


LOCAL PLANNING AGENCY STAFF REPORT

DATE: November 2, 2017

TO: Chairman and Members of the
Local Planning Agency

FROM: Sharon Williams 
Planning Administrator (P/T)

Project: Third amended and Restated Interlocal Agreement for
Public Facility Planning, Broward County Florida
2017 (TRILA)

Project Summary:

The original interlocal agreement for public facility planning was approved by Broward County and its municipalities in 2003, establishing cooperative planning between the School Board and the municipalities as well as a voluntary school mitigation program to alleviate overcrowded public schools and create necessary classroom capacity. In 2007, the agreement was amended in order to adopt a public school concurrency program which established a countywide level of service standard for each concurrency service area (CSA) designated by the School Board for public elementary, middle and high schools at 110 percent of permanent Florida Inventory of School Houses (FISH). This level of service by definition did not include the use of portables to satisfy concurrency standards.

In 2010, the agreement was amended to modify the level of service standard from FISH to 100 percent gross FISH capacity for each CSA until the end of the 2018/2019 school year. The City adopted the amended agreement on April 21, 2010. The revised standard to 100 percent gross FISH allowed for the counting of portables towards satisfying concurrency standards; however, this standard is due to sunset at the end of the next school year and return to permanent FISH capacity.

The proposed Third amended and restated interlocal agreement defines the level of service standard as either 100 percent gross capacity (includes the counting of portables) or 110 percent of FISH, whichever is higher. This will enable those facilities that include portable units in satisfactory condition to continue to use them in order to satisfy public school concurrency. Other changes includes deleting repealed statutory references and other clarifications that are no longer applicable.

The TRILA was adopted by the Broward County Commission on 9/14/17. The participating municipalities are expected to adopt the TRILA no later January 2018.

Staff Recommendation: Transmit to the City Commission with a favorable recommendation.

Enclosures: Resolution No. 3265
TRILA 2017
School Board support documents

PROPOSED RESOLUTION NO. 2010-R-13

RESOLUTION NO. 3265

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, AUTHORIZING AND APPROVING THE SECOND AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF PEMBROKE PINES, THE SCHOOL BOARD OF BROWARD COUNTY, BROWARD COUNTY AND CERTAIN OTHER MUNICIPALITIES FOR THE IMPLEMENTATION OF PUBLIC SCHOOL CONCURRENCY, PURSUANT TO SECTION 163.31777, F.S.; DIRECTING THE APPROPRIATE CITY OFFICIALS TO TAKE ANY AND ALL ACTION NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2008 the City of Pembroke Pines (the "City") entered into a multi-party interlocal agreement with Broward County, the School Board of Broward County ("School Board") and twenty-six (26) other municipalities to provide for the implementation of public school concurrency, as required by Section 163.31777, F.S.; and

WHEREAS, subsequent to the execution of the interlocal agreement, another municipality joined the same, bringing the number of other municipal parties to the agreement to twenty-seven (27); and

WHEREAS, in 2009, the School Board submitted a plan to the Department of Education ("DOE") to address certain school capacity needs and to satisfy the adopted level of service; however the School Board's plan was rejected as a result of excess capacity throughout the entire school district; and

PROPOSED RESOLUTION NO. 2010-R-13

RESOLUTION NO. 3265

WHEREAS, the School Board's Staff Working Group has met to consider the reasons for the DOE's rejection of the proposed plan, and has recommended certain amendments to the interlocal agreement in an effort to address DOE's concerns; and

WHEREAS, on February 3, 2010, the School Board's professional staff made a presentation to the City Commission regarding the proposed amendment to the interlocal agreement; and

WHEREAS, on March 23, 2010, the School Board voted to approve the second amendment to the interlocal agreement; and

WHEREAS, the City's Education Advisory Board, at its April 8, 2010 meeting, considered the proposed second amendment and voted to recommend that the City Commission take action approving the same; and

WHEREAS, the City's professional staff has reviewed the proposed second amendment and recommends approval; and

WHEREAS, the City Commission finds that the approval of the second amendment to the interlocal agreement with the School Board, Broward County, and other municipalities is in the best interests of the citizens and residents of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF
THE CITY OF PEMBROKE PINES, FLORIDA, THAT:**

Page 2 of 4

SSG:JGH 4-6-10

C:\DOCUME~1\btorres\LOCALS~1\Temp\legitemp9995.doc

PROPOSED RESOLUTION NO. 2010-R-13

RESOLUTION NO. 3265

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby incorporated herein and made a specific part of this Resolution.

Section 2. The City Commission of the City of Pembroke Pines hereby authorizes and approves the second amendment to the interlocal agreement with the School Board of Broward County, Broward County, and twenty-seven (27) other municipalities, a copy is attached hereto as **Exhibit "A"** and incorporated herein.

Section 3. The City Commission hereby authorizes and directs the appropriate City Officials to do all things necessary and expedient to effectuate the intent of this Resolution.

Section 4. All resolutions inconsistent or in conflict herewith shall be and are hereby repealed insofar as there is conflict or inconsistency.

Section 5. If any section, sentence, clause, or phrase of this resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this resolution.

Section 6. This resolution shall become effective upon its passage and adoption by the City Commission.

THE REST OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK.

Page 3 of 4

SSG:JGH 4-6-10

C:\DOCUME~1\btorres\LOCALS~1\Temp\legitemp9995.doc

PROPOSED RESOLUTION NO. 2010-R-13

RESOLUTION NO. 3265

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF
PEMBROKE PINES, FLORIDA, THIS 21 DAY OF April, 2010.**

CITY OF PEMBROKE PINES, FLORIDA

ATTEST:

BY:

MAYOR FRANK C. ORTIS

JUDITH A. NEUGENT, CITY CLERK

ORTIS

AYE

CASTILLO

AYE

McCLUSKEY

AYE

APPROVED AS TO FORM:

