his

proportionate share to advance the improvement into the first three years of the Adopted Five-Year DEFP to mitigate the proposed development in accordance with the formula provided herein.

- c. The guidelines for the expenditure of proportionate share mitigation funds towards permanent capacity identified in the Adopted Five-Year DEFP, shall be as follows:
  - (1) The School Board shall utilize monies paid by applicants, to provide needed permanent capacity at those schools identified in the District's development review report as being impacted by the development.
  - (2) If site constraints or other feasibility issues make it impracticable for the School Board to provide the needed permanent capacity at the affected school(s) as delineated above, as feasible, the School Board will reasonably provide the needed capacity at the immediately adjacent CSA(s), thus relieving overcrowding at the primarily impacted CSA(s).
  - (3). If disbursement of the mitigation funds is not possible as outlined above, the funds will be spent in the applicable school impact fee service area delineated in the adopted BCLDC in a manner that ensures that the impact of the development is still mitigated at the primarily affected CSA or an adjacent CSA(s).

#### **8. Monitoring of Proportionate Share Mitigation Funds**

- a. The School District shall maintain appropriate record of the applicants or property owners that have proposed proportionate share mitigation to satisfy public school concurrency requirements that have been accepted by the School Board. Such record shall include the number and type of residential units, the number of anticipated elementary, middle and high school students, the affected schools and subject school year as provided in the District's development review report for the development applications, the equivalent school impact fees due for such projects, and the additional and total proportionate share mitigation funds due/paid.

#### **9. Issuance and Term of Public School Concurrency**

- a. After issuance of the Preliminary SCAD Letter which indicates that capacity is available to accommodate the deficit students, the District shall temporarily reserve seats in its database for the number of students anticipated from the

development.

- b. After receiving written notice from the local government indicating that the plat, site plan (or functional equivalent) has received final approval from the governing body, and
  - (1) the total number of approved residential unit(s), type and bedroom mix are exactly the same or less than those depicted in the Preliminary SCAD Letter for the application; and
  - (2) the approved development level does not cause an increase in the number of elementary, middle and high school student(s) depicted in the issued Preliminary SCAD Letter,

a Final SCAD Letter will be issued for the development and the capacity (seats) needed for the anticipated student(s) shall be considered vested for the duration of the underlying approval, but for no more than five (5) years for public school concurrency purposes beginning from the date the Development received final approval from the local government. If at a later date the plat, site plan (or functional equivalent) is resubmitted with a revised units/bedroom mix that is different from the initial approved residential units/bedroom mix, and the revision generates additional student(s), seats associated with such additional student(s) shall not be considered vested for public school concurrency.

- c. Subsequently, the number of needed capacity/associated student(s) shall be added to the School District's database, monitored for the five year period, and deducted from the database as information is received annually from the local government regarding the issuance of certificate of occupancy (CO) for the development. If the development was denied, the District shall deduct from its database, student(s) associated with the development.
- d. In order for the District to adequately provide the capacity needed to accommodate the student(s) associated with the vested unit(s), data regarding the vested unit(s) shall be incorporated into the five-year student enrollment projections.
- e. The data regarding the information delineated in b. and c. above shall be provided by the Local Government to the School District in a quarterly report consistent with the provisions of the Second Amended Interlocal Agreement ~~no later than fifteen (15) days~~ after final approval of the development by the governing body. At the minimum, the data provided shall include the following:
  - (1) Development name, ~~and~~ project number, and SBBC number (if known);

- (2) Survey location map;
  - (3) Number of dwelling units by residential type(s) and bedroom mix;
  - (4) Section, Township and Range, and
  - (5) Final adoption and expiration date of the development approval.
- f. Once an approved plat, site plan (or functional equivalent) expires, the Final SCAD Letter will no longer be valid. If an approval is to be extended, as may be permitted by the applicable Local Government, the applicant or the Local Government shall provide written notice to the School District no later than fifteen (15) days prior to any such expiration and provide documentation that the extension request was approved. Failure to provide the timely written notice to the School District will result in the expiration of the Final SCAD Letter.
- g. If the approval was extended by the local government, and the District received notice as stated herein, a one time extension of the Final SCAD Letter shall be automatically granted consistent with the local government extension.
- h. A Vesting Verification Letter shall be issued for a site plan (or functional equivalent) application to confirm that the residential unit(s), type and bedroom mix proposed ~~by~~in the site plan are exactly the same as those contained in a prior vested plat (or functional equivalent) with a valid Final SCAD Letter. A Vesting Verification Letter will also be issued if the residential unit(s), type and bedroom mix proposed by the site plan (or functional equivalent) application are less than the residential unit(s), type and bedroom mix contained in the vested plat, and student(s) generated at each school level by the site plan (or functional equivalent) application are the same or less than the student(s) generated in the vested plat (or functional equivalent).
- i. A Vesting Verification Letter will not be issued for a site plan (or functional equivalent) application where the residential unit(s), type and bedroom mix proposed in the application are more than the residential unit(s), type and bedroom mix contained in the vested plat (or functional equivalent) with a valid Final SCAD Letter, and student(s) generated by the site plan (or functional equivalent) application at each school level are more than the student(s) generated in the vested plat. In the above scenario, the applicant may amend the site plan (or function equivalent) to be consistent with the information in the

underlying vested plat (or function equivalent), or submit a new application to the District for review of the additional residential unit(s).

