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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: April 21, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

Agenda Item No.8(N)(1)(A)

From: George M. Burgess
County Manager

Resolution No. R-423-09

Subject: Interlocal Agreement for Public School Facility Planning Between Miami-Dade County and the Miami-Dade County Public Schools

RECOMMENDATION

It is recommended that the Board of County Commissioners (BCC) approve the attached Resolution, as amended, authorizing the Mayor or his designee to execute the attached Interlocal Agreement for "Public School Facility Planning Between Miami-Dade County and Miami-Dade County Public Schools" (MDCPS), as amended. Proposed amendments to the approved BCC July 1, 2008 Agreement, are indicated by shading and underline for additions and ~~strikethrough~~ for deletions.

SCOPE

The agenda item is countywide in nature and has the same impact upon all Commission districts.

FISCAL IMPACT/FUNDING SOURCE

There is no fiscal impact of the proposed agenda item.

TRACK RECORD/MONITOR

Not Applicable.

BACKGROUND

The 2005 State of Florida's Growth Management amendment requires that the County, all municipalities, and MDCPS jointly develop and implement a Concurrency Management System for public school facilities. A jointly executed interlocal agreement between these parties is required to ensure that the approved system is district-wide and applied on a uniform basis. Major requirements, including level of service, concurrency service areas, proportionate share mitigation, and financial feasibility must be addressed in both the Interlocal agreement and the local government's comprehensive plan. The required modifications to the County's Comprehensive Development Master Plan (CDMP) were approved on July1, 2008 by the BCC. However, failure to transmit an interlocal agreement executed by the County and School Board has resulted in the Department of Community Affairs (DCA) finding the adoption package "incomplete", with no review of this package to be conducted by DCA until a jointly executed interlocal agreement is received.

The Amended and Restated Interlocal Agreement for Public School Facility Planning in Miami-Dade County was first adopted by the Board of County Commissioners (BCC) on February 5, 2008. Noting that this Interlocal Agreement differed from the version adopted by MDCPS on November 20, 2007, the BCC directed staff to work with MDCPS staff to reconcile the differences. After many discussions over a two month period, amendments were developed to address the differences between the two documents. These changes were reflected in a revised *Interlocal Agreement for Public School Facility Planning Between Miami-Dade County and the Miami-Dade County Public Schools* (Agreement), which was approved by MDCPS Board on May 21, 2008 and approved with modification by the BCC on July 1, 2008. The School Board denied the BCC's modifications at its July 15, 2008 meeting citing 6 major differences. To develop a mutually acceptable revised Agreement, the County Manager's Office and School Superintendent's Office

have worked to address the identified differences. It is important to note that the School Board and the BCC have agreed on the major components of school concurrency – Level of Service (LOS) standard, Concurrency Service Areas (CSA), the use of the Florida Inventory of School Houses (FISH) for school capacity, student generation methodology, cost of student stations, some proportionate share mitigation options, and the school concurrency management system. The BCC's July 1, 2008 Agreement was revised to address the remaining issues between the two Boards and is provided herein for further consideration.

Proposed Modifications to the Agreement

The principal issues, and how each is to be addressed in the Agreement, are described below and have been incorporated into the Agreement.

Issue 1: Deletion of city participation from the assessment of the effect of the geographic areas on the public school concurrency system. (throughout sections of the Agreement)

The Agreement adopted in July 2008, was worded to reflect an agreement between only the County and School Board and therefore the word "Cities" was deleted from several sections of the Agreement. The School Board has requested that in many instances the word "cities" be reinstated to reflect that their participation is necessary to maintain a uniform district-wide concurrency management system. The County has made these changes to accommodate the School Board's concerns.

Issue 2: Adoption of the District's five-year capital plan into the County's Capital Improvement Element. (Section 9.3, Page 25)

Wording in Section 9.3 *Updates to Public School Concurrency* of the Agreement alluded to the County having to adopt the District Facilities Work Program into its Capital Improvements Element. Adoption of the Capital Improvements Element is conducted only after public hearing and at the sole discretion of the BCC. Therefore, a requirement to adopt the District's plan as a foregone conclusion and without consideration of public input is contrary to State law. The wording was modified to track the statute clarifying that the "Capital Improvements Element of the County's Comprehensive Plan must set forth a financially feasible school capital facilities plan."

Issue 3: Requiring that the County also approve any changes to the School Board's five-year capital plan. - Maintenance of Effort and allowing shifting across geographic boundaries (Section 9.3, page 26)

The July 1, 2008 Agreement added wording that requires the School Board to "maintain the net number of elementary, middle and senior high school student stations existing in each Concurrency Service Area ("CSA") or its contiguous CSAs as of the effective date of this Agreement, except as agreed to by the County and the School Board". The School Board was concerned that this wording was tantamount to requiring a signoff by the County on its District's Annual Work Program; an authority that is not in the County's purview. To resolve the issue the County has requested, and the School staff has agreed, to allow a CSA to shift its impacts of development to any contiguous CSA, regardless of geographic areas, when a School Board action reduces student stations that cause the CSA to exceed its LOS standard. This compromise implements the shifting of development impacts to a contiguous CSA, as allowed in Section 163.3180(13), F.S., and gives added flexibility to the County when actions of the School Board reduce student stations.

Additionally, the new language addresses the County's ability to rely on the projects of the District's adopted Annual Work Program even if the program is changed during the year. Timeframes for

submittal of the Work Program are established to ensure that adequate timeframes are provided for review and comment.

Issue 4: Takings and Vested Rights language (Section 22, page 32)

A major legal issue to the County was protection from a "takings" due to the implementation of school concurrency requirements. After much debate, the School Board conceded to including the County's language with regards to this issue.

Issue 5: Effective Date and Term Language is inconsistent with the governing statutes. (Section 12, page 28)

The *Effective Date and Term* section of the Agreement was modified to reflect that school concurrency could proceed in Miami-Dade County prior to all municipalities signing the Interlocal Agreement and implementing their comprehensive plan amendments. Since 27 municipalities would need to execute the agreement prior to it being effective, the language allowed for concurrency to begin in the unincorporated areas at an earlier date (with 2/3 of the cities executing the Agreement) However, the Florida Department of Community Affairs has deemed those municipalities who have executed Interlocal Agreements to be "In Compliance" with state statutes and have not required all parties to execute before implementation of the School Board's concurrency management system. Based upon DCA's interpretations and actions, the July 2008 language amendment was not necessary and therefore, the original School Board language was reinstated.

Issue 6: Allowing future amendments to the County Revised Interlocal to be adopted potentially without the School Board's participation. (Section 16, page 30)

The Agreement was modified to allow, in some instances, for amendments to occur without consent of either the School Board or the County. The School Board has taken issue with any amendment process that does not require their approval even though the County and 2/3 of the municipal governments may desire such an amendment. An evaluation of the school concurrency requirements in the Chapter 163, F.S., which could potentially be modified without joint approval, was conducted. The evaluation showed that proportionate share mitigation requirements, including the inclusion of mitigation options, could be modified without the School Boards consent. Since this Agreement has been structured so that the two major entities (the School Board and the County, as the largest local government) have equal share in the Agreement's administration, an amendment process that does not allow equal partnership between these two entities may not in keeping with the intent of statutes.

Conversations with DCA have indicated that an amendment process is valid only if both parties agree to the terms. However, if either party is not in agreement then the requirements of the Interlocal Agreement will not have been met. To ensure that the Agreement is truly a partnership between the School Board and the County, the County has modified the Agreement to reflect the School Board language that requires approval of all amendments by both the County and School Board and a favorable 2/3 vote of the non-exempt municipalities. <u>This amendment can only become effective upon modification to the non-exempt municipal Interlocal Agreements since it deviates from the unanimous vote required in the existing Interlocal Agreement</u>.

Other Proposed Modifications

<u>School Site Planning and Construction Committee (SSPCC) Member</u> - The County has proffered an additional modification (Section 4, page 8) to the Agreement adding one "floating member" to

the SSPCC. This modification increases the County's representation on the SSPCC when reviewing potential school sites, school renovations or potential school closures in incorporated areas. The School staff has agreed to the inclusion of the additional representative.

Charter Schools - The County has also requested the inclusion of Charter Schools as a proportionate share mitigation option (see Section 9.2 (e)(6), page 23). This option would be used at the sole discretion of the School Board. Additionally, the School Board would be responsible for the development of the criteria associated with this option. School staff has agreed the amendment as written.

Sanctions and Penalties

Chapter 163, F.S established a statutory deadline of December 1, 2008 for compliance with the new school concurrency requirements and allowed DCA to establish a phased submission schedule for all municipalities and Counties throughout the state. In accordance with this schedule, the amendments to the Agreement, to be executed by Miami-Dade County, the MDCPS Board and non-exempt municipalities and transmitted to DCA, along with the adopted amendments to the CDMP, were required no later than January 1, 2008. According to Florida Statutes, no CDMP amendments that increase residential density can be adopted if the County fails to meet the DCA's deadline. Failure to jointly execute the Agreement by the January 1, 2008 DCA deadline has resulted in the following amendment cycles being returned or review withheld.

- Special Application to Amend the CDMP – School Concurrency - 8/22/08 letter issued to County stating the amendment and Agreement were incomplete because the Agreement was not executed by the School Board. Amendments will not be processed for Notice of Intent (NOI) until fully executed Agreement is received.
- April 2007 Cycle (Standard Applications 1, 3, and 6) – 12/3/08 DCA published NOI finding applications Not In Compliance, currently in litigation by applicants.
- October 2007 cycle (Small Scale Applications 2 and 3) – Applications returned without review by letter dated 6/19/08. No legal challenge.
- April 08 cycle (Small Scale Applications 2, 3, 4, and 5) – Transmitted to DCA on 1/5/09, by letter dated 1/12/09 DCA states they will not review for compliance.

In addition to the penalties noted above, sanctions may be assessed to local governments or school districts that have not timely submitted their Interlocal Agreements or CDMP Amendments. Local governments may have a minimum of 5% of State funding for roads, bridges, and water and sewer systems withheld and may be found ineligible for certain state grants. Current estimates indicate that the sanctions against the County would be a minimum of $33 million.

The attached resolution authorizes the Mayor, or his designee, to execute the Agreement and adhere to the procedures in coordinating land use and public school facilities planning. Also attached for your reference is a "Notice to Show Cause" letter from DCA Secretary, Thomas C. Pelham asking the County and School Board to explain why sanctions should not be enforced. The Superintendent and I issued a joint response on March 13, 2009, a copy of which is enclosed. A March 23, 2009 response from DCA Secretary Pelham cautioning that it the County and School Board hearings of April 21st, and 22nd do not result in an approved and executed Agreement, he will "refer the matter to the Administration Commission for appropriate action". (See attached copy)

Assistant County Manager

INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING BETWEEN MIAMI-DADE COUNTY AND MIAMI-DADE COUNTY PUBLIC SCHOOLS[1]

This Agreement is entered into between Miami-Dade County, a political subdivision of the State of Florida (hereinafter referred to as "County") and The School Board of Miami-Dade County, Florida, a political subdivision of the State of Florida (hereinafter referred to as "School Board").

RECITALS

WHEREAS, the County and the School Board recognize their mutual obligation and responsibility for the education, nurturing and general well-being of the children within their respective communities; and,

WHEREAS, the School Board has the statutory and constitutional responsibility to provide a uniform system of free and adequate public schools on a countywide basis; and,

WHEREAS, the County and School Board recognize the benefits that will flow to the citizens and students of their communities by more closely coordinating their comprehensive land use and school facilities planning programs namely: (1) better coordination of new schools in time and place with land development, (2) greater efficiency for the school board and local governments by placing schools to take advantage of existing and planned roads, water, sewer, and parks, (3) improved student access and safety by coordinating the construction of new and expanded schools with the road and sidewalk construction programs of the local governments, (4) better defined urban form by locating and designing schools to serve as community focal points, (5) greater efficiency and convenience by co-locating schools with parks, ball fields, libraries, and other community facilities to take advantage of joint use opportunities, (6) reduction of pressures contributing to urban sprawl and support of existing neighborhoods by appropriately locating new schools and expanding and renovating existing schools, and (7) improving the quality of education in existing, renovated and proposed schools; and,

WHEREAS, Section 1013.33, Florida Statutes, requires that the location of public educational facilities must be consistent with the comprehensive plan and implementing land development regulations of the appropriate local governing body; and,

WHEREAS, the County has jurisdiction over land use and growth management

[1] The base document is the Agreement as adopted by the Board of County Commissioners on July 1, 2008. ~~Strikethrough~~ and Underlined words are recommended deletions and/or additions to the proposed Agreement.

decisions within its unincorporated boundaries, including the authority to approve or deny comprehensive plan amendments and rezonings, or other development orders that generate students and impact the school system; and,

WHEREAS, Sections 163.3177(6)(h) 1 and 2, Florida Statutes, require each local government to adopt an intergovernmental coordination element as part of their comprehensive plan that states principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of the school boards, and describes the processes for collaborative planning and decision-making on population projections and public school siting; and,

WHEREAS, Sections 163.31777 and 1013.33, Florida Statutes, further require each county and the non-exempt municipalities within that county to enter into an interlocal agreement with the district school board to establish jointly the specific ways in which the plans and processes of the district school board and the local governments are to be coordinated; and,

WHEREAS, the 2005 Florida Legislature adopted Chapter 2005-98, Laws of Florida, codified at Sections 163.31777, 163.3180(13) and 1013.33, Florida Statutes, which, in relevant part, required that all school interlocal agreements be updated to reflect a new statutory mandate to implement public school concurrency; and