SHECHTER

AYE

OFFICE OF THE CITY ATTORNEY

SIPLE

AYE

**THIRD AMENDED
AND
RESTATED
INTERLOCAL AGREEMENT
FOR
PUBLIC SCHOOL FACILITY PLANNING
BROWARD COUNTY, FLORIDA**

, 2017

**Table of Contents
for the
Third Amended and Restated Interlocal Agreement**

ARTICLE I.....	7
RECITALS	7
Section 1	7
ARTICLE II	7
JOINT MEETINGS	7
Section 2	7
ARTICLE III.....	8
STUDENT ENROLLMENT AND POPULATION PROJECTIONS	8
Section 3 <i>A calendar of important dates regarding the provisions of student enrollment, population projections and other necessary shared information is depicted in Appendix “B”, attached hereto and made a part hereof.</i>	9
ARTICLE IV	9
COORDINATING AND SHARING OF INFORMATION	9
Section 4	9
ARTICLE V	11
SCHOOL SITE SELECTION, SIGNIFICANT RENOVATIONS, AND POTENTIAL SCHOOL CLOSURES	11
Section 5	11
ARTICLE VI.....	12
SUPPORTING INFRASTRUCTURE	12
Section 6	12
ARTICLE VII	13
PLAN REVIEW; CONSISTENCY DETERMINATION	13
ARTICLE VIII.....	16
PUBLIC SCHOOL CONCURRENCY	16
Section 8	16
8.1 <i>Required Amendments For Public School Concurrency</i>	16
8.2 <i>Specific Responsibilities</i>	18
8.3 <i>Adopted School Board District Educational Facilities Plan (DEFP)</i>	20
8.4 <i>Transmittal</i>	20

8.5	<i>Comprehensive Plans - Development, Adoption and Amendment of the Capital Improvements Element</i>	<i>21</i>
8.6	<i>Public School Concurrency Standard.....</i>	<i>21</i>
8.7	<i>Commencement.....</i>	<i>21</i>
8.8	<i>Concurrency Service Areas (CSA).....</i>	<i>22</i>
8.9	<i>Adoption of Concurrency Service Areas.....</i>	<i>22</i>
8.10	<i>Level of Service Standard (LOS)</i>	<i>22</i>
8.11	<i>Exemptions and Vested Development</i>	<i>24</i>
8.12	<i>Public School Concurrency Management System.....</i>	<i>25</i>
8.13	<i>Review Process.....</i>	<i>26</i>
8.14	<i>Proportionate Share Mitigation.....</i>	<i>31</i>
8.15	<i>Proportionate Share Mitigation Options.....</i>	<i>31</i>
8.16	<i>Formula for the Calculation of Proportionate Share Mitigation Options</i>	<i>35</i>
8.17	<i>Appeal Process</i>	<i>37</i>
ARTICLE IX		38
COLLOCATION AND SHARED USE		38
Section 9		38
ARTICLE X.....		39
RESOLUTION OF DISPUTES		39
Section 10		39
ARTICLE XI		39
OVERSIGHT PROCESS		39
Section 11		39
ARTICLE XII.....		40
SPECIAL PROVISIONS		40
Section 12		40
12.1	<i>Land Use Authority.....</i>	<i>40</i>
ARTICLE XIII		41
EFFECTIVE DATE AND TERM		41
Section 13		41
ARTICLE XIV		41
AMENDMENT PROCEDURES		41
Section 14		41
14.1	<i>Process to Amend the Interlocal Agreement.....</i>	<i>41</i>
ARTICLE XV		43
MISCELLANEOUS		43
Section 15		43

15.1	<i>Entire Agreement</i>	43
15.2	<i>Severability</i>	43
15.3	<i>Notices</i>	43
15.4	<i>Governing Law</i>	43
15.5	<i>Headings</i>	44
15.6	<i>Counterparts</i>	44
15.7	<i>Supplementary Agreements</i>	44
15.8	<i>Authority</i>	44
15.9	<i>Indemnification</i>	44
15.10	<i>No Waiver of Sovereign Immunity</i>	44
15.11	<i>No Third Party Beneficiaries</i>	44
15.12	<i>Non-Discrimination</i>	45
15.13	<i>Records</i>	45
SIGNATURE PAGES		46
APPENDIX A- DEFINITIONS		83
APPENDIX B- CALENDAR OF IMPORTANT DATES		89
APPENDIX B € PUBLIC SCHOOL CONCURRENCY REVIEW PROCESS FLOWCHART ...		90
APPENDIX C Ø ACRONYM LIST		91

**THIRD AMENDED
AND
RESTATED
INTERLOCAL AGREEMENT
FOR
PUBLIC SCHOOL FACILITY PLANNING
BROWARD COUNTY, FLORIDA**

This Third Amended and Restated Interlocal Agreement (hereinafter referred to as "Third Amended And Restated Agreement") is entered into between The School Board of Broward County, Florida (hereinafter referred to as "School Board"), Broward County, a political subdivision of the State of Florida (hereinafter referred to as "County"); the City Commission or Town Council of the Cities or Towns of Coconut Creek, Cooper City, Coral Springs, Dania Beach, Davie, Deerfield Beach, Fort Lauderdale, Hallandale Beach, Hollywood, Lauderdale-By-The-Sea, Lauderdale Lakes, Lauderhill, Lazy Lake, Margate, Miramar, North Lauderdale, Oakland Park, Parkland, Pembroke Park, Pembroke Pines, Plantation, Pompano Beach, Southwest Ranches, Sunrise, Tamarac, Weston, West Park and Wilton Manors (hereinafter referred to collectively as "Municipalities").

RECITALS

WHEREAS, the Interlocal Agreement for Public School Facility Planning, dated April 8, 2003, (the "Original Agreement") established among other things cooperative planning between the School Board, County and the Municipalities and a voluntary school mitigation program to alleviate overcrowded public schools and create necessary classroom capacity; and

WHEREAS, pursuant to the Amended Interlocal Agreement, dated December 7, 2007, the School Board, County and the Municipalities adopted a public school concurrency program which required all new residential development to comply with development review criteria for public school concurrency and among other things, established a countywide level of service standard for each bounded public elementary, middle and high school at 110% permanent Florida Inventory of School Houses ("FISH"); and

WHEREAS, pursuant to the Second Amended Interlocal Agreement, dated February 2, 2010, the countywide level of service standard was temporarily modified and established at 100% gross FISH capacity for each bounded public school until the end of the 2018/2019 school year; and

WHEREAS, the School Board, County and the Municipalities now wish to amend certain provisions in the Original Agreement, as amended, and to restate the Original Agreement, as amended, and to define the level of service standard to the higher of: 100% gross capacity (including relocatables) or 110% permanent FISH capacity for the purpose of establishing uniform, districtwide level-of-service standards for public schools of the same type and to delete repealed statutory references and certain other clarifications as hereinafter provided¹; and

WHEREAS, the School Board, the County and Municipalities recognize their mutual interest for the education, nurture and general well-being of the children within their community; and

WHEREAS, the School Board, the County and the Municipalities 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 the approval of residential units in land development, (2) greater efficiency for the School Board and local governments by siting schools to take advantage of existing and planned roads, water, sewer, and parks, (3) improved student access and safety by coordinating as feasible the construction of new and expanded schools with the road and sidewalk construction programs of the local governments and requiring new or redevelopment projects containing residential developments to construct sidewalks linking the development to school(s) located within a reasonable distance from the development, (4) as feasible, locating and designing schools to serve as community focal points, (5) encouraging developers of new or redevelopment projects containing residential units to build pedestrian friendly developments that will link their projects to schools located within a reasonable distance from the development, and (6) to enable greater efficiency and convenience by collocating schools with parks, ball fields, libraries, and other community facilities to take advantage of joint use opportunities; and

WHEREAS, the County and Municipalities have jurisdiction for land use and growth management decisions, including the authority to approve or deny comprehensive plan amendments, rezonings, or other development orders that generate students and impact the public school system; and

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

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

¹ Proposed additions to existing text are shown by underlining; proposed deletions from existing text are shown by ~~strikethrough~~.

