

Document prepared by and
Return recorded document to:

Edward Marko, School Board Attorney
The School Board of Broward County, Florida
Kathleen C. Wright Administrative Building
600 Southeast 3rd Avenue
Fort Lauderdale, FL 33301

NOTICE: PURCHASERS, GRANTEEES, HEIRS, SUCCESSORS AND ASSIGNS OF ANY INTEREST IN THE PROPERTY SET FORTH ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE PROPERTY UNTIL FULLY PAID AND PERFORMED.

EDUCATIONAL MITIGATION AGREEMENT
(Land Use Plan Amendment PCT 06-1)

This is an Agreement, made and entered into by and between:

BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY",

AND

CITY OF PEMBROKE PINES, a municipal corporation, created and existing under the laws of the State of Florida, its successors and assigns, hereinafter referred to as "CITY",

AND

THE SCHOOL BOARD OF BROWARD COUNTY, a body corporate and political subdivision of the State of Florida, hereinafter referred to as "SCHOOL BOARD".

RECITALS

WHEREAS, the CITY, through Sun Trust Bank, as Trustee of the Pembroke Pines Land Trust, Florida Land Trust Agreement No. 56-02-137-6900246 is the fee simple owner of the subject property described herein; and

WHEREAS, the Broward County Board of County Commissioners approved Broward County Land Use Text Amendment PCT 06-1, establishing a "Local Activity Center" in the City of Pembroke Pines; and

WHEREAS, the Broward County Board of County Commissioners approved Broward County Land Use Plan Amendment PCT 06-1 (also known as PH 2004-08), permitting 250 additional high rise residential units in the Local Activity Center in the City of City of Pembroke Pines, a legal description of which is attached hereto as Exhibit "A"; and

WHEREAS, the CITY is proposing a total of 250 high rise residential units in Land Use Plan Amendment PCT 06-1 (hereinafter "Amendment PCT 06-1"); and

WHEREAS, the CITY has agreed to mitigate the impact of students anticipated from the development of the 250 residential units in the Local Activity Center; and

WHEREAS, SCHOOL BOARD staff, as evidenced by the Public School Facility Impact Statement Report dated December 16, 2005 and letter dated December 16, 2005 to the Broward County Planning Council, which are attached hereto as Composite Exhibit "B", anticipates that the 250 residential units as proposed will generate 16 additional students consisting of 11 elementary school students, 2 middle school students and 3 high school students into Broward County District Schools; and

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances (hereinafter "County School Impact Fee Regulations"), requires that no application for a building permit shall be accepted by the COUNTY or by any municipality without documentation that a finding of adequacy of school sites and facilities has been made by the COUNTY; and

WHEREAS, the COUNTY, SCHOOL BOARD and CITY agree that the cost per student station is appropriate to the circumstances of the Local Activity Center and that the cost per student station would be paid in lieu of the County school impact fees for the additional 16 students and that the cost per student station would be as determined and published by the State of Florida; and

WHEREAS, the schedule of the Student Station Cost Factor for elementary, middle and high school students associated with the Local Activity Center dwelling units have been established by the State of Florida pursuant to the published "Student Station Cost Factors May 2006", as may be amended, attached hereto as Exhibit "C"; and

WHEREAS, as a condition for approval of Amendment PCT 06-1, the CITY was required to enter into a tri-party interlocal agreement with the SCHOOL BOARD and COUNTY to enable legal enforcement of the commitment made before any building permits can be issued for residential units in the Local Activity Center.

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, COUNTY, CITY and SCHOOL BOARD agree as follows:

1. AMENDMENT OF THE CITY'S LAND DEVELOPMENT CODE.

1.01 The CITY agrees that any application for a building permit for residential development within the Local Activity Center shall be subject to the imposition of educational mitigation in the manner set forth in this Agreement. The CITY shall amend its land development code no later than 45 days from the approval of this Agreement by the SCHOOL BOARD and COUNTY or in the alternative as the owner of the subject property described herein, establish a legally enforceable mechanism acceptable to the SCHOOL BOARD and COUNTY to require the payment of the student station per dwelling unit cost in lieu of the COUNTY school impact fees due for the total 250 additional residential units contained within the boundaries of the Local Activity Center, consistent with the Student Station Mitigation Plan attached hereto as Exhibit "D". The SCHOOL BOARD and COUNTY agree that an acceptable alternative would be the collection and payment of the appropriate mitigation fee to the SCHOOL BOARD at the time of the sale or transfer of a parcel located within the Local Activity Center to another unrelated entity for development purposes.