WHEREAS, the Municipalities of City of Aventura, Town of Bay Harbor Islands, City of Coral Gables, Town of Cutler Bay, City of Doral, Village of El Portal, City of Florida City, City of Hialeah, City of Hialeah Gardens, City of Homestead, Village of Key Biscayne, City of Miami, City of Miami Beach, Town of Miami Lakes, Village of Miami Shores, City of Miami Springs, City of North Bay Village, City of North Miami, City of North Miami Beach, City of Miami Gardens, City of Opa-Locka, Village of Palmetto Bay, Village of Pinecrest, City of South Miami, City of Sunny Isles Beach, Town of Surfside, City of Sweetwater, and the City of West Miami (hereinafter collectively referred to as "Cities") and the School Board have entered into the Amended and Restated Interlocal Agreement for Public School Facility Planning in Miami-Dade County (referred to herein as the "Amended and Restated Agreement"); and,

WHEREAS, the County and the School Board desire to enter into a separate form of agreement as provided herein (referred to herein as the "Agreement"); and,

WHEREAS, the School Board and the County have further determined that it is necessary and appropriate to cooperate with each other to coordinate the approval of residential development with the provision of adequate public school facilities in a timely manner and at appropriate locations, to eliminate any deficit of capacity and provide capacity for projected new growth, as further specified herein; and

WHEREAS, the County is entering into this Agreement in reliance on the School Board's ~~maintenance of the net number of elementary, middle and senior high school student stations existing in each Concurrency Service Area ("CSA") or its contiguous CSAs as of the effective date of this Agreement, except as agreed to by the County and the School board in the future, and on the~~ obligation to prepare, adopt and implement a

financially feasible capital facilities program that will result in public schools operating at the adopted Level of Service Standard consistent with the timing specified in the School Board's adopted five-year district educational facilities plan (hereinafter referred to as the "District Facilities Work Program"); and

WHEREAS, the School Board has further committed to update and adopt the District Facilities Work Program yearly to add enough capacity in the new fifth year to address projected growth and to adjust the District Facilities Work Program in order to maintain the adopted Level of Service Standard and to demonstrate that the utilization of school capacity is maximized to the greatest extent possible pursuant to Sections 163.3180(13)(d)2 and 1013.35, Florida Statutes; and

WHEREAS, by entering into this Agreement, the School Board and the County are fulfilling their statutory obligations and requirements recognizing the benefits that will accrue to their citizens and students described above,

AGREEMENT

NOW THEREFORE, be it mutually agreed between the School Board and the County that the following procedures will be followed in coordinating land use and public school facilities planning:

Section 1. Joint Meetings

1.1 Staff Working Group: A Staff Working Group comprised of the Chair of the Board of County Commissioners and/or designee, the School Board Superintendent and/or designee, and City Mayor/Manager and/or their designees will meet at least on a semi-annual basis to discuss issues and formulate recommendations regarding public education in the School District, and coordination of land use and school facilities planning, including such issues as population and student projections, development trends, a work program for five (5), ten (10) and twenty (20) year intervals and its relationship to the local government comprehensive plans, particularly as it relates to identification of potential school sites in the comprehensive plan's future land use map series, school needs (school capacity and school funding), the implementation of public school concurrency, collocation and joint use opportunities, and ancillary infrastructure improvements needed to support the school and ensure safe student access. Representatives from the South Florida Regional Planning Council, the Latin Builders Association and the Builders Association of South Florida will also be invited to attend and participate. Meetings of the working group shall be held upon at least thirty (30) days written advance notice, and shall be coordinated by the School Board Superintendent, or designee. The Staff Working Group shall meet no later than March 31 each year to address student enrollment projections, and by April 30 and October 31 of each year to address the public school concurrency management system, and any proposed amendments to the school-related comprehensive plan provisions. The April 30

deadline shall apply where changes are proposed for the County's first comprehensive plan amendment cycle of the following year, and the October 31 deadline shall apply for changes proposed in the second cycle of the following year.

1.2 Elected Officials Forum: The School Board Superintendent and/or designee shall coordinate a joint workshop session at least annually and invite one or more representatives of the County Commission or their designee(s), the governing body of each City or their designee(s), and the School Board or their designee(s). A representative of the South Florida Regional Planning Council will also be invited to attend. The School Board shall provide the meeting invitations with at least thirty (30) days advance written notice of such meeting to the person designated as a contact in this Agreement. Modifications and amendments shall be considered by each party to this Agreement in accordance with Section 16, and may be discussed at the joint workshop sessions. The joint workshop sessions provide opportunities for the County Commission, the City Commissions or Councils, and the School Board to hear reports, discuss policy, set direction, and reach understandings concerning issues of mutual concern regarding public education, and coordination of land use and school facilities planning, including population and student growth, development trends, school needs, off-site improvements, public school concurrency, school capacity, school funding, options to reduce the need for additional permanent student stations, and joint use opportunities.

Section 2. Student Enrollment and Population Projections

2.1 In fulfillment of their respective planning duties, the County, Cities, and School Board agree to coordinate their plans upon consistent projections of the amount, type, and distribution of population growth and student enrollment. Countywide five (5)-year population projections shall be updated at least once every two (2) years by the County. The School Board may enter into a separate agreement with the County for the preparation of student enrollment projections. Updated County and School District data shall be provided at least once every two (2) years for review at the Staff Working Group meeting described at Subsection 1.1.

2.2 The School Board shall utilize student population projections based on information produced by the demographic, revenue, and education estimating conferences pursuant to Section 216.136, Florida Statutes, where available, as modified by the School Board based on development data and agreement with the County and cities and the Office of Educational Facilities and SMART Schools Clearinghouse. The School Board may request adjustment to the estimating conferences' projections to reflect actual enrollment and development trends using the COHORT Projection Waiver available on the Florida Department of Education website. In formulating such a request, the School Board will coordinate with the Cities and County regarding development trends and future population projections.

2.3 The School Board, working with the County and Cities via the Staff Working Group, will use the information described in subsection 3.4 and any other relevant information provided as part of the requirements of this Agreement, to allocate projected student enrollment by Minor Statistical Areas.

Section 3. Coordinating and Sharing of Information

3.1 *Tentative District Educational Facilities Work Plan*: By May 31 of each year, the School Board shall submit to the County the tentative district educational facilities work plan program prior to adoption by the Board. The tentative plan will be consistent with the requirements of Section 1013.35, Florida Statutes, and include projected student populations geographically, an inventory of existing school facilities, projections of facility space needs, information on relocatables, general locations of new schools for the five (5), ten (10), and twenty (20) year time periods, and options to reduce the need for additional permanent student stations. The tentative plan will also include a financially feasible district facilities work program for a five (5) year period. The County shall review and evaluate the tentative plan and comment to the School Board by June 30 on the consistency of the tentative plan with the local comprehensive plan, including its compatibility with the comprehensive plan's future land use map series, and whether a comprehensive plan amendment will be necessary for any proposed educational facility. The School Board shall provide the District's adopted Facilities Work Program to the County no later than October 20, and it a financially feasible school capital facilities plan shall be adopted into the County's comprehensive plan each year no later than December 1 in accordance with Section 9.3.

3.2 *Educational Plant Survey*: The School Board will remain responsible for reporting and submission of updates. The Educational Plant Survey shall be consistent with the requirements of Section 1013.31, Florida Statutes, and include at least an inventory of existing educational facilities, recommendations for new and existing facilities, and the general location of each in coordination with existing land use plans. The Staff Working Group, in accordance with the procedure outlined in Section 3.5, will evaluate and make recommendations regarding the location and need for new, significant renovation or expansion, closures of educational facilities, and the consistency of such plans with the local government comprehensive plans and relevant issues including, but not limited to, those listed in subsections 4.3, 7.6, 7.7 and 8.1 of this Agreement.

3.3 *Educational Facilities Impact Fee Ordinance*: The County and the School Board shall perform a review at least every three (3) years of the Educational Facilities Impact Fee Ordinance, its formula, and the Educational Facilities Impact Fee Methodology and Technical Report, and if appropriate, make recommendations for revisions to the Board of County Commissioners. The first review shall be performed within three (3) years after the effective date of the impact fee ordinance, as amended. Among the goals of this review will be the

adjustment of impact fee structure to ensure the full eligible capital costs, as allowed by the governing ordinances, associated with development of public school capacity is included. In reviewing the Educational Facilities Impact Fee Ordinance, the County and School Board shall employ their best efforts to evaluate a more equitable distribution of impact fee assessments. The School Board and County will provide for local government, industry and citizen participation and input, prior to submitting recommendations to the Board of County Commissioners for substantive revisions to the Educational Facilities Impact Fee Ordinance, its formula, and/or the Educational Facilities Impact Fee Methodology and Technical Report, including the adjustment of impact fee structure or benefit district boundaries.

3.4 *Growth and Development Trends*: By September 30 of each year, the County will provide the School Board with a report on growth and development trends within its jurisdiction, based on the most current available data. This report will be in tabular, graphic, and/or textual formats and will include the following:

(a) The type, number, and location of residential units, which have received zoning approval, plat approval or site plan approval;

(b) Information regarding adopted future land use map amendments which may have an impact on school facilities;

(c) The County shall report to the School Board the school impact fees collected annually on building permit applications. This report shall include the amount of the fee collected and location of the proposed residential development. The School Board shall report to the County how the impact fee revenue and all other school contributions have been spent within the Benefit District in which it was collected. All data shall include source information for verification and be provided in a format consistent with other capital expenditures;

(d) Information, if available, regarding the conversion or redevelopment of non-residential structures into residential units that are likely to generate new students and, conversely, information on the number of residential units converted to non-residential uses; and

(e) The identification of any development orders issued that contain a requirement for the provision of a public school site as a condition of development approval.

If at all possible, data required to be submitted in this section should also be sent in a format that can be loaded into the Geographic Information Systems (GIS) database maintained by the School Board.

3.5 *New, Expanded and Renovated School Facilities*: The Staff Working Group shall provide recommendations on the planning of new facilities, additions or renovations for consideration by School Board staff and the School Site

Planning and Construction Committee ("SSPCC") in formulating the tentative district educational facilities plan. Likewise, the Staff Working Group shall also provide input and comments, recommendations on the update of the Five-Year Educational Plant Survey and any revisions thereto.

3.6 *Public School Facilities Element*:

(a) *Initial comprehensive plan amendments related to the Public Schools Facilities Element to satisfy the requirements of Chapter 2005-98, Laws of Florida*: The amendments to the Public School Facilities Element and related amendments to the Capital Improvements Element and the Intergovernmental Coordination Element in the County's comprehensive plans ("school-related element amendments" or "school-related element provisions") required to satisfy Chapter 2005-98, Laws of Florida are being adopted into the comprehensive plans of the County concurrently with the execution of this Agreement by the County. Some provisions relevant to public schools may remain in the Future Land Use Element or other elements as may be appropriate.

(b) *Subsequent school-related element amendments*: Thereafter, the experience with implementing the revised comprehensive plans and the School Board's District Facilities Work Program shall be reviewed by the County and Cities each year, at a Staff Working Group meeting to be held no later than April 30 (County's first comprehensive plan amendment cycle) or October 31 (County's second comprehensive plan amendment cycle), to determine whether updates to the comprehensive plans are required. At a minimum, the District Facilities Work Program shall be updated annually by the addition of a new fifth year as provided in Section 9.3. Any other amendments to the comprehensive plans shall be transmitted in time to allow their adoption concurrently with the update to the District Facilities Work Program, where feasible. Amendments to the comprehensive plans shall be considered in accordance with the County's comprehensive planning cycle.

(c) *School Board review of school-related element amendments*: All school-related element amendments shall be provided to the School Board at least ninety (90) days prior to transmittal (or adoption if no transmittal is required). The School Board shall review the school-related element amendments and provide comments, if any, to the relevant local government either (i) in writing at least thirty (30) days prior to the local planning agency meeting on the school-related element amendment, or (ii) by attending and providing comments at the local planning agency meeting.

(d) *Countywide consistency of school-related element amendments*: The County's school-related element provisions must be consistent with the uniform district-wide public school concurrency system, with the Cities' comprehensive plans, and with the School Board's facilities, plans and policies. Each City may choose to adopt all or a portion of the County's school-related element provisions into its comprehensive plan by reference, or it may adopt its own school-related element provisions. If a City adopts its own school-related element provisions,

any goal, objective, policy or other provision relevant to the establishment and maintenance of a uniform district-wide public school concurrency system shall be substantially the same as its counterpart in the County comprehensive plan and other Cities' comprehensive plans. If any school-related element amendment is proposed that deviates from the uniform district-wide public school concurrency system, it shall become effective only in accordance with Section 16 of this Agreement. Such proposals shall be forwarded to the Staff Working Group for review, and the adoption of any such changes shall be timed to coincide with the County's comprehensive plan amendment cycle. Once these amendments have all become effective, then the new requirement shall apply countywide. The County may adopt the District Facilities Work Program into its comprehensive plan either by reference or by restatement of the relevant portions of that Facilities Work Program, but in no event shall the County attempt to modify that Facilities Work Program. The County agrees to coordinate the timing of approval of school-related element amendments with the Cities, to the extent that it is feasible to do so. To the extent that a proposed school-related element amendment is inconsistent with this Agreement or the Amended and Restated Agreement, an amendment to this Agreement or the Amended and Restated Agreement shall also be required before the amended element becomes effective.

(e) Evaluation and Appraisal Report: In addition to the other coordination procedures provided for in this Agreement, at the time of the Evaluation and Appraisal Report, the County shall schedule at least one Staff Working Group meeting with the School Board to address needed updates to the school-related comprehensive plan provisions.

Section 4. School Site Selection, Significant Renovations, and Potential School Closures

4.1 The School Board staff will seek to amend Rule 6Gx13-2C-1.083, Section II.D. Membership, to expand the membership of its standing School Site Planning and Construction Committee (SSPCC) by one additional voting members as follows:

a. if the agenda item related to an incorporated area of Miami-Dade County, "two one floating members," one designated by the City Manager of the most impacted municipality, and designated by the geographically nearest Community Council, or

b. if it concerns an unincorporated area, two one "floating members," designated by the Community Council with jurisdiction over the area in which the proposed project is located, one designated from the most impacted Community Council and one from the geographically nearest municipality most impacted by the agenda item;

along with the representative selected by the Miami-Dade County League of Cities, the Miami-Dade County representative selected by the County Manager

or designee, the member of the residential construction industry, a "floating member" from the most impacted or geographically nearest municipality, and other members of the committee.