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, pursuant to Sections 163.31777, ~~163.3180(13)~~, and 1013.33 Florida Statutes, the School Board, County and Municipalities are required to update their current Public School Interlocal Agreement; and

WHEREAS, pursuant to Section 163.3180(13), Florida Statutes, ~~requires~~ the School Board, County and Municipalities adopted a public school concurrency program; and

WHEREAS, the School Board, County, and Municipalities have further determined that it is necessary and appropriate for the entities 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 identified deficit of permanent student stations, and to provide capacity for projected new growth; and

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

WHEREAS, ~~Section 163.3180(13)(g)~~, Florida Statutes requires that prior to establishing a Public School Concurrency program, the School Board, County, and Municipalities adopt an Interlocal Agreement for public school concurrency to satisfy Section 163.31777, ~~and 163.3180(13)(g)~~, Florida Statutes; and

WHEREAS, the County and Municipalities, also referred to collectively as the "Local Governments," are entering into this Third Amended and Restated Agreement ~~Amended Agreement~~ in reliance on the School Board's 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's Five Year Plan"); and

WHEREAS, the School Board has further committed to update and adopt the District's Five Year Plan yearly to add enough capacity in the new fifth year to address projected growth and to adjust the District's Five Year Plan 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 Section 163.3180 (13)(d)2 and 1013.35, Florida Statutes; and

WHEREAS, the School Board, County, and Municipalities have mutually agreed that coordination of school facility planning and comprehensive land use planning is in the best interests of the citizens and students of Broward County, Florida; and

WHEREAS, the Broward County Charter grants county-wide authority regarding land use plan amendments, plats and certain growth management issues to the Broward County Commission and the Commission has authority over other growth management issues in the unincorporated areas of the county; and

WHEREAS, the Municipalities have certain authority regarding local land use plan amendments, rezoning and other growth management issues within their jurisdictional boundaries; and

WHEREAS, the School Board has the responsibility to provide school facilities to insure a free and adequate public education to the residents of Broward County; and

WHEREAS, the School Board, the County, and the Municipalities enter into this Third Amended and Restated Agreement ~~Amended Agreement~~ in fulfillment of that statutory requirement and in recognition of the benefits accruing to their citizens and students described above.

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency is hereby acknowledged, the parties mutually agree that the following procedures will be followed in coordinating land use and public school facilities planning:

ARTICLE I RECITALS

Section 1

- 1.1 The above recitals are true and correct and are hereby incorporated as a part of this Third Amended and Restated Agreement.

ARTICLE II JOINT MEETINGS

Section 2

- 2.1 A staff working group comprised of staff representatives from the School Board, the County and the Municipalities (hereinafter referred to as “Staff Working Group”) will at least annually meet to discuss issues and formulate recommendations regarding coordination of land use and school facilities planning and to comply with public school concurrency requirements, including such issues as population and student projections, development trends, school needs, co-location and joint use opportunities, ancillary infrastructure improvements needed to support the schools and safe student access. The County and Municipalities will each appoint one representative and an alternate to the Staff Working Group. The School Board of Broward County Superintendent of Schools, or his designee (hereinafter referred to as “Superintendent”) will appoint appropriate staff and an alternate to attend and participate in the Staff Working Group meetings. The School Board, County and Municipalities will each have one vote on the Staff Working Group. The School Board staff shall coordinate and be responsible for scheduling such meeting(s), taking and maintaining the meeting minutes, and providing notification with at least 30 days advance written notice to the appropriate members. The County and Municipalities will assist the School Board as needed in addressing the needs and carrying out the functions of the Staff Working Group. Representative(s) from the Broward County Planning Council, the South Florida Regional Planning Council, and other applicable agencies will also be notified and invited to attend and participate in the Staff Working Group meetings and functions, but shall not be considered members of the Group, and as such, shall have no vote. The joint workshop sessions will also be opportunities for the County, the Municipalities and the School Board to hear reports, discuss policy, set direction, and reach understandings concerning issues of mutual concern regarding school facilities planning, offsite improvements and public school concurrency issues. A written report regarding implementation of the Third Amended and Restated Agreement ~~Amended Agreement~~ will be prepared by the Staff Working Group and provided to the Oversight Committee referenced in Article XI of this Third Amended and Restated Agreement. ~~Amended Agreement~~. Such report shall be the basis for the annual report issued by the Oversight Committee as required by Article XI of this Third Amended and Restated Agreement. ~~Amended Agreement~~
- 2.2 Monitoring and evaluation of the school concurrency process is required pursuant to Section ~~163.3180(6)(a), (i)(4)(c), 163.3180(13)(g)(6)(c)~~ Florida Statutes. The Staff Working Group shall, by December 31st of each year, be responsible for preparing the annual assessment report on the effectiveness of School Concurrency. The report shall be a part of the report cited in Subsection 2.1 above, and will be presented to the Oversight Committee.

ARTICLE III

STUDENT ENROLLMENT AND POPULATION PROJECTIONS

~~Section 3 — A calendar of important dates regarding the provisions of student enrollment, population projections and other necessary shared information is depicted in Appendix “B”, attached hereto and made a part hereof.~~

- 3.1 In fulfillment of their respective planning duties, the School Board, the County and the Municipalities agree to coordinate and base their plans upon consistent projections of the amount, type, and distribution of population growth and student enrollment. Countywide five-year population and student enrollment projections shall be revised regularly annually and ~~provided in the subsequent calendar year at~~ shared at the Staff Working Group meeting described in Subsection 2.1.
- 3.2 The Superintendent 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 Superintendent based on development data coordinated with the local governments. The Superintendent may request adjustment to the estimating conferences’ projections to reflect actual enrollment and development trends. In formulating such a request, the Superintendent will coordinate with the County and Municipalities regarding development trends and future population projections.
- 3.3 The County will continue to provide population projections that will be utilized to verify the geographic distribution of School Board student projections countywide.