1.02 The CITY will require evidence of payment of the student station per dwelling unit cost from individual applicants prior to the issuance of building permits, on a site-specific per project basis.

1.03 The CITY shall provide written notice to the County's Development Management Division and the School Superintendent or his designee as provided herein, upon site plan or plat approval of any residential project authorized pursuant to Amendment PCT 06-1. Notification shall include project location and number and type of units at time of site plan or plat approval and shall be confirmed by the CITY at the time of building permit.

1.04 Prior to the issuance of a building permit for the construction or erection of a residential building located within the Local Activity Center, the CITY shall verify that the owner, applicant and/or developer has paid the applicable student station per dwelling unit cost for the 250 residential units as set forth below.

1.05 The CITY, its successor and assigns, agrees that no building permits or certificates of occupancy shall be obtained from the CITY for residential development of land within the Local Activity Center until the applicable student station per dwelling unit cost is paid as required by this Agreement. Failure to verify and ensure payment of the student station per dwelling unit cost prior to obtaining a building permit shall constitute a default of this Agreement. Nothing herein shall waive or affect the right of the COUNTY and/or SCHOOL BOARD to otherwise require the CITY to comply with the conditions of Amendment PCT 06-1 or this Agreement by any remedy provided by law or equity.

2. STUDENT STATION PER DWELLING UNIT COST.

2.01 The Student Station Per Dwelling Unit Cost for each residential dwelling unit within the Local Activity Center shall be an amount derived from the cost per student station as determined, published and amended by the State of Florida for elementary, middle and high school students and the associated per dwelling unit cost as calculated by the SCHOOL BOARD. However, in no event shall that amount be less than \$1,111 for each residential dwelling unit. For example, computations utilizing the cost per student station figures as of January 2007 would be approximately \$1,111 per residential dwelling unit for the 250 residential units, and computations utilizing the cost per student station figures as of December 2016, would be approximately \$1,358 per residential dwelling unit for the 250 residential units. At no time until prior to when the last building permit is issued for the final 250th residential unit shall the total cost per student station amount due for the total units be less than the total COUNTY required effective school impact fee that could have been due for the total units.

2.02 Prior to the issuance of a finding of adequacy by the COUNTY, the SCHOOL BOARD shall provide the COUNTY with the current cost per student station schedule established and published by the State of Florida, and the associated per dwelling unit cost as calculated by the SCHOOL BOARD for the 250 residential units. No later than the end of each calendar month, the COUNTY agrees to provide written correspondence to the SCHOOL BOARD listing residential developments issued satisfactory finding of adequacy, unless the alternative is utilized which requires payment of the appropriate mitigation fee directly to the SCHOOL BOARD. At the minimum, the information provided shall include the name and project or plat number of the development, the total number and type of proposed units and the total cost per student station amount paid.

2.03 The CITY agrees that it will not accept an application for a building permit for any residential unit, which is included within the Local Activity Center unless it has received documentation of a finding of adequacy by the COUNTY.

3. EDUCATIONAL FACILITIES. The student station per dwelling unit cost paid by the owner(s) and/or developer(s) pursuant to this Agreement shall, pursuant to School Board Growth Management Policy be used to provide educational facilities to serve students generated by the 250 residential unit development in the Local Activity Center. The CITY recognizes and agrees that, even if such money is not directly utilized to meet the educational needs of the future residents of the area within the Local Activity Center, the use of such money will indirectly benefit such development by making other funds available to directly meet those needs.

4. TRANSMITTAL OF FUNDS TO THE SCHOOL BOARD. The COUNTY agrees to remit quarterly to the SCHOOL BOARD, the student station per dwelling unit cost amount collected for the proposed Local Activity Center dwelling units to be spent by the SCHOOL BOARD in accordance with School Board Growth Management Policy. The COUNTY will continue to remit the COUNTY school impact fees to the SCHOOL BOARD consistent with the existing agreement between the COUNTY and the SCHOOL BOARD.