~~For purposes of this Section, a floating member from the most impacted municipality shall be defined as the local government jurisdiction in which the proposed project is located, and a floating member from the most impacted Community Council shall be defined as the Community Council jurisdiction in which the proposed project is located.~~

The SSPCC shall review potential sites for new schools and proposals for significant renovation, the location of relocatables or additions to existing buildings, and potential closure of existing schools, and make recommendations on these and all other issues within its purview under the Rule for consideration by School Board staff. The SSPCC shall also:

(a) Host a planning forum, by May 31, as a joint meeting of the Staff Working Group and School Site Planning and Construction Committee on an annual basis or more often as may be needed. For purposes of this forum, the SSPCC shall invite a representative from each of the impacted units of government to participate in the proceedings and to provide input and comments, for consideration by the SSPCC in its deliberations. The forum will review the School Board's acquisition schedule and all other relevant issues addressed in this Agreement and required by statute, and will include appropriate staff members of the School Board, at least one staff member of the County and a representative from each of the affected Cities. Based on information gathered during the review, the SSPCC will submit recommendations to the Superintendent or designee for the upcoming year.

(b) Invite a staff representative from each unit of local government affected by an agenda item at any SSPCC meeting throughout the year to attend that meeting. It shall provide a full opportunity for such local government representatives to provide comments, and shall consider those comments in its deliberations. Based on information gathered during the review, the SSPCC will submit recommendations to the Superintendent or designee on these items.

For purposes of this Sub Section, an affected local government shall be defined as follows:

a. Any jurisdiction within fifteen hundred (1,500) feet of the property or improvement; and

b. Any jurisdiction whose utilities are utilized by the School Board property or improvement.

The School Board Superintendent and/or designee shall provide the invitations referenced in this Section 4.1, with at least thirty (30) days advance written notice of such meeting to the person designated as a contact in this Agreement. The Superintendent or designee shall forward the SSPCC recommendations

referenced in this Agreement to the School Board so that they may be considered by the Board at the time that it deals with the issues to which the recommendations relate.

4.2 When the need for a new school is identified and funded in the District Facilities Work Program, the SSPCC will review a list of potential sites in the area of need. The list of potential sites for new schools and the list of schools identified and funded in the District Facilities Work Program for significant renovation, the location of relocatables, or additions to existing buildings and potential closure and opportunities for collocation will be submitted to the local government with jurisdiction over the use of the land for an informal assessment regarding consistency with the local government comprehensive plan.

4.3 The evaluation of new school sites or significant expansion of student stations at existing schools shall be in accordance with School Board Rule 6Gx13-2C-1.083, as may be amended from time to time and attached hereto as Exhibit 1. Any proposed amendments to this rule, which may impact upon the terms of this Agreement, shall be submitted to the affected units of local government prior to submission to the SSPCC and to the School Board.

4.4 Pursuant to Section 1013.33(11), Florida Statutes, at least sixty (60) days prior to acquiring or leasing property that may be used for a new public educational facility, the School Board shall provide written notice to the local government with jurisdiction over the use of the land. The local government, upon receipt of this notice, shall notify the School Board within forty-five (45) days if the proposed new school site is consistent with the land use categories as depicted in the future land use map series, as well as the policies of the local government's comprehensive plan. If the site is not consistent, it shall not be used as a school site until and unless otherwise approved by the local government. This preliminary notice does not constitute the local government's determination of consistency pursuant to Section 1013.33(12), Florida Statutes.

Section 5. Supporting Infrastructure

5.1 In conjunction with the preliminary consistency determination described at subsection 4.4 of this Agreement, the School Board, ~~and~~ the County, and any other affected local governments will jointly determine the need for, and timing of, on-site and off-site improvements necessary to support each new school or the proposed significant expansion of an existing school, in those instances where capacity is being added to accommodate new student populations. Significant expansion shall include construction improvements that result in a greater than five (5) percent increase in student capacity, the location of relocatables, or additions to existing buildings for high schools with a capacity of more than 2,000 students. For significant expansions to high schools with a capacity of less than 2,000 and for middle schools, the applicable percentage shall be ten (10) percent, and for significant expansions to elementary schools (including K-8 centers), the applicable percentage shall be fifteen (15) percent. The School Board and affected local government will enter into a letter of agreement as to

the timing, location, and the party or parties responsible for constructing, operating and maintaining the required on-site and off-site improvements related to the expansions and new schools referenced above, respectively.

This section shall not be construed to require the affected local unit of government to bear any costs of infrastructure improvements related to school improvements.

Section 6. Public Education Facilities Site Plan Review

6.1 The School Board and the County will continue to coordinate any and all proposed construction or expansion of public educational facilities, including the general location of new schools in unincorporated Miami-Dade County, with the County's Comprehensive Development Master Plan (CDMP) and local land development regulations in accordance with applicable review procedures and statutes.

6.2 The School Board will coordinate any and all proposed construction or expansion of public educational facilities, including the location of new schools or relocatables, within any City's jurisdiction with that City's adopted comprehensive plan and land development regulations. This coordination shall be accomplished in accordance with the provisions of Section 1013.33(12) through (15), Florida Statutes. The affected City shall provide all of its comments to the School Board as expeditiously as feasible, and not later than sixty (60) days after receipt of the complete site plan.

Section 7. Local Planning Agency, Comprehensive Plan Amendments, Rezonings, and Developments of Regional Impact

7.1 In accordance with the requirements of and to the extent required by Section 163.3174(1), Florida Statutes, the County will invite a staff representative appointed by the School Board to attend meetings, on an as needed basis, of their local planning agencies or equivalent agencies that first consider comprehensive plan amendments and rezonings at which comprehensive plan amendments, rezonings, or Development of Regional Impact proposals or amendments are considered that would, if approved, increase residential density. The County may appoint such School Board representative to the planning agency, and, at its sole discretion, may grant voting status to the School Board representative.

7.2 The School Board will designate a staff representative to serve in an advisory support capacity on the County's staff development review committee, or equivalent body. It shall be the responsibility of School Board staff to be prepared to comment in writing to the local staff development review committees at least five (5) days prior to the meeting or development review committee review, for their consideration. These comments shall include a statement that the application will be subject to public school concurrency review at the plat, site

plan or functional equivalent stage, consistent with Section 9 of this Agreement. A copy of the application shall be delivered to the School Board representative at least fifteen (15) working days prior to the proposed meeting date, or on the date the agenda is distributed. The School Board's review shall be conducted in accordance with agreed upon procedures to be developed through a collaborative process with the Staff Working Group.

7.3 The County agrees to transmit to the School Board copies of proposed comprehensive plan amendments, rezonings, and Development of Regional Impact proposals or amendments that may affect student enrollment, enrollment projections, or school facilities

7.4 Within thirty (30) days after receipt of notification by the County, which notification shall include development plans, the School Board will advise the County of the school enrollment impacts anticipated to result from the proposed comprehensive plan amendment, rezoning, or Development of Regional Impact proposals or amendments The School Board will also include capacity information on approved charter schools that provide relief in the area of impact. The School Board may charge a non-refundable application fee payable to the School Board to reimburse the cost to review comprehensive plans, rezonings and Development of Regional Impact proposals or amendments pursuant to this Section. In that event, payment may be required prior to the commencement of review.

7.5 The review by the School Board staff regarding comprehensive plan amendments, rezonings and Development of Regional Impact proposals or amendments containing residential units shall be classified as "Public Schools Planning Level Review (Schools Planning Level Review)". The Schools Planning Level Review does not constitute public school concurrency review. This Section shall not be construed to obligate the County to deny or approve (or to preclude the County from approving or denying) an application.

7.6 In the review and consideration of comprehensive plan amendments, rezonings, and Development of Regional Impact proposals or amendments, and their respective potential school impacts, the County should consider the following issues:

a. School Board comments, which may include available school capacity or planned improvements to increase school capacity, including School Board approved charter schools and operational constraints (e.g., establishment of or modifications to attendance boundaries and controlled choice zones), if any, that may impact school capacity within an area, including public-private partnerships. Failure of the School Board to provide comments to the County within thirty (30) days as specified in Section 7.4 may be considered by the parties as a response of "no comment." In such a scenario, the County shall not be obligated to delay final action by the County Commission;

b. The provision of school sites and facilities within planned neighborhoods;

c. Compatibility of land uses adjacent to existing schools and reserved or proposed school sites;

d. The potential for collocation of parks, recreation and neighborhood facilities with school sites;

e. The potential for linkage of schools, parks, libraries and other public facilities with bikeways, trails, and sidewalks for safe access;

f. Traffic circulation plans that serve schools and the surrounding neighborhood, including off-site signalization, signage, and access improvements; and

g. The general location of public schools proposed in the District Facilities Work Program as well as other available information over a ten (10) and twenty (20) year time frame.

7.7 In formulating community development plans and programs, the County should consider the following issues:

a. Giving priority to scheduling capital improvements that are coordinated with and meet the capital needs identified in the District Facilities Work Program;

b. Providing incentives that promote collaborative efforts between the School Board and the private sector to develop adequate school facilities in residential developments;

c. Targeting community development improvements in older and distressed neighborhoods near existing or proposed School Board owned and operated public schools and School Board approved charter schools;

d. Coordination with neighboring jurisdictions to address public school issues of mutual concern; and

e. Approval and funding of community development districts (CDD) and other available funding mechanisms created by state law.

Section 8. Collocation and Shared Use

8.1 Collocation and shared use of facilities are important to both the School Board and local governments. The School Board, Cities, and County will work together, via the Staff Working Group, the SSPCC, and the Citizens Oversight Committee to look for opportunities to collocate and share use of school facilities and civic facilities when preparing the District Facilities Work Program. Likewise, collocation and shared use opportunities will be considered by the local governments when preparing the annual update to the comprehensive plan's schedule of capital improvements and when planning and designing new, or renovating existing, community facilities. For example, potential opportunities for collocation and shared use with public schools will be considered where

compatible for existing or planned libraries, parks, recreation facilities, community centers, auditoriums, learning centers, museums, performing arts centers, and stadiums. In addition, the potential for collocation and shared use of school and governmental facilities for joint use by the community will also be considered.

8.2 A separate agreement or an amendment to a master agreement between the School Board and the County will be developed for each instance of collocation and shared use, which addresses legal liability, operating and maintenance costs, scheduling of use, and facility supervision or any other issues that may arise from collocation and shared use.

8.3 Collocation and shared use as provided for in this Agreement may include the sharing of County and municipal facilities for student use, such as use of a park for park purposes by students from a neighboring public school, and similarly may include the use of public school facilities by the community.

8.4 In order to maximize the efficient utilization of public funding and to further the collocation and shared use of County and municipal facilities with School Board-owned and operated public schools, local governments are strongly encouraged not to require the provision or enhancement of charter school facilities as a condition of local development approval.

Section 9. Implementation of Public School Concurrency

9.1 This section establishes the mechanisms for coordinating the development, adoption, and amendment of the District Facilities Work Program, as well as the Public School Facilities Elements and the Intergovernmental Coordination and Capital Improvements Elements of the County and Cities' comprehensive plans, in order to implement a uniform districtwide public school concurrency system as required by law.

9.2 The School Board, County and Cities and County agree to the following principles for public school concurrency in Miami-Dade County:

(a) *Capacity Methodology and Formula for Availability*: The uniform methodology for determining if a particular school is overcapacity shall be adopted into the County's and Cities' comprehensive plans. The parties hereby select Florida Inventory of School Houses (FISH) capacity as the uniform methodology to determine the capacity of each school. The capacity and enrollment numbers for each school shall be determined once a year, in October.

The School Board shall issue an evaluation report determining whether adequate school capacity exists for a proposed development, based on the adopted Level of Service Standards, concurrency service areas, and other standards set forth in this Agreement, as follows:

1. Calculate **total school facility capacity** by adding the capacity provided by an existing school facility to the capacity of any

planned school facilities programmed to provide relief to that school facility, listed in the first three (3) years of the District Facilities Work Program.

2. Calculate **available school facility capacity** by subtracting from the total school facility capacity the sum of:

a. Current student enrollment (school facility capacity consumed by preexisting development);

b. The portion of reserved capacity having a valid unexpired certificate of concurrency from the School Board; and

c. The portion of previously approved development (vested from concurrency) projected to be developed within three (3) years.

3. Calculate the **proposed development's demand for school facility capacity** by:

a. Applying the student generation multiplier to the proposed development to determine its total demand; and

b. Subtracting a credit for the total district-wide enrollment of magnet and charter school facilities as a percentage of the total district enrollment.

4. Subtract the **proposed development's demand for school facility capacity** from the **available school facility capacity** to determine if there is a deficit. If so, repeat the process to determine if school facility capacity is available in any contiguous Concurrency Service Area ("CSA") in the same Geographic Area (Northwest, Northeast, Southwest, or Southeast), which map is attached hereto as Exhibit 2.

The School Board may charge a non-refundable application fee payable to the School Board to reimburse the cost to review matters related to public school concurrency. In that event, payment may be required prior to the commencement of review.

In evaluating a final subdivision, site plan, or functional equivalent for concurrency, any relevant programmed improvements in the current year, or Years 2 or 3 of the District Facilities Work Program shall be considered available capacity for the project and factored into the Level of Service analysis. Any relevant programmed improvements in Years 4 or 5 of the District Facilities Work Program shall not be considered available capacity for the project unless funding to accelerate the improvement is assured through the School Board, through proportionate share mitigation or some other means of assuring adequate capacity will be available within three (3) years. Relocatable classrooms may be used by the Miami-Dade County Public School System as an operational solution during replacement, renovation, remodeling or expansion of a public school

facility; and in the event of a disaster or emergency which prevents the School Board from using a portion of the affected school facility.