ARTICLE IV

COORDINATING AND SHARING OF INFORMATION

Section 4

- 4.1 Tentative District Educational Facilities Plan: Commencing no later than July 30, 2009, and annually thereafter, the Superintendent shall submit to the County and to each Municipality the tentative District Educational Facilities Plan (hereinafter referred to as the “Tentative Plan”). Upon providing the Tentative Plan to local governments and giving proper notice to the public and opportunity for public comment, the School Board may amend the Tentative Plan to revise the priority of projects, to add, or delete projects, to reflect the impact of change orders, or to reflect the approval of new revenue sources which may become available. The Tentative Plan will be consistent with the requirements of Section 1013.35 Florida Statutes, and include, an inventory of existing school facilities, projected five-year student enrollment projections apportioned by school and geographic area, Florida Inventory of School Houses ~~Housing~~ for each school as approved by the Department of Education, the number of portables in use at each school, the number of portables projected to be in use at each school, five-year capital improvements for pertinent schools, planned new schools, general locations of new schools for the five, ten,

and twenty-year time periods, the School District unmet needs 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-year period. The County and Municipalities shall review the Tentative Plan and send written comments to the Superintendent within 30 days after receipt of the draft Tentative Plan, on the consistency of the Tentative Plan with the local comprehensive plan, and whether a comprehensive plan amendment will be necessary for any proposed educational facility for consideration prior to the final adoption hearing.

- 4.2 Information regarding schools scheduled for renovations shall be provided in the Tentative District Educational Facilities Plan.
- 4.3 Educational Plant Survey: At least one year prior to preparation of the Educational Plant Survey which is updated every five (5) years, the Staff Working Group established in Subsection 2.1 will, upon request from the School District, assist the Superintendent in preparation of the update. 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 the applicable land use plan.
- 4.4 Growth and Development Trends: Commencing August 31, 2007 and annually thereafter, the County in conjunction with the Municipalities shall provide the Superintendent with a report on growth and development trends within their jurisdiction. This report may be in tabular and/or graphic, and textual formats and include, but not be limited to the following information, if available:
 - (a) The total number of ongoing and remaining residential development units, plat name and number, subdivision name, type, number and mix of bedrooms, expiration date of the development order, section, township and range, and survey or location map;
 - (b) The total number of certificate of occupancy (CO's) issued to date for each ongoing or remaining residential development units by plat name and number, subdivision name, type, number and mix of bedrooms, section, township and range, and survey or location map;
 - (c) The projected phasing of the CO's issued for each ongoing or remaining residential development units for the remaining portion of the year, and by year for the next five years by plat name and number, subdivision name, type, number and mix of bedrooms, section, township and range, and survey or location map;
 - (d) The projected development or potential redevelopment of vacant or other developed land;
 - (e) Residential properties undergoing plat review by plat name and number;
 - (f) Information regarding the conversion or redevelopment of housing or other structures into residential units likely to generate new students; and

- (g) The identification of any development order(s) issued which contain a requirement for the provision of a school site as a condition of development approval.
- 4.5 Quarterly, the County will provide by correspondence to the Superintendent, the list of all residential plat(s) granted approval by the Broward County Commission during that preceding quarter. At a minimum, the information shall contain the plat name, plat number, residential type, number of units and date of approval. If no plat was approved during the quarter, the County will send correspondence indicating so.
- 4.6 No later than the 15th of each month, after the approval of any land use plan amendment(s), the County will provide by correspondence to the Superintendent, the list of land use plan amendment(s) adopted or denied by the Broward County Commission. At a minimum, the information shall contain the amendment number, residential type, number of residential units if applicable, date adopted, and the effective date of the new land use designation.

ARTICLE V

SCHOOL SITE SELECTION, SIGNIFICANT RENOVATIONS, AND POTENTIAL SCHOOL CLOSURES

Section 5

- 5.1 School Board staff will review potential sites for new schools and proposals for potential closure of existing schools and significant renovations consistent with School Board Policy 5000, to be amended consistent with this Third Amended and Restated Agreement ~~Amended Agreement~~ and as may be amended from time to time. The recommendations will be included in the District Educational Facilities Plan.
- 5.2 When the need for a new school is identified in the District Educational Facilities Plan, the Superintendent's Site Review Committee (hereinafter referred to as the "Site Review Committee") will consider a list of potential sites in the area of need. The list of potential sites for new schools and the list of schools identified in the District Educational Facilities Plan for significant renovation and potential closure will be submitted to the local government with jurisdiction for an informal assessment regarding consistency with the local government comprehensive plan, including, as applicable: environmental suitability, transportation and pedestrian access, availability of infrastructure and services, safety concerns, land use compatibility and other relevant issues. Based on the information gathered during this review for new schools the Site Review Committee will make a recommendation to the Superintendent of one or more sites in order of preference. For those purposes specified in this Article V, the School Board amended School Board Policy 7000 entitled New School Site Selection, to provide for the membership of the Site Review Committee referenced therein, as may be amended from time to time. It shall identify the

members and how they shall be appointed. In addition to the current representatives from the South Florida Regional Planning Council and Broward County, the Site Review Committee shall include at least one (1) member who shall be appointed by the Municipalities (additional members may be appointed at the Superintendent's discretion) and at least one (1) "floating member" designated by the city manager or administrator of the affected local governments in which the new school facility may be located. For the purposes of this subsection, a floating member from the affected local governments shall be defined as the local government jurisdiction in which the proposed school facility will be located, or significant renovations or school closures may occur.

- 5.3 In addition to existing criteria utilized by the Site Review Committee and in conformance to pertinent School Board Policy (as may be amended from time to time) regarding the selection of new school sites and school closures, the Superintendent will coordinate information regarding site plans for proposed new schools with the affected local governments in accordance with Sections 1013.33, 1013.36 and other applicable portions of Chapter 1013, Florida Statutes.
- 5.4 Pursuant to Section 1013.33(5), ~~1013.33(11)~~ Florida Statutes, at least 60 days prior to acquiring or leasing property that may be used for a new public educational facility, the Superintendent 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 Superintendent within 45 days if the proposed new school site is consistent with the land use categories and policies of the local government's comprehensive plan. This preliminary notice does not constitute the local government's determination of consistency pursuant to Section 1013.33(6), ~~1013.33(12)~~ Florida Statutes.
- 5.5 If a local government determines that a proposed school site is consistent with the comprehensive plan pursuant to this Agreement, or at any other time when such a determination is made, the School Board shall follow the procedures contained in Section 1013.33(6), ~~1013.33(12)~~ Florida Statutes, as may be amended. If a local government's determination that the proposed school site is inconsistent with the comprehensive plan, the School Board may request a plan amendment consistent with the local government's plan amendment procedures and requirements.