5. The COUNTY agrees that this Agreement satisfies the requirements of the County School Impact Fee Regulations relating to Educational Impact Fees.

6. The recitals and representations set forth within the Whereas clauses are true and correct and are incorporated herein.

7. NOTICES. Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. Until otherwise designated by amendment to this Agreement, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Director, Development Management Division of Broward County
115 South Andrews Avenue, Room A240
Fort Lauderdale, FL 33301

For the CITY:

City Manager
City of Pembroke Pines
10100 Pines Boulevard
Pembroke Pines, FL 33026

With a copy to:
Samuel S. Goren, City Attorney
3099 East Commercial Boulevard, Suite 200
Fort Lauderdale, FL 33308

For the SCHOOL BOARD

Superintendent of Schools
The School Board of Broward County, Florida
Kathleen C. Wright Administrative Building
600 Southeast 3rd Avenue
Fort Lauderdale, FL 33301

With a copy to:
The Executive Director
The School Board of Broward County, Florida

Facility Management, Planning and Site Acquisition Department
Kathleen C. Wright Administrative Building
600 Southeast 3rd Avenue, 14th Floor
Fort Lauderdale, FL 33301

8. **RELEASE.** When all of the obligations set forth herein are fully paid and performed, COUNTY, at the request of CITY or its successor and upon payment of any applicable fees, shall cause a release to be recorded in the Official Records of Broward County, Florida, evidencing such performance. To the extent that the obligations set forth herein are divisible and attributable to a specific parcel the payment of the student station per dwelling unit cost and the issuance of a building permit shall constitute evidence that the divisible portion of the obligation has been satisfied.

9. **VENUE; CHOICE OF LAW.** Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Court of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sitis, and shall be governed by the laws of the State of Florida.

10. **CAPTIONS AND PARAGRAPH HEADINGS.** Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.

11. **NO WAIVER.** No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

12. **EXHIBITS.** All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference.

13. **FURTHER ASSURANCES.** The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.

14. **AMENDMENTS.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the COUNTY, CITY and SCHOOL BOARD.

15. **COUNTERPARTS.** This Agreement may be executed in three (3) counterparts, each of which may be deemed to be an original.

16. RECORDING OF THIS AGREEMENT. The CITY agrees to record this Agreement in the Broward County Public Records, at its expense.

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action on the ____ day of _____, 2007, The SCHOOL BOARD OF BROWARD COUNTY, FLORIDA signing by and through its Chair, authorized to execute same by Board action on the ____ day of _____, 2007, and CITY, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

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

By: _____
Josephus Eggelletion, Jr., Mayor

____ day of _____, 2007

Approved as to form by
Office of County Attorney
Broward County, Florida
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By: _____
Assistant County Attorney

____ day of _____, 2007

SCHOOL BOARD

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

ATTEST:

By: _____
Beverly A. Gallagher, Chair

____ day of _____, 2007

James F. Notter, Interim Superintendent
of Schools

Approved as to Form:

School Board Attorney

CITY

WITNESSES:

CITY OF PEMBROKE PINES

By: _____
Frank C. Otis, Mayor

____ day of _____, 2006

ATTEST:

Judith A. Nugent, City Clerk

By _____
Charles F. Dodge, City Manager

____ day of _____, 2006

APPROVED AS TO FORM:

By _____
Samuel S. Goren, City Attorney

PEMBROKE PINES-PCT 06-1(FNL.12.5.06)

EXHIBIT "A"

LEGAL DESCRIPTION
(Including Sketch of Area)

COMPOSITE EXHIBIT "B"

LAND USE PLAN AMENDMENT

PUBLIC SCHOOL FACILITY IMPACT STATEMENT

Dated December 16, 2005

(Land Use Amendment PCT 06-1)

AND

THE December 16, 2005 LETTER TO THE BROWARD COUNTY PLANNING COUNCIL

EXHIBIT "C"

STUDENT STATION COST FACTORS
NOVEMBER, 2006 TABLE

EXHIBIT “D”

STUDENT STATION MITIGATION PLAN