Within one year following the effective date of this Agreement, the County, Cities, and School Board staffs shall meet to assess the effect of the Geographic Areas (Northwest, Northeast, Southwest, Southeast) on the public school concurrency system. If any party feels that there are issues with the Geographic Areas, that party may propose to include an additional review step, as follows:

> "Where the Geographic Areas result in an application being found not to meet concurrency, the staffs shall evaluate whether the following factors exist:
>
> 1. The concurrency service area serving the development is bisected by the Geographic Area boundary line;
>
> 2. The adjacent concurrency service area, across the Geographic Area boundary line, has the capacity to absorb all of the impacts of the development;
>
> 3. The shifting does not result in the adjacent concurrency service area exceeding 95% of its capacity; and
>
> 4. The travel distance to the adjacent concurrency service area school is no greater than the travel distance to any adjacent concurrency service area located on the same side of the Geographic Area boundary line as the development.
>
> If all of these factors exist, then proportionate share mitigation shall not be required, and the shifting of impacts across the Geographic Area boundary line shall be automatically allowed."

Both this Agreement and the Amended and Restated Agreement must be revised, and the public school facilities elements revised if deemed necessary, before this review step can become effective. The parties have agreed to start with the above concept, but may choose to adopt different language or procedures on this topic, if properly approved by all parties.

(b) *Level of Service Standards*: Public school concurrency shall be applied on a less than district-wide basis, to concurrency service areas as described in subsection (c), except for Magnet Schools where public school concurrency shall be applied on a district wide basis. Level of Service standards for public school facilities apply to those traditional educational facilities, owned and operated by Miami-Dade County Public Schools, that are required to serve the residential development within their established concurrency service area. Level of Service standards do not apply to charter schools. However, the actual enrollment (October Full Time Equivalent (FTE)) of both magnet and charter schools as a percentage of the total district enrollment shall be credited against the impact of development.

The uniform, district-wide Level of Service Standards for Public School Facilities are initially set as follows, and shall be adopted in the County's and Cities' Public School Facilities Elements and Capital Improvements Elements:

1. The adopted Level of Service (LOS) Standard for all Miami-Dade County Public School facilities is 100% FISH Capacity (With Relocatable Classrooms). This LOS Standard, except for Magnet Schools, shall be applicable in each public school concurrency service area (CSA), defined as the public school attendance boundary established by the Miami-Dade County Public Schools.

2. The adopted LOS standard for Magnet Schools is 100% of FISH (With Relocatable Classrooms) which shall be calculated on a district-wide basis.

3. It is the goal of Miami-Dade County Public Schools and Miami-Dade County for all public school facilities to achieve 100% utilization of Permanent FISH (No Relocatable Classrooms) by January 1, 2018. To help achieve the desired 100% of permanent FISH utilization by 2018, Miami-Dade County Public Schools should continue to decrease the number of relocatable classrooms over time. Public school facilities that achieve 100% utilization of Permanent FISH capacity (No Relocatable Classrooms) should, to the extent possible, no longer utilize relocatable classrooms, except as an operational solution. Beginning January 1, 2013, the Miami-Dade County Public Schools will implement a schedule to eliminate all remaining relocatable classrooms by January 1, 2018.

By December 2010, Miami-Dade County in cooperation with Miami-Dade County Public Schools will assess the viability of modifying the adopted LOS standard to 100% utilization of Permanent FISH (No Relocatable Classrooms) for all CSAs.

4. Relocatable classrooms may be used by the Miami-Dade County Public School System as an operational solution during replacement, renovation, remodeling or expansion of a public school facility; and in the event of a disaster or emergency which prevents the School Board from using a portion of the affected school facility.

The School Board shall provide to the County and cities: (1) an annual report of all schools that exceed the adopted LOS Standard; and (2) an annual report of the status of all capital projects related to school capacity that were due to be completed by the date of the report. Both reports shall be provided to the local governments no later than September 30 of each year.

Potential amendments to these LOS Standards shall be considered at least annually at the Staff Working Group meeting to take place no later than April 30

(for the County's first comprehensive plan amendment cycle) or October 31 (for the County's second comprehensive plan amendment cycle) of each year. An amendment to the LOS standard shall be accomplished only in accordance with the provisions of Section 16 of this Agreement. No LOS Standard shall be amended without a showing that the amended LOS Standard is financially feasible and can be achieved and maintained over the five years of the District Facilities Work Program.

After adoption of the District's first Facilities Work Program which was relied on for public school concurrency requirements, capacity shall be maintained within each year of the District's subsequent Facilities Work Program. If the impact of the project will not be felt until Years 2 or 3 of the District Facilities Work Program, then any relevant programmed improvements in those years shall be considered available capacity for the project and factored into the Level of Service analysis. If the impact of the project will not be felt until Years 4 or 5 of the District Facilities Work Program, then any relevant programmed improvements shall not be considered available capacity for the project unless funding of the improvement is assured, through School Board funding, the proportionate share mitigation process, or some other means, and the project is accelerated into the first three (3) years of the District Facilities Work Program.

(c) *Concurrency Service Areas*: The Concurrency Service Area (CSA) shall be the student attendance boundaries for elementary, middle and high schools. The concurrency service area boundaries shall be part of the data and analysis in support of the County's and Cities' comprehensive plans. Concurrency service areas shall maximize capacity utilization, taking into account transportation costs, limiting maximum student travel times, the effect of court-approved desegregation plans, achieving socio-economic, racial, cultural and diversity objectives, and other relevant factors as determined by the School Board's policy on maximization of capacity.

The School Board shall address how capacity has been maximized in the affected concurrency service area. For purposes of this Agreement, maximization of capacity shall mean any operational or physical adjustment that increases the available capacity of a school or a concurrency service area. Maximization may take into account several factors, including transportation costs, student travel times, socio-economic objectives, and recognition of the timing of capacity commitments. These adjustments may include, but are not limited to, physical changes to the school facility such as expansions or renovations, and operational changes such as staggered schedules, floating teachers, or reassignment of students. The types of physical and operational adjustments to school capacity that will be used in Miami-Dade County, and the circumstances under which they are appropriate, will be determined by the School Board's policy on maximization of capacity, as set forth in the Public School Facilities Element.

Potential amendments to the concurrency service areas, other than periodic adjustments to student attendance boundaries, or to redefine the concurrency service area as a different type of boundary or area shall be considered annually at the Staff Working Group meeting to take place each year no later than April 30 for the County's first comprehensive plan amendment cycle) or October 31 (for the County's second comprehensive plan amendment cycle), and shall take into account the issue of maximization of capacity. Other considerations for amending the concurrency service areas may include safe access (including factors such as the presence of sidewalks, bicycle paths, turn lanes and signalization, general walkability), diversity, and geographic or manmade constraints to travel. An amendment to the type of geographic configuration of concurrency service areas shall be accomplished only in accordance with the provisions of Section 16 of this Agreement. Proposed amendments to the concurrency service areas shall be presented to the Staff Working Group and incorporated as updated data and analysis in support of the County's and Cities' comprehensive plans. No ~~concurrency~~ existing or redefined concurrency service area shall be amended or redefined without a showing that the amended or redefined boundaries are financially feasible and can be achieved and that the adopted LOS Standard can be maintained over the five years of the District Facilities Work Program.

If maximization of capacity has not resulted in sufficient capacity, so that the adoption of the development proposal would result in a failure to meet the Level of Service Standard, and if capacity is available in one or more contiguous concurrency service areas within the first three years of the District Facilities Work Program in the same Geographic Area (Northwest, Northeast, Southwest, Southeast) as the development, the School Board, at its discretion, shall determine the contiguous concurrency service area to which the development impacts will be shifted. If there is still not enough capacity to absorb the impacts of the development proposal after maximization of capacity and shifting of impacts, then the School Board shall notify the local government in writing of the finding, and the local government shall then notify the applicant of the finding.

(d) *Student Generation Multipliers*: The School Board staff, working with the County staff and Cities' staffs, have developed and applied student generation multipliers for residential units by type and Minor Statistical Area for schools of each type, considering past trends in student enrollment in order to project school enrollment. Future student generation rates shall be developed by the County with the School Board in a joint, collaborative process, in accordance with professionally accepted methodologies, and shall be reviewed at least every three (3) years and updated as necessary. The initial professionally accepted methodology shall take student addresses by school type (elementary, middle and senior) as provided by School Board staff, and geocode each address to the property appraiser files to identify the type of unit, with the goal of obtaining an accurate student generation multiplier rate by Minor Statistical Areas (MSAs) based on a 100% sampling. The methodology and calculations thereunder shall be updated as necessary.

The formula to be utilized when determining the number of students generated by a development shall be based on student generation rates calculated as follows:

Total Number of Students Generated =

Number of Residential Units Generated By Development Proposal X

Student Generation Multiplier

(e) *Concurrency Management System:* The County and Cities shall amend the concurrency management systems in its land development regulations to require that all non-exempt new residential units be reviewed for public school concurrency at the time of final plat or site plan (or functional equivalent), using the coordination processes specified in Section 7 above, within one hundred and twenty (120) days of the effective date of the Comprehensive Plan amendment(s) implementing public school concurrency. In the event that the Comprehensive Plan amendment(s) or amendment(s) to this Agreement, which are necessary to implement public school concurrency are challenged, the land development regulations shall be adopted within one hundred and twenty (120) days after the resolution of such challenge. The County or any City may choose to request from the School Board's staff and provide an informational assessment of public school concurrency at the time of preliminary plat or subdivision, but the test of concurrency shall be at final subdivision, site plan (or functional equivalent). The assessment of available capacity by the School Board shall consider maximization of capacity and shifting of impacts as further detailed above. The County and Cities shall not deny a final subdivision or site plan (or functional equivalent) for the failure to achieve and maintain the adopted Level of Service Standard for public school capacity where:

(i) adequate school facilities will be in place or under actual construction within three (3) years after the issuance of the final subdivision or site plan (or functional equivalent); or

(ii) the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by the actual development of the property subject to the final plat or site plan (or functional equivalent) as provided in Section 9.2(g) below.

However, this Agreement shall not be construed to limit the authority of any City or the County to deny the final plat or site plan (or functional equivalent) for reasons other than failure to achieve and maintain the adopted Level of Service Standard for public school capacity. The County and Cities, in consultation with the School Board, shall also amend their its concurrency management systems

in their land development regulations to address public school facilities, so that the annual monitoring reports provided to their governing bodies shall cover schools as well as the other concurrency facilities within one hundred and twenty (120) days of the effective date of this Agreement.

Upon final action by the County or City regarding the application for final plat, site plan or functional equivalent, the County or City shall send written notice to the School Board indicating that the application was granted final approval or denied. If the application received final approval, the school concurrency approval for the development and anticipated students shall be valid for up to two (2) years, beginning from the date the application received final approval from the County or City, except as may be provided by federal law and as further specified in the applicable concurrency management system regulations, unless otherwise released by the appropriate governing body in which case, within ten (10) business days of the release the appropriate governing body shall notify the School Board of such and request the capacity reservation be cancelled. An extension of the reservation period may be granted when the applicant demonstrates that development has commenced on a timely basis and is continuing in good faith, provided that the total reservation period does not exceed six (6) years, as further specified in the applicable concurrency management system regulations. If the application was denied, the School Board's staff shall deduct from its database the students associated with the application.

(f) *Proportionate Share Mitigation*: The School Board shall establish within the District Facilities Work Program the following standards for the application of proportionate share mitigation:

1. *Student Generation Multipliers* for single family, multi family and mobile home housing types for elementary, middle and high schools. Student Generation Multipliers shall be developed as provided in subsection 9.2(d) above;

2. *Cost per Student Station calculations* for elementary, middle and high schools. These calculations shall be based on the most recent Cost Per Student Station factors published by the Florida Department of Education (see http://edr.state.fl.us/conferences/peco/station.htm) for the year that the project is planned. The cost of ancillary facilities that generally support the School Board and the capital costs associated with the transportation of students shall not be included in the Cost per Student Station calculation used for proportionate share mitigation;

3. The *capacity* of each school; and

4. The current and reserved *enrollment* of each school.

The above factors shall be reviewed annually and certified for application for proportionate share mitigation purposes during the period that the District Facilities Work Program is in effect.

In the event that there is not sufficient capacity in the affected or contiguous concurrency service area to address the impacts of a proposed development, the following steps shall apply. Either (i) the project must provide capacity enhancement sufficient to meet its impacts through proportionate share mitigation; or (ii) a condition of approval of the site plan or final plat (or functional equivalent) shall be that the project's impacts shall be phased and building permits shall be delayed to a date when capacity enhancement and Level of Service can be assured; or (iii) the project must not be approved. The School Board and the County shall coordinate on the possibility of mitigation.

Options for providing proportionate share mitigation for any approval of additional residential dwelling units that triggers a failure to meet the Level of Service Standard for public school capacity will be specified in the County's and Cities' Public School Facilities Elements. Proportionate-share mitigation must be acceptable to the School Board. Options shall include the following:

1. Money – Contribute full capital cost of a planned project, or project proposed to be added to the first three (3) years of the District Facilities Work Program, in the affected concurrency service areas, providing sufficient capacity to absorb the excess impacts of the development, on land owned by the School Board or donated by another development.

2. Land - Donate land to and/or capital dollars equal to the cost of impact to the School Board needed for construction of a planned project, or project proposed to be added to the first three (3) years of the District Facilities Work Program in the affected concurrency service areas, and the School Board or some other entity funds the construction of or constructs the project.

3. Construction - Build a planned project, or project proposed to be added to the first three (3) years of the District Facilities Work Program, on land owned by the School Board or donated by another development, with sufficient capacity to absorb the excess impact of the development in the affected concurrency service area. (Usually, projects are more than one classroom).

4. Mix and Match - Combine two or more of these options to provide sufficient capacity to mitigate the estimated impact of the residential development on the affected concurrency service areas.

5. Mitigation banking - Mitigation banking within designated areas based on the construction of a public school facility in exchange for the right to sell capacity credits. Capacity credits shall only be transferred to developments within the same concurrency service area or a contiguous concurrency service area. Mitigation banking shall be administered by the School Board in accordance

with the requirements of the concurrency mitigation system.