ARTICLE VI

SUPPORTING INFRASTRUCTURE

Section 6

- 6.1 In conjunction with the preliminary consistency determination described in Subsection 5.4 of this Third Amended and Restated Agreement, ~~Amended Agreement~~ the School Board

and affected local governments will jointly determine the need for and timing of on-site and off-site improvements to public facilities necessary to support each new school or the proposed significant renovation of an existing school, and will enter into a written agreement, or amend a current agreement, if applicable, to be consistent with this Third Amended and Restated Agreement ~~Amended Agreement~~ as to the timing, location, and the party or parties responsible for funding, constructing, operating and maintaining the required improvements.

ARTICLE VII

PLAN REVIEW; CONSISTENCY DETERMINATION

Section 7

- 7.1 To the extent required by Section 163.3174, Florida Statutes, as may be amended from time to time, the School Board shall appoint a School District staff member(s) to be its representative on the County and each respective Municipality's local planning agency. Notification of the staff member's name, title and address shall be submitted in a timely manner to the applicable local planning agency.
- 7.2 To the extent required by Section 163.3174, Florida Statutes, as may be amended from time to time, the County, or Municipalities will include the representative appointed by the School Board to serve on its local planning agency, or equivalent agency and the representative will have the opportunity to attend those meetings at which the agency considers comprehensive plan amendments and rezonings (including the allocation of flexibility/reserve units) that would, if approved, increase residential density for the property that is the subject of the application. When available, the School Board representative shall attend and participate in local planning agency meetings at which residential density could increase. The County or Municipality may at its discretion grant voting status to the School Board representative.
- 7.3 As a part of its development review process, the County and Municipalities agree to provide a copy of comprehensive plan amendment and rezoning applications (including the allocation of flexibility/reserve units) that could increase residential density to the Superintendent. At a minimum, the information provided shall include the name of the applicant, application/project number, project name, current and proposed use, existing and proposed land use or zoning designation, existing permitted and proposed and type of units, acreage, survey or location map and section, township and range and the anticipated date the local planning agency may consider this item if such date is determined at the time the information is provided. The County or Municipalities shall provide the deadline for receiving comments from the Superintendent; however, the time provided to the Superintendent for submitting such comments shall be no less than forty-five (45) days from the date the information is provided to the Superintendent. If no

deadline is provided together with the information, then the Superintendent shall provide comments no later than thirty (30) ~~forty five (45)~~ days after receipt of the information. Further, the County or Municipalities will provide written quarterly reports to the Superintendent when the application receives final approval from the governing body.

- 7.4 The School Board shall continue to participate in the Broward County land use plan amendment review process through its Broward County Planning Council appointed member.
- 7.5 The School Board shall continue to review non-residential development applications and other pertinent development applications that may affect school properties and participate as necessary on other growth management issues.
- 7.6 The County and the Municipalities agree to notify the Superintendent of proposed land use applications, amendments to the comprehensive plan future land use map, rezonings (including the allocation of flexibility/reserve units), developments of regional impact pending before them that may affect student enrollment, enrollment projections, or school facilities. Such notice shall be provided to the Superintendent at the same time as notice is provided to the public for the applications under the provisions of the County or City Code of Ordinances.
- 7.7 The review by the Superintendent or designee regarding land use/comprehensive plan amendments and rezoning (including the allocation of flexibility/reserve units) applications containing residential units shall be classified as "Public Schools Consistency Review (Schools Consistency Review)". The Schools Consistency Review does not constitute public school concurrency review. An applicant for land use/comprehensive plan amendment, and/or rezoning applications (including the allocation of flexibility/reserve units) may delineate the residential type, units and bedroom mix of the project, if known. If the residential type and bedroom mix is not known, the school consistency review shall be based upon the maximum student generation rates for that residential type.
- 7.8 The written comments provided by the Superintendent to the County and Municipalities regarding such will at a minimum:
 - (i) Specify the student impacts anticipated to result from the development proposal;
 - (ii) Depict the ~~permanent~~ capacity of the impacted school(s) using capacity formulas as defined by the Department of Education;
 - (iii) Depict ten-year student enrollment projections by planning areas;
 - (iv) Depict the planned capacity improvement(s);
 - (v) Identify alternatives available, and;
 - (vi) Contain a statement that the application will be subject to public school concurrency review at the time of plat or site plan (or functional equivalent)

review. School capacity will be reported consistent with Department of Education, Florida Inventory of School Houses.

- 7.9 If the Schools Consistency Review identifies that sufficient capacity is not available at the impacted school(s) or anticipated in the District Educational Facilities Plan to serve the development, the applicant may choose to offer and the School Board may consider voluntary mitigation to address the anticipated student impact. Such voluntary mitigation shall be limited primarily to (i) the dedication of needed school site(s), (ii) the payment of monies to construct and/or the construction of the needed school(s), or (iii) other potential mitigation option(s) consistent with adopted School Board policy and if accepted by the School Board, shall be memorialized in a legally binding agreement.
- 7.10 In reviewing and approving comprehensive plan amendments and rezonings (including the allocation of flexibility/reserve units), the County and Municipalities may consider the following issues consistent with applicable governmental codes and comprehensive plans in addition to such other criteria as may be applicable or appropriate:
- (a) School Board comments provided pursuant to Chapters 163 and 1013, Florida Statutes which may include, but not be limited to:
1. Available ~~gross capacity until the end of the 2018/19 school year, and commencing at the beginning of the 2019/20 school year, permanent capacity~~ consistent with the provisions provided herein or planned improvements to increase school capacity;
 2. The provision of school sites and facilities within planned neighborhoods;
 3. Compatibility of land uses adjacent to existing schools and reserved school sites;
 4. The collocation of parks, recreation and neighborhood facilities with school sites;
 5. The linkage of schools, parks, libraries and other public facilities with bikeways, trails, and sidewalks for safe access;
 6. Traffic circulation plans which serve schools and the surrounding neighborhood;
 7. The provision of off-site signalization, signage, access improvements, and sidewalks to serve schools;
 8. The inclusion of school bus stops and turnarounds; and
 9. The installation of appropriate buffers such as, but not limited to, a solid fence or concrete wall, solid hedges or increased setbacks that will ensure

compatibility with the adjacent school for any new development that will be located adjacent to an existing school or an identified future school.