AUTHORITY:

Sect. 120.54, F.S.  
Article IX, Fla. Const.  
Sect. 163.3161(3), F.S.  
Sect. 163.31777, F.S.  
Sect. 163.3174(1), F.S.  
Sect. 1013.36, F.S.  
Sect. 1013.33, F.S.  
Sect. 1013.35, F.S.

Sect. 1001.32, F.S.  
Sect. 1001.41, F.S.  
Sects. 163.3164(10) and (24), F.S.  
Sect. 163.3180(13), F.S.  
Broward County Land Use Plan  
Broward County Comprehensive Plan  
Broward County Charter  
Amended Interlocal Agreement for Public  
School Facility Planning

Policy Adopted 5/27/97  
Policy Amended and Adopted 11/9/04  
Policy Amended and Adopted 07/25/06  
Policy Amended and Adopted 1/15/08  
Policy Amended and Adopted 1/13/09

**EXHIBIT “B”**

**RECOVERY OF COSTS  
FOR  
PUBLIC SCHOOLS CONCURRENCY  
AND  
GROWTH MANAGEMENT  
  
REVIEW AND PROCESSING  
  
RESIDENTIAL DEVELOPMENT**

**1. Recovery of Costs for the Review and Processing of Applications for Residential Development.**

- A. Fees shall be imposed pursuant to School Board Policy to offset the various costs to the District for its use of outside consultants and attorneys (the “Reviewing Agents”) in connection with the processing and review of applications, submissions or requests concerning residential development in Broward County, Florida (“Review Requests”). Such fees shall be equal in amount to the District’s actual costs, in terms of the Reviewing Agents time and costs expended in such review and processing. It is the express intent of the School Board in enacting these provisions that the District’s costs of Review Agents as required now or in the future to satisfy and comply with public school concurrency and/or growth management regulations, policies or procedures shall be borne by those persons initiating the Review Request.
  
- B. During the course of review of any Review Request and upon notification by the School District or prior to proposing proportionate share mitigation for consideration by the School District, which necessitates review and processing by any Review Agent, as determined by the District, an applicant shall pay an initial preliminary minimum deposit in the amount of \$1,500.00 which shall be credited toward the fee charged for such review and processing. The District may request a larger minimum deposit at its discretion dependent upon the costs for services anticipated to be performed by the Reviewing Agents. Such person shall also pay additional deposits as may be required from time to time. If the deposit payment is made by credit or debit card, a minimum charge of two (2%) percent or the percentage that the credit/debit card company charges the School District for such transaction shall be added to the initial preliminary minimum deposit amount or additional supplemental amount(s).
  
- C. Upon payment of the initial deposit, an account for such person’s Review Request (the “Project Account”) will be opened and maintained throughout the entire review process until the person receives a determination that

Concurrency has been satisfied for the subject development or the District determines that no further District action is necessary for the review and processing of the Review Request, at either of which times the Project Account will be closed and any remaining funds in it shall be refunded to the person depositing same no later than two (two) months after the closing date of the Project Account. The Project Account will be monitored on a periodic basis by the District. Whenever the account balance falls below \$500.00, a supplemental deposit will be required before any further review or processing continues. The person making the initial deposit will be notified when a supplemental deposit will be required. The amount of the supplemental deposit will be a minimum of at least fifty (50%) percent of the initial deposit. Several supplemental deposits may be necessary depending upon the complexity of the Review Request.

- D. The Reviewing Agents who are involved in the review and processing of Review Requests shall maintain records of the time expended and tasks conducted regarding each such request. A debit based upon the time expended and the applicable hourly rate shall be charged against the Project Account. The applicable hourly rate for review and processing by the District's outside consultants and attorneys shall equal the actual hourly charge for such review and processing.
- E. The administrative fees set forth herein, shall not replace the imposition and collection of other fees or regular development review application fees as may be provided in other School Board Policies.
- F. Any notification for supplemental deposits from the District that is directed to a person initiating a Review Request shall be deemed sufficient if made by a telephone call to such person or his or her agent followed by a written confirming letter. It shall be the duty of those persons initiating Review Requests to supply the District, for inclusion in the filed Review Request, a continuously updated address and telephone number where such persons or their agents can be reached for purposes of such notification. If an attempt to notify a person initiating a Review Request or to notify his or her agent is frustrated because such furnished phone numbers or address were not correct or up to date when the notification attempt was made, such attempt shall be deemed sufficient notice for purposes of this section and further review shall be deferred until the supplemental deposit(s) have been received.