6. Charter Schools – Charter schools may be considered as a mitigation option only at the sole discretion of the School Board. Criteria associated with this option will be developed by the School Board.

If there is a lack of agreement among the applicant, the County applicable local government and the School Board on the option to be used for mitigation as set forth in options 1-5 above, the County local government may accept mitigation in the form of money (option 1 above) only in accordance with the following procedures:

(a) The County local government shall inform the School Board of an impasse in writing, which shall trigger a thirty (30) day period for final negotiations.

(b) Upon receipt of the written notice of an impasse, the School Board shall schedule a negotiation session with the applicant and the County local government.

(c) If agreement on a mitigation option is not reached within thirty (30) days of the School Board's receipt of the notice of impasse, then the County local government may request that the mitigation requirement be satisfied with the money option (option 1 above).

(d) In this event, the School Board shall accept the money option (involving mitigation banking under option 5 above, if appropriate) if the following requirements are met:

(i) the money option must include payment of the full capital cost of a planned project to be expanded or a new project to be added to the District Facilities Work Program, located in the first three (3) years of the program; and

(ii) the money option must provide sufficient capacity to absorb the excess impacts of the development.

The amount of mitigation required shall be calculated based on the cost per student station, as defined above, and for each school type (elementary, middle and high) for which there is not sufficient capacity. The Proportionate Share for a development shall be determined by the following formulas:

Number Of New Student Stations Required For Mitigation (By School Type) = [Number Of Dwelling Units Generated By Development Proposal, By Housing Type x
Student Generation Multiplier (By Housing Type And School Type)] –

Credit for Districtwide Capacity of Magnet Schools and Charter Schools -- Number of Available Student Stations

Cost of Proportionate Share Mitigation =
Number Of New Student Stations Required For Mitigation (By School Type) x Cost Per Student Station (By School Type).

The full cost of proportionate share mitigation shall be required from the proposed development.

The ~~County~~ local government and the School Board shall consider the evaluation report and the options that may be available for proportionate share mitigation including the amendment of the District Facilities Work Program. If the ~~County~~ local government and the School Board find that options exist for proportionate share mitigation, they shall authorize the preparation of a development agreement and other documentation appropriate to implement the proportionate share mitigation option(s). A legally binding development agreement shall be entered into between the School Board, the ~~County~~ relevant local government, and the applicant and executed prior to issuance of the final plat, site plan or functional equivalent. In that agreement, if the School Board accepts the mitigation, the School Board must commit to place the improvement required for mitigation on the first three (3) years of the Five Year Plan. This development agreement shall include the landowner's commitment to continuing renewal of the development agreement until the mitigation is completed as determined by the School Board. This agreement shall also address the amount of the impact fee credit that may be due for the mitigation, and the manner in which it will be credited.

Upon execution of a development agreement among the applicant, the ~~County~~ local government and the School Board, the ~~County~~ local government may issue a development order for the development. The development order shall condition approval upon compliance with the development agreement.

9.3 *Updates to Public School Concurrency*: The School Board and the County shall use the processes and information sharing mechanisms outlined in this Agreement to ensure that the uniform district-wide public school concurrency system is updated, and that the District Facilities Work Program remains financially feasible in the future, ~~and any desired modifications are made. The School Board's updated Five-Year Plan will be considered for adoption into the County's comprehensive plan capital improvement element no later than December 1 of each year. The Capital Improvements Element of the County's Comprehensive Plan shall set forth a financially feasible school capital facilities plan, established through a collaborative process with the School Board, that demonstrates that the adopted level of service standards will be achieved and maintained in accordance with state statutes.~~

The School Board shall not amend the District Facilities Work Program as to modify, delay or delete any project that affects student capacity in the first three (3) years of the Five Year Plan unless the School Board provides written confirmation that:

1. The modification, delay or deletion of a project is required in order to meet the School Board's constitutional obligation to provide a district-wide uniform system of free public schools or to meet other legal obligations imposed by state or federal law; or

2. The modification, delay or deletion of a project is occasioned by unanticipated change in population projections or growth patterns or is required in order to provide needed capacity in a location that has a current greater need than the originally planned location and does not cause the adopted LOS standard to be exceeded in the Concurrency Service Area from which the originally planned project is modified, delayed or deleted; or

3. The project schedule or scope has been modified to address County local government concerns, and the modification does not cause the adopted LOS standard to be exceeded in the Concurrency Service Area from which the originally planned project is modified, delayed or deleted; and in addition to any of the foregoing three events,

4. The Staff Working Group has had the opportunity to review the proposed amendment and has submitted its recommendation to the School Board.

The School Board may amend the District Facilities Work Program at any time to add necessary capacity projects to satisfy the provisions of this Agreement. For additions to the District Facilities Work Program, the School Board must demonstrate its ability to maintain its financial feasibility.

~~Notwithstanding the foregoing, no change in the Districts Facilities Work Program or material reduction in the number of net number of elementary, middle or senior high school student stations existing as of the effective date of this Agreement, except as agreed to by the County and the School Board in the future, shall cause the adopted LOS standard to be exceeded in the Concurrency Service Area(s) where an existing or previously approved project is thereby modified, delayed or deleted, nor shall any unilateral change by the School Board to the District Facilities Work Program effect or require any change to this Agreement or to any comprehensive plan or implementing concurrency regulation, until and unless all necessary amendments to this Agreement, the comprehensive plans and implementing concurrency regulations have been finally approved.~~

~~Other than as part of the process required to annually update the District's Facilities Work Program (Work Program), any interim action taken by the School~~

Board to either 1) close an existing school, or 2) delete, modify, or delay a school facility project planned in the first three years of the Work Program, shall not adversely impact the County's or a City's ability to rely on said facility's or project's capacity, for purposes of issuance of school concurrency certificates during that interim period between annual reviews and adoption of the Work Program. Furthermore, where an action by the School Board to close an existing school, or to delete, modify, or delay a school facility capacity project listed in the adopted Work Program, would result in a CSA exceeding its adopted level of service within the period covered by the work program, and a Geographic Area boundary (as set forth in Exhibit 2) limits the ability to shift impacts of proposed development to contiguous CSAs, then the School Board shall shift impacts of proposed developments to any contiguous CSA, irrespective of the Geographic Area boundaries, until the adopted level of service standard for the affected CSA is restored. As required for financial feasibility, pursuant to Section 163.3164 (32), F.S., the School Board shall, at the conclusion the five-year period, ensure that the adopted level of service standard for the CSA shall be achieved.

As it relates to the required annual updates of the Work Program, the School Board shall provide the relevant data and analysis that demonstrate the achievement and maintenance of the adopted level of service standard, at the conclusion of the five-year timeframe covered by the Work Program, and as required by the governing state statutes. All data and analysis will be provided to the County and non-exempt municipalities by May 31st with the submittal of the Tentative Work Program and by October 20th upon adoption of the Annual Work Program.

9.4 *Exemptions and Vested Development*: The following types of developments shall be exempt from the requirements of public school concurrency:

a. Developments that result in a total impact of less than one (1) student in any level or type of school; and

b. Development with covenants restricting occupancy to exclude school age children (e.g., 55 and over).

The following types of developments shall be considered vested from the requirements of public school concurrency:

a. Developments with a valid, unexpired final plat or functional equivalent, as of the effective date of this Agreement;

b. Developments that have executed and recorded covenants or have provided monetary mitigation payments, as of the effective date of this Agreement, under the School Board's current voluntary mitigation procedures;

c. Any Development of Regional Impact for which a development order was issued, pursuant to Chapter 380, Florida Statutes, prior to July 1, 2005. Also, any Development of Regional Impact for which an application was submitted prior to May 1, 2005.

9.5 *Takings and Vested Rights.* Nothing in this Agreement shall be construed or applied to effect a permanent or temporary taking of private property or the abrogation of vested rights in violation of the United States Constitution or the Florida Constitution, to result in a violation of law, to require the payment of compensation by the School Board, the County or any municipality for impacts on private property, or to modify or eliminate any remedy available to prevent or rectify a taking, deprivation of vested rights, or violation of law.

Section 10. Resolution of Disputes

10.1 If the parties to this Agreement are unable to resolve any issue in which they may be in disagreement covered in this Agreement, the applicable parties to the dispute will employ dispute resolution procedures pursuant to Chapter 164 or Chapter 186, Florida Statutes, as amended from time to time, or any other mutually acceptable means of alternative dispute resolution. Each party shall bear their own attorney's fees and costs.

Section 11. Oversight Process

11.1 The School Board shall appoint up to nine (9) citizen members, the County and the Miami-Dade County League of Cities shall each appoint up to five (5) citizen members to serve on a committee to monitor implementation of this Agreement and the Amended and Restated Agreement. The School Board shall organize and staff the meetings of this Citizens Oversight Committee, calling on the Staff Working Group for assistance as needed. It shall provide no less than seven (7) days written notice of any meeting to the members of the Citizens Oversight Committee, the Staff Working Group, the SSPCC, County, Cities and to the public. Citizens Oversight Committee members shall be invited by the School Board to attend all meetings referenced in Sections 1 and 4 and shall receive copies of all reports and documents produced pursuant to this Agreement and the Amended and Restated Agreement. The Citizens Oversight Committee shall appoint a chairperson, meet at least annually, and report to participating local governments, the School Board and the general public on the effectiveness with which the interlocal agreement is being implemented. At least sixty (60) days prior to the annual meeting of the Citizens Oversight Committee, the Staff Working Group and the SSPCC shall each submit an annual report regarding the status of the implementation and effectiveness of this Agreement and the Amended and Restated Agreement. These annual reports shall additionally be distributed to all parties to this Agreement and to the Amended and Restated Agreement. Meetings of the Citizens Oversight Committee shall be conducted as public meetings, and provide opportunities for public participation. The Citizens Oversight Committee shall adopt bylaws that shall

govern its operation.

Section 12. Effective Date and Term

This Agreement shall take effect upon the later occurrence of both of the following: (1) the final approval of one or more agreements in substantially the same form by the School Board, the Cities and the County, including specifically the same provisions relating to amendment of this Agreement, and (2) the date of publication of a Notice of Intent to find it the agreements and related amendments to the comprehensive plans of the County and each City consistent with the requirements of Section 163.31777(2), Florida Statutes, and the conclusion of any litigation challenging such determination of consistency. It is provided, however, that, in order to establish a public school concurrency program that operates, at a minimum, between the School Board and Miami-Dade County, and to comply expeditiously and in good faith with the requirements of state law, the School Board and the County hereby agree that immediately upon approval by the School Board, the Board of County Commissioners, and two-thirds of the Cities of an agreement in substantially the form of this Agreement, the School Board and the County will administer this Agreement as if approved by all the Cities.

This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument and be the agreement between the parties. The failure of any party to execute the Agreement by January 1, 2008 may subject that party to penalties as provided by statute. This Agreement may be terminated amended by mutual agreement adoption of all the parties, at the yearly joint meeting or as the situation warrants. This Agreement may be earlier cancelled by mutual agreement of the County and the School Board, unless otherwise canceled as provided or allowed by law. In the event of termination other than by mutual consent, the withdrawing party may be subject to sanctions imposed by the State of Florida Administration Commission and the Florida Department of Education, unless the withdrawing party enters into a separate agreement within 30 days that satisfies all of the relevant requirements of Florida Statutes. Any separate agreement must be consistent with the uniform district-wide public school concurrency system. It is provided, however, that approval of this Agreement is specifically predicated upon the financial feasibility of the District Facilities Work Program and upon the maintenance of the net number of elementary, middle, and senior high school students stations existing in each Concurrency Service Area ("CSA") or its contiguous CSAs as of the effective date of this Agreement, except as agreed to by the County and the School Board in the future, and that if at any point the District Facilities Work Program is demonstrated not to be financially feasible, or if the School Board fails in any material respect to implement it, or if the School Board materially reduces the net number of existing student stations as described above, then this Agreement shall thereupon be deemed null, void and of no effect.

Section 13. Severability

If any item or provision of this Agreement is held invalid or unenforceable, the remainder of the Agreement shall not be affected and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

Section 14. Notice and General Conditions

All notices which may be given pursuant to this Agreement, except notices for meetings provided for elsewhere herein, shall be in writing and shall be delivered by personal service or by certified mail return receipt requested addressed to the parties at their respective addresses indicated below or as the same may be changed in writing from time to time. Such notice shall be deemed given on the day on which personally served, or if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

Miami-Dade County
Director, Department of Planning & Zoning
111 N.W. First Street
Miami, Florida 33128

Superintendent
The School Board of Miami-Dade County, Florida
1450 N. E. 2 Avenue, Room 912
Miami, Florida 33132

A. Title and Paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the parties to this Agreement.

Section 15. Merger Clause

This Agreement, together with the Exhibits hereto, sets forth the entire agreement between the parties and there are no promises or understandings other than those stated therein. It is further agreed that no modification, amendment or alteration of this Agreement shall be effective unless contained in a written document executed with the same formality and of equal dignity herein. The Exhibits to this Agreement will be deemed to be incorporated by reference as though set forth in full herein. In the event of a conflict or inconsistency between this Agreement and the provisions in the incorporated Exhibits, the Agreement will prevail.

Section 16. Amendments.