- 7.11 In formulating community development plans and programs that may affect public school facilities, the County and Municipalities will provide notice to the Superintendent concerning any workshop or regular meetings which relate to such community development plans and programs and will invite the Superintendent's submission of comments and participation at such meetings.

ARTICLE VIII PUBLIC SCHOOL CONCURRENCY

Section 8

8.1 Required Amendments For Public School Concurrency

- (a) **Initial Comprehensive Plan Amendments Related to the Public School Facilities Element (PSFE) to Satisfy Sections 163.3177 and 163.3180 Florida Statute Requirements:** The amendments to the PSFE and related amendments to the Capital Improvements Element (CIE) and the Intergovernmental Coordination Element (ICE) in the County's and Municipalities comprehensive plans ("school-related element amendments" or school-related element provisions") required to satisfy Sections 163.3177 and 163.3180 Florida Statutes are being adopted into the comprehensive plans of the County and Municipalities concurrently with the execution of this Third Amended and Restated Interlocal Agreement ~~Amended Interlocal Agreement~~ by the County and Municipalities. 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 under the revised comprehensive plans and the School Board of Broward County's adopted Five-Year "District Educational Facilities Plan" (DEFP) shall be reviewed by the County and Municipalities each year, at the Staff Working Group (SWG) meeting to be held no later than March 31, to determine whether updates to the comprehensive plans are required. At the minimum, the School Board's adopted Five-Year DEFP shall be updated annually by the addition of a new fifth year. Any other amendments to the comprehensive plans shall be transmitted in time to allow their adoption concurrently with the update to the School Board's adopted Five-Year DEFP, where feasible.
- (c) **School Board Review of School -Related Element Amendments:** Unless proposed by the School Board, all school- related element amendments shall be

provided by the County to the School Board at least sixty (60) days prior to transmittal (or adoption if no transmittal is required). Municipalities that choose to propose, transmit and adopt identical school-related element amendments as the County shall notify the School Board in writing at least one (1) month prior to its local planning agency (LPA) meeting. Municipalities that choose to propose, transmit and adopt school-related element amendments that are different from the County shall provide the element amendments to the School Board at least sixty (60) 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 one (1) week prior to the local planning agency (LPA) meeting on the school-related element amendment, or (ii) by attending and providing comments at the LPA meeting.

- (d) **Countywide Consistency of School-Related Element Amendments:** The County and Municipalities school-related element provisions must be consistent with each other and with the School Board's facilities plan and policies. Each Municipality 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 Municipality 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 school concurrency system shall be substantially the same as its counterpart in the County and Municipalities comprehensive plans. If any school-related element amendment is proposed that affects the uniform district-wide school concurrency system, it shall only become effective in accordance with Section 14.1 (f) of this Third Amended and Restated Agreement, ~~Amended Agreement~~. Once these amendments become effective, then the new requirement shall apply countywide. Each Municipality and the County may adopt the School Board's adopted Five-Year DEFP into its comprehensive plan either by reference or by restatement of the relevant portions of that adopted Five-Year DEFP, but in no event shall a Municipality or the County attempt to modify that adopted Five-Year DEFP. The County and Municipalities agree to coordinate the timing of approval of school-related element amendments, to the extent that it is feasible to do so.
- (e) **Evaluation and Appraisal Report:** In addition to the other coordination procedures provided for in this Third Amended and Restated Interlocal Agreement, ~~Amended Interlocal Agreement~~ at the time of the Evaluation and Appraisal Report (EAR), the County and Municipalities shall schedule at least one (1) SWG meeting with the School Board to address needed updates to the school-related plan provisions.

8.2 Specific Responsibilities

- (a) Broward County and the Municipalities, within 90 days of any comprehensive plan amendments in accordance with this Third Amended and Restated Agreement ~~Amended Agreement~~ becoming effective shall amend their respective Land Development Codes (LDC) and adopt the required public school concurrency provisions, consistent with the requirements of this Third Amended and Restated Agreement. ~~Amended Agreement~~. Such amendment shall include the public school concurrency management system outlining the development review process for proposed residential developments.
- (b) Broward County and the Municipalities, in accordance with this Third Amended and Restated Agreement ~~Amended Agreement~~ shall:
 - 1. Not approve or issue any residential plat or site plan (or functional equivalent) that is not exempted or vested pursuant to Subsection 8.11 of this Third Amended and Restated Agreement ~~Amended Agreement~~ until the School District has reported that the school concurrency requirement has been satisfied.
 - 2. Maintain data for approved residential development that was the subject of public school concurrency review. The data shall be provided to the School District in a quarterly report after final approval of the application by the governing body. At the minimum, the data provided shall include the following:
 - a. Development name, local government project number, and if known, School District project number;
 - b. Survey or location map;
 - c. Number of dwelling units by residential type unit(s) and bedroom mix;
 - d. Section, Township and Range, and;
 - e. Final adoption and expiration date.
 - 3. Transmit residential plats and site plans (or their functional equivalents) and proposed amendments to such plats or site plans to the School District for review and comment, consistent with Subsection 8.13 of this Third Amended and Restated Agreement. ~~Amended Agreement~~.
 - 4. Commencing August 31, 2007, and annually thereafter as a part of the growth and development trend as required by Subsection 4.4, provide the total number of the above dwelling units issued certificates of occupancy to the School Board.

(c) The School Board shall do the following:

1. Annually prepare and update its adopted Five-Year DEFP, which for the purposes of public school concurrency shall be considered the financially feasible Five-Year Capital Facilities Plan. The Five-Year Capital Facilities Plan shall reflect the capacity needed to meet the adopted level of service standard (LOS) for the CSAs pertaining to District elementary, middle and high schools, during the five-year period, but no later than the fifth year of the Five-Year Capital Facilities Plan. The data required to demonstrate the achievement and maintenance of the adopted LOS at the elementary, middle and high school level CSAs during the timeframe referenced herein shall be reflected in an LOS Plan contained within each subsequent adopted DEFP.
2. Establish a process to ensure the maximum utilization of capacity at each District elementary, middle and high school and to ensure that the schools are operating at or below the adopted level of service standard (LOS).
3. ~~Commencing October 15, 2009, and a~~ Annually, no later than ~~thereafter~~ October 31st, provide the County and Municipalities with the required School District data related to public school concurrency, and related analysis needed to amend or annually update their comprehensive plans.
4. Review proposed plat and site plan (or functional equivalent) applications for compliance with public school concurrency requirements.
5. As a component of the District's public school concurrency management system, maintain data regarding available capacity at the District's elementary, middle and high school within each CSA after factoring the student impact anticipated from the proposed residential development into the database.
6. Review proposed proportionate share mitigation options for new residential development, and determine acceptability of such proportionate share mitigation options.
7. Prior to the effective date of public school concurrency, amend School Board Policy 1161, entitled Growth Management, to incorporate public school concurrency provisions and delineate the District's public school concurrency management system.
8. As necessary, amend the District Educational Facilities Plan to incorporate funds accepted as proportionate share mitigation.