~~Amendments to this Agreement shall be accomplished by adoption of an amendment to this Agreement and, where required for consistency with this Agreement, amendments to the County's comprehensive plan. Amendments to this Agreement shall take effect upon the favorable vote of either: the School Board and the County and a majority of the Cities; or the School Board and two-thirds of the Cities; or the County and two-thirds of the Cities. It is provided, however, that if a proposed amendment would modify (1) the level of service standard, (2) the types of concurrency service areas or their geographic configuration, or (3) the requirement for review of all applications for non-exempt residential development for concurrency, the amendment shall require, in addition to the foregoing approval requirements, the approval of the School Board.~~ Any amendment to this Agreement requested by the County will be placed on a School Board Agenda for consideration within sixty (60) days of the School Board's receipt of such request. Likewise, any amendments to this Agreement requested by the School Board will be placed on the agenda of the Board of County Commissioners for consideration, within sixty (60) days of receipt of the request. ~~Where applicable, an amendment to the comprehensive plan of the local governments shall also be considered. An amendment to this Agreement shall require approval by the County and the School Board, and shall be offered to the non-exempt municipalities for their consideration as a supplementary agreement. If the amendment to this Agreement affects the uniform district-wide public school concurrency system or otherwise requires the approval of the non-exempt municipalities, it shall become effective only upon the approval of an amendment to this Agreement by the County and School Board and approval of a similar amendment to the Amended and Restated Agreement by two-thirds of the non-exempt municipalities. Notwithstanding the foregoing, all of the non-exempt municipalities must approve the amendment to the Amended and Restated Agreement for it to become effective, unless all non-exempt municipalities have revised the Amended and Restated Agreement to allow for amendments to be approved by two-thirds of the non-exempt municipalities. An amendment shall not be effective until the amendment is fully executed by the applicable parties and, where applicable, all comprehensive plan amendments are effective.~~

Section 17. Counterparts Clause

This Agreement may be executed in counterparts and facsimiles shall constitute best evidence for all purposes.

Section 18. Supplementary Agreements

All parties to this Agreement stipulate that the School Board may enter into Supplementary Agreements with individual municipalities to address individual circumstances. Any such Supplementary Agreement shall be consistent with the statutes governing this Agreement.

Section 19. Favored Nations

Should the School Board enter into an agreement with another municipality or County, separate or otherwise, which provides more beneficial terms than those agreed to herein, the School Board shall offer the same terms to the County.

Section 20. Exempt or Waived Municipalities

20.1 In cases where a municipality or other unit of local government (that is not a party to this Agreement or the Amended and Restated Agreement by virtue of statutory exemption or waiver) and whose decisions and/or actions with respect to development within the municipality's or unit of local government's jurisdiction, may impact on municipalities or units of local government which are parties to this Agreement or the Amended and Restated Agreement, the School Board agrees to contact, through its representatives or appropriate designees, these non-parties and invite them to become signatories to this Agreement or the Amended and Restated Agreement. Failure to secure a response or to have non-signatories become signatories to this Agreement or the Amended and Restated Agreement shall neither constitute, nor be considered, a breach of this Agreement or the Amended and Restated Agreement.

20.2 This section shall not be interpreted to prevent exempt or waived municipalities from participating in the processes under this Agreement or the Amended and Restated Agreement as they may relate to any public school facilities located in unincorporated Miami-Dade County.

Section 21. No Third Party Beneficiaries.

The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement, and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

Section 22. Takings and Vested Rights

Nothing in this Agreement shall be construed or applied to effect a permanent or temporary taking of private property or the abrogation of vested rights in violation of the United States Constitution or the Florida Constitution, to result in a violation of law, to require the payment of compensation by the School Board, the County or any municipality for impacts on private property, or to modify or eliminate any remedy available to prevent or rectify a taking, deprivation of vested rights, or violation of law.

IN WITNESS WHEREOF, this Amended and Restated Interlocal Agreement has been executed by and on behalf of Miami-Dade County and the School Board of Miami-Dade County, Florida, on this _____ day of _____, 2009.

The School Board of Miami Dade County, Florida

Attest:_____ (print)

By:_____, Chair
Dr. Solomon C. Stinson, Chair

Attest: _____ (print)

By: _____, Secretary
Alberto M. Carvalho, Superintendent

Approved as to form:

_____
School Board Attorney

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

By:_____
Carlos Alvarez, Mayor

Date:_____

GLOSSARY

Contiguous Concurrency Service Areas: Concurrency Service Areas which are contiguous and touch along one side of their outside geographic boundary.

Affected Local Government: Any jurisdiction within 1,500 feet of, or whose utilities are utilized by the property or improvement under consideration by the School Board.

Ancillary Facilities: The building, site and site improvements necessary to provide support services to the School Board's educational program including, but not limited to vehicle storage and maintenance, warehouses or administrative buildings.

Applicant: For the purposes of school concurrency, any person or entity undertaking a residential development.

Attendance Boundary: The geographic area which is established to identify the public school assignment of students residing within that area.

Available Capacity: Existing school capacity which is available within a Concurrency Service Area including any new school capacity that will be in place or under actual construction, as identified in the first three years of the School District's Five Year Capital Plan.

Cities: The municipalities within Miami-Dade County, except those that are exempt from the Public School Facilities Element, pursuant to Section 163.3177(12), F.S.

Comprehensive Plan: As provided by Section 163.3164(4), F.S., as amended, a plan that meets the requirements of 163.3177 and 163.3178, F.S.

Concurrency: As provided for in Florida Administrative Code Rule 9J-5.003, the necessary public facilities and services to maintain the adopted level of service standards are available when the impacts of development occur.

Concurrency Service Area (CSA): A geographic area in which the level of service for schools is measured when an application for residential development is reviewed for school concurrency purposes.

Consistency: See Section 163.3194, F.S.

Development Order: As provided by Section 163.3164(7), F.S., as amended, any order granting, or granting with conditions, an application for a development permit.

Educational Facility: The buildings and equipment, structures and special educational use areas that are built, installed or established to serve educational purposes only.

Educational Plant Survey: a systematic study of schools conducted at least every five years and submitted to the DOE for review and validation. The survey includes an inventory of existing educational and ancillary plants, and recommendations for future needs.

Evaluation Report: A report prepared by the School District, identifying if school capacity is available to serve a residential project, and if capacity exists, whether the proposed development is conceptually approved or vested.

Exempt Local Government: A municipality which is not required to participate in school concurrency when meeting all the requirements for having no significant impact on school enrollment, per Section 163.3177(12)(b), F.S., or because it has received a waiver from the Department of Community Affairs per Section 163.31777(1)(c), F.S.

Financial Feasibility: As provided in Section 163.3164(32), F.S., as amended, sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and Applicant contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level of service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements.

Five Year Plan: School District's annual comprehensive capital planning document, that includes long range planning for facility needs over a five-year, ten-year and twenty-year planning horizon. The adopted School District's Five-Year Work Program and Capital Budget as authorized by Section 1013.35, F.S.

Florida Inventory of School Houses (FISH) – Permanent Capacity: The report of the permanent capacity of existing public school facilities. The FISH capacity is the number of students that may be housed in a facility (school) at any given time based on a percentage of the total number of existing student stations and a designated size for each program.

Geographic Area: One of four quadrants (Northwest, Northeast, Southwest, Southeast) of Miami-Dade County as depicted in Exhibit 2 (attached).

Level of Service (LOS) Standard: As provided for in the Florida Administrative Code Rule 9J-5.003, an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility.

Local Governments: Miami-Dade County and/or the Cities located within its boundary.

Maximize Capacity Utilization: The use of student capacity in each CSA to the greatest extent possible, based on the adopted level of service and the total number of permanent student stations according to the FISH inventory, taking into account special considerations such as, core capacity, special programs, transportation costs, geographic impediments, court-ordered desegregation, and class size reduction requirements to prevent disparate enrollment levels between schools of the same type (elementary, middle, high) and provide an equitable distribution of student enrollment district-wide.

Permanent School District Facilities: An area within a school that provides instructional space for the maximum number of students in core-curricula courses which are assigned to a teacher based on the constitutional amendment for class size reduction and is not moveable.

Permanent Student Station: The floor area in a permanent classroom required to house a student in an instructional program, as determined by the FDOE.

Proportionate Share Mitigation: An Applicant improvement or contribution identified in a binding and enforceable agreement between the Applicant, the School Board and the Local Government with jurisdiction over the approval of the plat, site plan or functional equivalent provide compensation for the additional demand on public school facilities caused by the residential development of the property, as set forth in Section 163.3180(13)(e), F.S.

Public School Facilities: Facilities for the education of children from pre-kindergarten through twelfth grade operated by the School District.

School Board: The governing body of the School District, a political subdivision of the State of Florida and a body corporate pursuant to Section 1001.40, F.S.

School District of Miami-Dade County: The School District created and existing pursuant to Section 4, Article IX of the State of Florida Constitution.

Student Generation Multiplier (SGM): A rate used to calculate the number of students by school type (elementary, middle, high) and housing type (single-family, multifamily, etc.) that can be anticipated from a new residential development.

Type of School: Schools providing the same level of education, i.e. elementary, middle, high school, or other combination of grade levels.

Utilization: A ratio showing the comparison of the total number of students enrolled to the overall capacity of a public school facility within a Concurrency Service Area (CSA).

Exhibit 1

Miami-Dade County School Board Rule 6Gx13- 2C-1.083

Administrative Operations

EDUCATIONAL FACILITIES PLANNING, SITE SELECTION AND ACQUISITION, AND CONSTRUCTION

I. Intent --The intent of the School Board is:

A. To establish a broad-based, external educational facilities committee, to be called School Site Planning and Construction (SSPC) Committee, to advise the School Board on the implementation of the District's adopted five-year work program, and to make independent recommendations to the School Board and the Superintendent of Schools, which promote internal accountability and facilitate efficient and effective delivery of public educational facilities throughout Miami-Dade County.

B. To establish an internal, interdisciplinary staff committee, to be called Technical Review (TR) Committee to provide staff coordination, accountability and oversight of the formulation and implementation of the District's adopted educational facilities plan.

C. To establish policies, procedures and assign responsibilities for the planning, site selection and acquisition and construction of educational facilities that will provide for public educational plant needs throughout Miami-Dade County in accordance with School Board policy and State law as set forth in Chapter 1013, Florida Statutes (F.S.).

D. To ensure that all priority educational facility projects are included in the District's adopted educational facilities plan as provided in Section 1013.35, F.S. and that any changes to the adopted educational facilities plan are supported by identified needs and priorities and approved by the School Board.

E. To integrate the District's planning, site selection and acquisition and construction functions so that educational facilities are available on a timely and cost-effective basis in accordance with the District's adopted educational facilities plan.

F. To establish policies and procedures for land acquisition in accordance with Chapter 1013, Florida Statutes.

G. To establish effective procedures for obtaining appraisals pursuant to Section 253.025, Florida Statutes, and for reviewing said appraisals.

H. To establish procedures and assign responsibilities to provide full information to the School Board on all recommended land purchases including the estimated cost of any work that must be performed on an unimproved site to make it usable for the desired purpose, appraisals of market value obtained in connection with the proposed acquisition, and any other material information.

II. School Site Planning and Construction Committee

A. Establishment -- The School Board shall establish as a standing, external committee, an educational facilities committee, to be called the School Site Planning and Construction (SSPC) Committee, which shall include parents, business community representatives, construction, appraisal and real estate professionals and other community stakeholders, which shall serve in an advisory capacity and report directly to the School Board.

B. Purpose -- The purpose of the SSPC Committee shall be as follows:

1. To advise the School Board on the formulation, priorities and implementation of the District's adopted five-year work program for educational plants and other related matters;

2. To make recommendations to the School Board on site acquisitions, including alternatives, if any; and,

3. To make independent recommendations to the School Board and to the Superintendent of Schools which promote internal accountability and facilitate more efficient and effective delivery by the District of public educational facilities throughout Miami-Dade County.

C. Responsibilities -- The responsibilities of the SSPC Committee shall be as follows:

1. Provide input, priorities and monitor the formulation, amendment and implementation of the District's educational facilities plan and other long-range plans as prescribed by Section 1013.35, F.S.;

2. Provide input and monitor the District's educational plant survey as prescribed by Section 1013.31, F.S.;

3. Provide input, monitor and make recommendations including priorities, to the School Board on the District's annual capital outlay budget, as prescribed by Section 1013.61, F.S.;

4. Provide input, monitor and make recommendations to the School Board on the District's site facilities planning, site selection and acquisition, and construction programs and alternatives, to ensure they are cost-effective and timely;

5. Review and transmit reports to the School Board, which provide recommendation(s) on site acquisitions, and contain all relevant site analysis and supporting documentation for the School Board's review and final action;

6. Review quarterly and forward to the School Board, status reports on site selection and acquisition activities;

7. Evaluate annually and provide to the School Board a year-end report on the progress of site acquisition activities and facility planning and construction programs, and where appropriate provide recommendations for improved accountability, efficiency and cost-effectiveness;

8. Provide such other advice or input as may become necessary to ensure compliance with applicable state statutes and the adopted educational facilities plan, and respond in writing to requests from the School Board or the Superintendent of Schools.

9. Review potential sites for new schools, as well as proposals for significant renovation, location of relocatables or additions to existing buildings, and potential closure of existing schools, and make recommendations on these and all other issues within its purview under this Rule for consideration by School Board staff. As part of its deliberations, the SSPC Committee shall ensure that the affected local governments, as defined under the Interlocal Agreement for Public School Facility Planning in Miami-Dade County, and any Supplemental Agreements hereto, are afforded an opportunity to provide comments and shall consider those comments in its deliberations.

10. Host a planning forum on an annual basis or more often as may be needed, to review the School Board's acquisition schedule and all other relevant issues stipulated under that certain Interlocal Agreement that was entered into by the School Board, Miami-Dade County, and all non-exempt local governments, in accordance with Section 1013.33, Florida Statutes. The SSPC Committee shall invite a representative from each of the impacted units of government to participate in the proceedings and to provide input and comments for

consideration by the SSPC Committee in its deliberations. The forum will review the School Board's acquisition schedule and all other relevant issues required by statute, and will include appropriate staff members of the School Board, at least one staff member of the County, and a representative from each of the affected non-exempt local governments. Based on information gathered during the review, the SSPC Committee will submit recommendations to the Superintendent or designee.

11. Assign one member to the Historic Schools Working Group (Working Group) to provide a communications link between the Working Group and the Committee. The SSPC will review planning strategies and funding initiatives of the Working Group for coordination with other district planning and budget documents as provided, and will receive an annual planning and progress report from the Working Group for transmittal to the School Board.

D. Membership -- The SSPC Committee shall be composed of the following voting members:

A business community representative appointed by the Board of Trustees of the Greater Miami Chamber of Commerce;

The president of the Dade County PTA/PTSA, or designee;

The chair of the Diversity, Equity and Excellence Advisory Committee (DEEAC) or designee;

The chair of the Attendance Boundary Committee, or designee;

A real estate appraiser appointed by the Florida Real Estate Appraisal Board and practicing in Miami-Dade County;

Two real estate experts, one of whom is appointed by the Realtor Association of Greater Miami and the Beaches, Commercial Section, and one appointed by the Realtor Association of Miami-Dade County. One appointee shall represent the commercial real estate market and one appointee shall represent the residential real estate market;

A registered surveyor, architect or engineer appointed by the Chair of the School Board;

A School Board Member appointed on an annual basis by the Chair of the School Board;

A Miami-Dade County representative selected by the County Manager or designee;

A representative selected by the Miami-Dade County League of Cities;

A floating member designated by the City Manager of the most impacted municipality to which an SSPC agenda item relates, or if it concerns an unincorporated area of Miami-Dade County, this floating member shall be from the geographically nearest municipality most impacted by the agenda item;

A member of the residential construction industry appointed by the Builders Association of South Florida.

A member of the residential construction industry appointed by the Latin Builders Association.

E. Operation --The SSPC Committee shall operate as follows:

a. Term of appointments and special conditions: Effective April 7, 2004, the term for fifty percent (50%) of the appointees of the SSPC Committee shall be three (3) years, and fifty percent (50%) of the appointees of the SSPC Committee shall be two (2) years; the Chair shall delegate which appointees shall serve two (2) year terms and three (3) year terms. Effective April 7, 2006, and thereafter, the term for all appointments and reappointments shall be two (2) years. Prior to the expiration of each appointment, the respective appointing entity shall be requested to make an appointment or reappointment;

b. Quorum and Committee Chair: A quorum shall consist of a majority of the membership. The SSPC Committee shall elect a Chair and Vice-Chair every year;

c. Meetings: Meetings shall be held regularly on a monthly basis, unless there is no business to be conducted. Meetings shall be conducted as prescribed in Section 286.011, F.S., and shall be advertised at least five working days prior to the regularly scheduled meeting date. A notice of the meeting shall be posted at the Citizen Information Center. The meetings shall be recorded and summary minutes distributed with the subsequent meeting's agenda packet;

d. Staff Support: The Administrative Director, Facilities Planning, and the Executive Director, Facilities Planning, shall provide primary staff support to the SSPC Committee, including preparation of agenda packets and meeting minutes, analytical

reports and supporting documentation. The Office of the School Board Attorney shall provide legal support to the SSPC Committee. The SSPC Committee may from time to time, as required, request support from other District personnel;

e. Code of Ethics: The SSPC Committee is an advisory body to the School Board. As such, as provided by F.S. 112.313(1), the members of the SSPC Committee are subject to the provisions of the Code of Ethics for Public Officers and Employees, set forth in Chapter 112, Part III of the Florida Statutes.

f. Lobbyists: Any and all lobbyists, as defined in School Board Rule 6Gx13- 8C-1.21, present at an SSPC Committee meeting, who wish to speak on an item being considered by the SSPC Committee, shall first execute and file the required form with the School Board Clerk's Office. A copy of the executed form shall be made part of the official record for the SSPC Committee meeting at which the lobbyists are present, and shall be attached to the minutes of the meeting.

g. Lobbying: In the event that a SSPC Committee member is contacted directly by a lobbyist in connection with any matter that may foreseeably come before the Committee for action, the Committee member shall orally disclose such contact at the meeting in which the matter is up for consideration, and file a memorandum of voting conflict, if applicable, as may be required by in the State Code of Ethics for Public Officers and Employees.

III. Technical Review Committee

A. Establishment -- The School Board shall establish the Technical Review (TR) Committee, which shall be comprised of District staff members and which shall serve in an advisory capacity and report directly to the Superintendent of Schools.

B. Purpose -- The purpose of the TR Committee shall be to provide staff coordination, accountability and oversight of the formulation and implementation of the District's adopted educational facilities plan.

C. Responsibilities -- The responsibilities of the TR Committee shall be as follows:

1. To formulate and recommend to the Superintendent of Schools and to the SSPC Committee a tentative District facilities educational facilities plan, as provided in Section 1013.35, F.S.;

2. To review and provide oversight of the annual capital outlay budget report, to include: expenditures, encumbrances and balances by fund, and a mid-year budget evaluation of project status of all funded and unfunded projects, against the approved budget and the undistributed capital contingency, for possible recommendation for Board action to amend the budget and educational facilities plan;

3. To review the District's educational plant survey prepared and submitted by Facilities Planning and Construction, as prescribed in Section 1013.31, F.S., and transmit same to the SSPC Committee for review and a recommendation to the School Board;

4. To submit annually to the SSPC Committee a progress report on the District's facilities planning and construction programs;

5. To expeditiously review and recommend to the Superintendent of Schools and the SSPC Committee on any construction change orders, which exceed the total appropriation for the particular project;

6. To expeditiously review and recommend to the Superintendent of Schools and to the School Board on construction change orders if funds are available in project contingency, except that change orders of less than $50,000 may be approved administratively by the Superintendent or his designee and subsequently confirmed by the TR Committee;

7. To review and recommend to the Superintendent of Schools the award or rejection of construction bids, which exceed the project budget by 5%;

8. To review and recommend to the Superintendent of Schools, based upon recommended awards of construction bids, amendments to the affected project budget. Project budgets should be reduced when construction awards are less than the amount budgeted or increased when the construction award is more than the amount budgeted. The source or destination of such budget amendments should be undistributed contingency in each affected fund;

9. To review administrative procedures and perform other functions as assigned by the Superintendent of Schools.

D. Membership -- The TR Committee shall be comprised of the following voting members, or their designees:

Chief Business Officer - Chair;

Administrative Director, Facilities Planning;

Administrative Director, Facilities Operations and Legislative Support;

Chief Financial Officer;

Administrative Director - Maintenance;

Associate Superintendent of School Operations;

Associate Superintendent - Education.

E. Operation -- A quorum of the TR Committee shall consist of a majority. Meetings shall be held as called by the Chair. Minutes shall be kept of all meetings and upon approval by the TR Committee a copy shall be distributed to the Superintendent of Schools and to the School Board.

IV. Site Selection

A. Use of District's Adopted Educational Facilities Plan -- Only those sites for projects included within the District's adopted educational facilities plan shall be investigated and evaluated for potential purchase by the School Board.

B. Criteria -- Criteria for evaluating and selecting sites for locating educational facilities shall include or address the following elements:

1. Size and shape of site;

2. Expansion capacity of site;

3. Whether the site is adequate to relieve overcrowding in existing schools;

4. Whether there are pending or approved charter school applications which would impact the proposed educational facility or the site search;

5. Whether the site is reserved in a recorded subdivision, or set aside for donation or purchase by the School Board as a result of Developmental Impact Committee (DIC) or Development of Regional Impact (DRI) approvals;

6. Location of site in relation to both the intended service area, as well as major traffic arteries and accessibility to school buses and private vehicles for student drop-off and pickup;

7. Site location should seek to the extent practicable to promote diverse school enrollments, reflecting the broad mix of cultures, experiences and ideas to be found in the community, through the consideration of various factors, including but not limited to the socioeconomic circumstances, unique language needs and abilities, race and ethnicity of the students to be served;

8. Location of site and potential impact on the attendance boundaries of surrounding schools;

9. Occupancy of the site, specifically whether any residents will require relocation;

10. Location of site in relation to existing or planned public recreation sites, which might make possible the joint use of facilities;

11. Whether there are any existing or anticipated land uses in the area, which could adversely affect the site due to traffic generation, noise, odor, safety or other factors;

12. Whether there are any major street improvements or expressways planned in the vicinity, which could affect the site or the intended service area;

13. Whether there are adequate traffic control devices and sufficient road capacity for the intended use of the site;

14. Whether site access requires crossing a canal, railroad, major street or other physical barrier or hazard;

15. Whether there are any archeological or historical designations or any biological, zoning or environmental problems (e.g., incinerators, active or inactive dump sites, toxic soil, underground storage tanks) on the property that could adversely impact the timely use of the property for the intended purpose;

16. The extent of site development work that must be done on an unimproved site in order to make it usable for the intended purpose;

17. The condition of title to the site or any known title defects;

18. The compatibility or incompatibility of present and projected uses of adjacent properties with the intended use.

C. Site Selection Procedures -- The Chief Business Officer or his/her designee shall ensure that thorough site selection procedures are followed, including the following seven-step due process, as described below. The Chief Business Officer shall have the option to secure the services of a third party or parties, under contract with the District, to identify sites and/or negotiate conditional agreements for purchase and sale of real property on behalf of the School Board, as may be deemed appropriate.

1. Identify through the appropriate school district regions, the general search boundaries for the proposed educational facility, any relevant educational, recreational, and community requirements that may be applicable, minimum required site size, and the educational facilities to be relieved;

2. Inventory available sites that meet the search parameters, including School Board-owned sites, properties designated for donation to the School Board, properties set aside by developers or property owners for purchase, as approved by the School Board, and properties owned by public entities which may be available under cooperative partnerships;

3. Conduct preliminary due diligence and with input from School Operations and Transportation staff, identify the sites most suitable for the intended purpose;

4. Submit to the SSPC Committee the record of all suitable sites for direction. Pursuant to this direction, authorize the Superintendent, his designee, or the third party, to execute conditional purchase and sale agreements based on a not to exceed purchase price, to be determined by the SSPC Committee based on a restricted use appraisal report generated by District authorized licensed appraiser. This shall be subject to additional due diligence, to include environmental assessments, site preparation and development costs, appraisals and any other reviews deemed necessary. As part of the conditional agreements, a fully refundable deposit not to exceed 10% of the purchase price, may be deposited in escrow with the School Board Attorney, as earnest money;

5. Present the results of negotiations for the selected sites to the SSPC Committee for final ranking if necessary, including any adjustments of the not to exceed price and a recommendation to the School Board for approval of the negotiated agreements. The SSPC Committee shall also consider the need for eminent domain where negotiations prove unsuccessful;

6. Submit recommendation to the School Board for approval of a purchase and sale agreement, or upon a recommendation by the SSPC Committee to authorize eminent domain proceedings;

7. Upon review of the sites and recommended ranking, the School Board shall accept the sites as ranked or re-rank them and authorize acquisition. If none of the sites are acceptable, the School Board shall reject them.

V. Site Acquisition

A. Criteria for Acquisition of Sites for School Facilities

1. Overall suitability of a site for the intended purpose;

2. Total estimated costs to place a site in use for the intended purpose, including acquisition cost and cost of necessary site improvements; and

3. The reasonableness of the total cost to acquire and place a site into use, as compared to other sites or options.

B. Criteria for Determining "Reasonableness" of Costs of Site Acquisition and Improvements

1. The foundation, or starting point, for determining what is a reasonable price for the School Board to pay for the acquisition of land is an appraisal(s) of market value of sites as provided in Section 253.025, F.S.;

2. Adjustment downward or upward of the appraised market value of a site based upon the following:

a. Total costs, other than the cost of acquisition, to place the site in use;

b. Availability of alternative, suitable sites for the project;

c. Both the general real estate market conditions and the specific real estate market conditions in the geographic area of the project; and

d. Any other identified factors which may impact the reasonableness of site acquisition costs, including but not limited to the total estimated costs of the eminent domain process to acquire the site as provided by

Sections 73.091 and 73.092, F.S., and for the District's costs for attorneys' fees and other expenses of the eminent domain.

C. Appraisal Procurement and Review Process -- The Chief Business Officer or his/her designee shall ensure the following is provided:

1. Initiating, overseeing and documenting the procurement of professional appraisals of market value of the sites determined by the School Site Planning and Construction Committee to be suitable for projects in the District's adopted educational facilities plan or long-range plan, as required by Section 1013.35, F.S.;

2. Where two appraisals are required under state law, request in writing a formal professional review appraisal from an appraiser selected in accordance with Section 253.025(6)(b), F.S. The reviewing appraiser's certification of the recommended or approved value of the property shall be set forth in a signed statement which identifies the specific appraisal reports reviewed and explains the basis for such recommendation or approval.

D. Negotiations and Authorization for the Voluntary Purchase and Sale of Sites -- The Chief Business Officer or his/her designee shall ensure of the following:

1. Conducting negotiations within the authorization granted by the SSPC Committee for the voluntary purchase and sale of sites suitable for projects included within the District's adopted educational facilities plan or long-range plan and maintaining a written record of all such negotiations;

2. Reporting to the SSPC Committee the results of such negotiations for further input as may be needed;

3. Preparing for presentation to the School Board an item with full information for the voluntary purchase and sale of a school site as contained in the site list as ranked by the SSPC Committee, suitable for the projects included within the District's adopted educational facilities plan or long-range plan within the price parameters established by the SSPC Committee, based upon the criteria for "reasonableness" of cost of site acquisition and improvements established herein;

4. Ensuring that where the agreed to purchase price exceeds the appraised value where only one appraisal is required by state law, or the reviewed appraised value in all other instances, and

the School Board finds that the agreed price is reasonable under the criteria established herein, said purchase is approved by an extraordinary vote. Extraordinary vote, for purposes of this section, means a majority vote plus one additional vote of the members of the School Board present at the meeting where such action is taken.

E. Acquisition by Eminent Domain

1. In the event that negotiations for voluntary sale of a site for a reasonable price are unsuccessful, then the SSPC Committee shall formulate and forward to the School Board an item recommending the commencement of eminent domain proceedings as authorized by Section 1013.24, F.S.