8.3 Adopted School Board District Educational Facilities Plan (DEFP)

- (a) On or before September 30th of each year, the School Board shall update and adopt its Five-Year DEFP, for Broward County Public Schools. The adopted DEFP shall be considered the financially feasible plan regarding the implementation of public school concurrency.
- (b) At the minimum, the adopted Five-Year DEFP and each annual update shall specify all new construction, expansion and remodeling, which will add ~~permanent~~ capacity to elementary, middle and high schools, and also include information specified in Subsection 4.1 of this Third Amended and Restated Agreement. ~~Amended Agreement~~.
- (c) The adopted Five-Year DEFP and each annual update shall include a description of each school project, a listing of funds to be spent in each fiscal year for the planning, preparation, land acquisition, and the actual construction and remodeling of each pertinent school project which adds capacity or modernizes existing facilities; the amount of capacity added, if any; and a generalized location map for planned new schools. Such location maps shall be considered as data and analysis in support of the PSFE of the County's and Municipalities' Comprehensive Plans.
- (d) The adopted Five-Year DEFP and each annual update shall identify the five-year projected student enrollment, ~~permanent~~ capacity and utilization percentage of all elementary, middle and high schools.
- (e) The adopted school boundaries for each elementary, middle and high school, as annually conducted by the School Board shall also become the adopted concurrency service area (as referenced in Section 8.8), and shall be consistent with ~~permanent~~ capacity additions reflected in the adopted Five-Year DEFP. The school boundaries maps shall be considered as data and analysis in support of the PSFE of the County's and Municipalities' Comprehensive Plans.

8.4 Transmittal

- (a) In addition to the provisions pertaining to the Tentative District Educational Facilities Plan as delineated in Article IV of this Third Amended and Restated Agreement, ~~Amended Agreement~~ the School Board, upon completion and adoption of the Five-Year DEFP, shall make the District Educational Facilities Plan available to the Local Governments no later than thirty (30) days after adoption of the District Educational Facilities Plan.

8.5 Comprehensive Plans - Development, Adoption and Amendment of the Capital Improvements Element

- (a) Upon adoption of the Five-Year DEFP and transmittal to Local Governments, the County and Municipalities shall adopt the School Board's Five-Year "Adopted District Educational Facilities Plan" or applicable sections of the Adopted DEFP as a part of the Capital Improvements Element (CIE) of their Comprehensive Plans.
- (b) Any amendment, correction or modification to the adopted Five-Year DEFP concerning costs, revenue sources, or acceptance of facilities pursuant to dedications or proportionate share mitigation, once adopted by the School Board, shall be transmitted by the School District to the County and Municipalities within forty-five (45) days after the adoption. The County and Municipalities shall amend their CIE to reflect the changes consistent with the annual update required by the State to their CIE. ~~Such amendments may be accomplished by ordinance, and shall not be considered amendments to the comprehensive plan, pursuant to Section 163.3177 (6)(b)(1), Florida Statutes.~~
- (c) By adopting the Five-Year DEFP into their CIE, the County and Municipalities, shall have neither the obligation nor the responsibility for funding the DEFP.

8.6 Public School Concurrency Standard

- (a) The public school concurrency standard requires Broward County, the Municipalities and the School Board to maintain the adopted Level of Service (LOS) for Broward County Public Schools. The public school concurrency standard requires that all proposed plat and site plan (or functional equivalent) applications containing residential units shall be reviewed to ensure that adequate school capacity will exist prior to or concurrent with the impact of the proposed residential development, to accommodate the additional student growth at the adopted LOS.

8.7 Commencement

- (a) Public school concurrency described in this Third Amended and Restated Agreement ~~Amended Agreement~~ shall commence upon the Comprehensive Plan Amendments related to the public school Facilities Element by the County and Municipalities becoming effective, and the execution of this Third Amended and Restated Agreement ~~Amended Agreement~~ by the parties identified herein. However, public school concurrency shall commence no earlier than February 1, 2008.

8.8 Concurrency Service Areas (CSA)

- (a) The School Board, County and Municipalities hereby agree that the CSAs for the implementation of public school concurrency in Broward County shall be measured and applied on a less than district-wide basis.
- (b) The CSA for the implementation of public school concurrency in Broward County shall be the approved school boundaries for elementary, middle and high schools as annually adopted by the School Board. Use of this method will create a separate school concurrency service area boundary map for each elementary, middle and high school, and each such school attendance boundary will become its own CSA. For the purposes of public school concurrency, such CSA shall be effective on the first day of the school year, and end on the last day before the beginning of the next school year.

8.9 Adoption of Concurrency Service Areas

- (a) Adoption of the CSAs shall be as delineated in School Board Policy 5000, entitled Adequate Educational Facilities, Designation of Schools and Attendance Areas, Elimination and Consolidation of Schools, to be amended consistent with the Third Amended and Restated Agreement, ~~Amended Agreement~~ and as may be amended from time to time.
- (b) No later than forty-five (45) days after adoption of the CSAs, the School District shall transmit the new CSAs to the County and Municipalities. The County and Municipalities shall incorporate the adopted "Annual School Attendance Areas/Boundaries and School Usage Report" and the School Board's process for modification of the CSAs contained in the "Annual School Attendance Areas/Boundaries and School Usage Report" as data and analysis in support of the PSFE of their Comprehensive Plans.

8.10 Level of Service Standard (LOS)

- (a) In order to ensure that the capacity of schools is sufficient to support student growth, the School Board, County and Municipalities hereby declare and establish the following School Types for the purpose of establishing a uniform, district wide the LOS for public schools of the same type:
 - 1. School Type A is a bounded elementary, middle or high school that has the equivalent of at least 10% of its permanent FISH capacity available onsite in relocatables. The LOS for School Type A shall be 100% gross capacity (including relocatables).

2. School Type B is a bounded elementary, middle or high school that has less than the equivalent of 10% of its permanent FISH capacity available onsite in relocatables. The LOS for School Type B shall be 110% permanent FISH capacity.