2. The item recommending the commencement of eminent domain proceedings shall include the full record of the site selection and investigation process;

3. Upon School Board approval, eminent domain proceedings shall be initiated as provided for in Section 73.015, F.S.

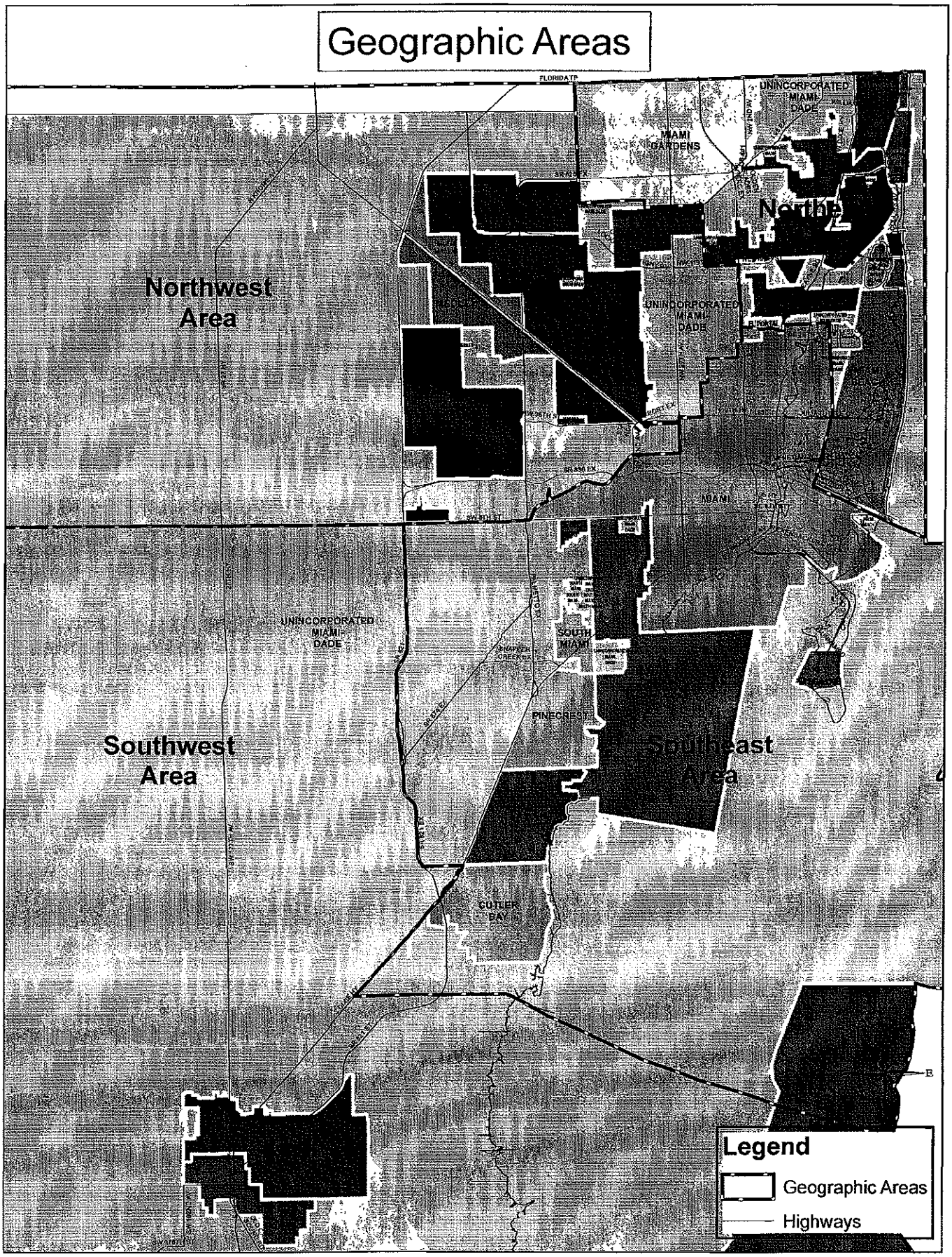
Specific Authority: 1001.41(1)(2); 1001.42(22); 1001.43(10) F.S.
Law Implemented, Interpreted, or Made Specific: 73.015; 73.091; 73.092; 112.313(1); 112.3143; 253.025(6)(b); 286.011; 1013.24; 1013.31; 1013.33; 1013.35; 1013.36; 1013.61, F.S.

History: **THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA**
New: 12-12-01
Amended: 4-17-02; 6-19-02; 9-12-02; 5-14-03; 7-14-04

Exhibit 2

Map of Geographic Areas

Geographic Areas



MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: April 21, 2009

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(N)(1)(A)

Please note any items checked.

_____	"4-Day Rule" ("3-Day Rule" for committees) applicable if raised
_____	6 weeks required between first reading and public hearing
_____	4 weeks notification to municipal officials required prior to public hearing
_____	Decreases revenues or increases expenditures without balancing budget
_____	Budget required
_____	Statement of fiscal impact required
_____	Bid waiver requiring County Mayor's written recommendation
_____	Ordinance creating a new board requires detailed County Manager's report for public hearing
_____	Housekeeping item (no policy decision required)
✓	No committee review

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 8(N)(1)(A)

4-21-09

RESOLUTION NO. **R-423-09**

RESOLUTION AUTHORIZING EXECUTION OF THE INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING BETWEEN MIAMI-DADE COUNTY AND MIAMI-DADE COUNTY PUBLIC SCHOOLS, AND SUPERSEDING RESOLUTION NO. R-734-08

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the attached Interlocal Agreement for Public School Facility Planning between Miami-Dade County and Miami-Dade County Public Schools for the purpose of establishing jointly the specific ways in which the plans and processes of the district school board and County government are to be coordinated, and authorizes the Mayor, or his designee, to execute same on behalf of Miami-Dade County. This resolution supersedes Resolution No. R-734-08.

The foregoing resolution was offered by Commissioner **Dorrin D. Rolle** who moved its adoption. The motion was seconded by Commissioner **Katy Sorenson** and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman **aye**
Jose "Pepe" Diaz, Vice-Chairman **aye**

Bruno A. Barreiro	**aye**	Audrey M. Edmonson	**aye**
Carlos A. Gimenez	**aye**	Sally A. Heyman	**aye**
Barbara J. Jordan	**aye**	Joe A. Martinez	**absent**
Dorrin D. Rolle	**aye**	Natacha Seijas	**aye**
Katy Sorenson	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of April, 2009. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Kay Sullivan**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Dennis A. Kerbel

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

RECEIVED
2009 MAR 3
COUNTY MANAGER'S OFFICE

February 27, 2009

Mr. Alberto M. Carvalho, Superintendent
Miami-Dade County Public Schools
1450 N.E. Second Avenue
Miami, Florida 33132

Mr. George Burgess, County Manager
Metro Dade Center, Suite 1210
111 N.W. 1st Street
Miami, Florida 33128-1930

Dear Superintendent Carvalho and Mr. Burgess:

Please consider this letter a "Notice to Show Cause" why sanctions should not be enforced for failure to enter into an approved interlocal agreement between Miami-Dade County and the Miami-Dade County Public Schools for school facilities planning, consistent with Section 163.3177(12)(k), F.S.

Sections 163.3180(12) and (13)(g), F.S., require Miami-Dade County and the Miami-Dade School District to enter an interlocal agreement to establish and implement public school concurrency. Consistent with the schedule published by the Department of Community Affairs in the Florida Administrative Weekly, the agreement was due January 1, 2008. As you know, I met with County representatives in February 2008, to discuss the challenges that have been encountered in executing the interlocal agreement. I agreed at that time to allow additional time for the County and the School Board to resolve their differences. I also sent a letter to both of you on September 18, 2008, to give both parties an opportunity to explain why the interlocal agreement has not yet been adopted. Your written responses were received shortly thereafter. Once again, based on representations that an agreement was near, I decided to allow additional time to give the County and the School Board every opportunity to reach a consensus on the interlocal agreement.

At this point, further delay is unacceptable. The status of the County's interlocal agreement is in sharp contrast to the progress that the municipalities have achieved in executing the required interlocal agreements with the Miami-Dade County Public Schools. To date, 23 interlocal agreements have been executed between the School Board and the municipalities, and school concurrency is being implemented in 19 cities through Public School Facilities Elements which were found in compliance with State Statutes.

I request your responses within two weeks, or by March 13, 2009. Pending our review of your response, the Department's next step may be to report this matter to the Governor and the Cabinet.

Sincerely yours,

Tom Pelham

Thomas G. Pelham
Secretary

TGP/mm

cc: Luis G. Garcia, Esq., School Board Attorney's Office, Miami-Dade County Public Schools
Jaime Torrens, Chief Facilities Officer, Miami-Dade County Public Schools
Ana Rijo-Conde, Planning Officer, Miami-Dade County Public Schools
Ana R. Craft, Esq., Senior Real Estate Attorney, Miami-Dade County Public Schools
Susan L. Trevarthen, Weiss Serota, et al, School Board Concurrency Counsel
Marc LaFerrier, Director of Planning and Zoning, Miami-Dade County
Subrata Basu, Assistant Director for Planning, Miami-Dade County
R.A. Cuevas, Esq., County Attorney, Miami-Dade County
Joni Armstrong-Coffey, Esq., Deputy County Attorney, Miami-Dade County
Tracy Suber, Department of Education
Bill Pable, AICP, Principal Planner, Department of Community Affairs

MIAMI-DADE COUNTY

Carlos Alvarez, Mayor

County Executive Office
County Manager
111 NW 1st Street • Suite 2910
Miami, Florida 33128-1994
T 305-375-5311 F 305-375-1262

miamidade.gov

March 13, 2009

Mr. Thomas G. Pelham, Secretary
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: Joint Response to Notice to Show Cause

Dear Secretary Pelham:

We are writing to respond to your letter, dated February 27, 2009, requesting that Miami-Dade County Public Schools (the "School District") and Miami-Dade County (the "County") show cause as to why sanctions should not be imposed for failure to enter into an approved interlocal agreement between the School District and the County for school facilities planning consistent with Section 163.3177(12)(k), Florida Statutes. Please accept this letter as our joint formal response to your request. This joint action is evidence of our commitment to work cooperatively and bring this endeavor to a successful conclusion.

Both the School District and the County strongly believe that sanctions should not be enforced based upon our extensive efforts to enter into a school interlocal agreement. While the School District's and the County's efforts may have suffered setbacks at times, our resolve to achieve a mutually acceptable resolution has remained strong.

As of today, School District and County staffs have reached consensus on each and every outstanding issue outlined in previous correspondence to the Department of Community Affairs (DCA). This revised alternative agreement between the County and the School District will be scheduled for County Commission approval at its April 21, 2009 meeting, and subsequently by the School Board at its meeting of April 22, 2009, following which the agreement will be jointly executed and transmitted to the DCA for a final determination of consistency.

Those areas of the revised alternative agreement that impact one or more substantive elements of the public school concurrency system will be forwarded to the non-exempt municipalities for their consideration and approval, since the system must be applied uniformly district-wide, pursuant to statute. The provision

allowing future amendments to be adopted by the School Board, the County and 2/3 of the non-exempt municipalities, will need to be approved by those municipalities with an already executed Interlocal Agreement, prior to implementation.

Following County Commission and School Board action on the revised alternative agreement, and a DCA finding of consistency, the School District has agreed to ensure that the municipalities not only are briefed, but also are presented with the County-School District agreement for their consideration and action. Any issues arising from that set of discussions with the municipalities will be brought to the DCA's attention, although we are hopeful that unanimous agreement can be reached among all parties.

We trust that you will take into account this most recent progress, which has led us both to what we view as the successful resolution of all outstanding issues. We hope that this constitutes sufficient cause for sanctions not to be imposed. As such, we would request that you not report this matter to the Administration Commission at this time.

Please feel free to contact us with any questions or concerns.

Sincerely,

(Note: Please see next page for signatures of both parties.)

Alberto M. Carvalho
Superintendent

George M. Burgess
County Manager

cc: Luis G. Garcia, Esq., Interim School Board Attorney
Ana R. Craft, Esq., Senior Real Estate Attorney
Jaime Torrens, Chief Facilities Officer
Ana Rijo-Conde, AICP, Planning Officer
Susan L. Trevarthen, Esq., AICP, Concurrency Counsel
R.A. Cuevas, Esq., County Attorney
Joni Armstrong-Coffey, Esq., Deputy County Attorney
Alex Munoz, Assistant County Manager
Marc LaFerrier, Director of Planning and Zoning, Miami-Dade County
Subrata Basu, Assistant Director for Planning, Miami-Dade County
Tracy Suber, Department of Education
Bill Pable, AICP, Principal Planner, Department of Community Affairs

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Secretary

March 23, 2009

Mr. Alberto M. Carvalho, Superintendent
Miami-Dade County Public Schools
1450 N.E. Second Avenue
Miami, Florida 33132

Mr. George Burgess, County Manager
Metro Dade Center, Suite 1210
111 N.W. 1st Street
Miami, Florida 33128-1930

Dear Superintendent Carvalho and Mr. Burgess:

Thank you for your letter of March 13, 2009, advising that the School District and the County staffs have reached consensus on all issues. You indicate that the interlocal agreement is scheduled for approval on the County Commission's April 21, 2009 agenda and the School Board's April 22, 2009 agenda, and that after execution it will be transmitted to the Department for approval. I am pleased with your joint commitment to resolve this matter, but am also aware that similar reports of progress have occurred in the past only to be aborted at the last minute. If the School Board and County Commission fail to approve and execute the agreement consistent with your representations, I will delay no longer in referring the matter to the Administration Commission for appropriate action.

Sincerely yours,

Tom Pelham

Thomas G. Pelham
Secretary

TGP/mm

cc: Luis G. Garcia, Esq., School Board Attorney's Office, Miami-Dade County Public Schools
Jaime Torrens, Chief Facilities Officer, Miami-Dade County Public Schools
Ana Rijo-Conde, Planning Officer, Miami-Dade County Public Schools
Ana R. Craft, Esq., Senior Real Estate Attorney, Miami-Dade County Public Schools

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• COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) • FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) •
• HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) •

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