The LOS shall be achieved and maintained within the period covered by the five-year schedule of capital improvements.

~~as 100% of gross capacity (with relocatable classrooms) for each CSA. until the end of the 2018/19 school year; and commencing at the 2019/20 school year, the LOS for each CSA shall be 110% of the permanent FISH capacity. By January 2014 the Oversight Committee, in coordination with the School Board, the County and the Municipalities will assess the viability of the 100% gross capacity LOS, and the practicability of reverting back to 110% permanent FISH capacity LOS at the beginning of the 2019/20 school year. The LOS shall be achieved and maintained within the period covered by the five year schedule of capital improvements. To maintain the adopted LOS when it reverts to back to 110% permanent FISH capacity for each CSA, the School Board may if necessary, utilize relocatable classrooms (portables) on a temporary basis as an operational solution during the replacement or expansion of District school facilities, or at Exceptional Student Education cluster sites, or in the case of a disaster or emergency.~~

- (b) The LOS shall be adopted and incorporated into the PSFE of Broward County and the Municipalities' Comprehensive Plans.
- (c) In the review of proposed development applications containing residential units, the LOS for schools containing magnet programs shall be considered the same as stated for each pertinent school level (elementary, middle and high).
- (d) Students attending or anticipated to attend designated stand-alone magnet schools are factored into the five-year student enrollment projections for District schools. Enrollment projections multiply the residing number of students within a concurrency service area by the attending student population rate within a concurrency service area. The attending rate is the number of students found to be attending their assigned school divided by the number of students residing in the area. This is calculated for every area and for all grade levels. This formula accounts for students attending other schools such as charters, magnets, and non-bounded magnet schools.
- (e) Students returning, attending or anticipated to attend charter schools are factored into the five-year student enrollment projections for District schools. Based upon where students reside and the location of each charter school, an "AREA OF INFLUENCE" is created using a geographical radius. The area of influence is

comprised of circle radii measured in miles and determined by such factors as the type and size of the subject school(s). A charter school is located at the center of the radius and captures the percentage of students attending the charter school within each radius. Enrollment projections are adjusted for all elementary, middle and high schools impacted by a charter school until the charter school reaches full enrollment status.

~~If a charter school facility closes, the five year enrollment projections are adjusted to reflect students going back to their assigned elementary, middle or high school within the appropriate radius.~~

8.11 Exemptions and Vested Development

- (a) The following residential plats and site plans (or functional equivalent) shall be exempt from the requirements of public school concurrency:
 - 1. All residential plats and site plans (or functional equivalent) which generates less than one student in the relevant CSA. Such development shall be subject to the payment of school impact fees.
 - 2. Any amendment to or replat of a residential plat or amendment to a residential site plan (or functional equivalent) which generates less than one additional student. Such development shall be subject to the payment of school impact fees.
 - 3. Any age restricted community with no permanent residents under the age of eighteen (18). Exemption for an aged restricted community shall only be available subject to a recorded Restrictive Covenant limiting the age of all permanent residents to eighteen (18) years and older.
 - 4. As may otherwise be exempted by Florida Statutes.
- (b) The following residential plats and site plans (or functional equivalent) shall be vested from the requirements of public school concurrency:
 - 1. Any residential plat or site plan (or functional equivalent) located within a previously approved comprehensive plan amendment or rezoning which is subject to a mitigation agreement in accordance with the following:
 - (i) The mitigation to address the impact of the new students anticipated from the development has been accepted by the School Board consistent with School Board Policy 1161, entitled Growth Management, to be amended consistent with this Third

Amended and Restated Agreement ~~Amended Agreement~~ and as may be amended from time to time, and;

- (ii.) A Declaration of Restrictive Covenant has been properly executed and recorded by the Developer or the development is located within a boundary area that is subject to an executed and recorded triparty agreement consistent with School Board Policy 1161, to be amended consistent with this Third Amended and Restated Agreement ~~Amended Agreement~~ and as may be amended from time to time.
- 2. Any residential site plan (or functional equivalent) that has received final approval, which has not expired prior to the effective date of public school concurrency.
- 3. Any residential site plan (or functional equivalent) which is included within a residential plat or development agreement for which school impacts have been satisfied for the dwelling units included in the proposed site plan (or functional equivalent). Information regarding each residential site plan (or functional equivalent) shall be transmitted to the School District in a quarterly report. In the transmittal of such residential site plan (or functional equivalent) to the School District, the County or Municipality shall provide additional written information as required in the quarterly report to verify that the units in the application are vested. The County will provide the necessary information to the School Board and Municipalities to identify the vested plats and further specifics to be contained in the adopted land development regulations. As applicable, the Municipalities shall utilize the information provided by the County regarding the vested plat to complete information as required in the quarterly report.
- (c) To be exempt or vested from the requirements of public school concurrency, an owner seeking such a determination shall be required to submit an application to the to the Local Government which shall include written evidence sufficient to verify that the subject development meets the exemptions stated herein, and as such, is exempt from the requirements of public school concurrency.

8.12 Public School Concurrency Management System

- (a) Within 90 days after the public school concurrency plan amendments become effective, Broward County and each Municipality shall adopt public school concurrency provisions into its Land Development Regulations (LDR) consistent with the requirements of this Third Amended and Restated Agreement. ~~Amended Agreement.~~

- (b) The County and Municipalities shall amend their LDRs to adopt public school concurrency provisions, which provide procedures for the review of plats and site plans (or functional equivalent).
 - 1. Any Municipality may choose to adopt the County's public school concurrency regulations, in lieu of its own and agrees to be bound by the terms and provisions therein until it adopts its own school concurrency ordinance.
 - 2. At any time, a Municipality may opt out of the County's implementing ordinance through implementation of its own school concurrency ordinance.
- (c) Prior to the effective date of public school concurrency, the School Board shall amend its School Board Policies to include public school concurrency provisions consistent with the requirements of this Third Amended and Restated Agreement.
~~Amended Agreement.~~

8.13 Review Process

- (a) Broward County, the Municipalities and the School Board shall ensure that the LOS established for each school type and CSA is maintained. No residential plat or site plan (or functional equivalent) application or amendments thereto shall be approved by the County or Municipalities, unless the residential development is exempt or vested from the requirements specified in Subsection 8.11 of this Third Amended and Restated Agreement ~~Amended Agreement~~, or until a School Capacity Availability Determination Letter (SCAD) has been issued by the School District indicating that adequate capacity is available. This shall not limit the authority of a Local Government to deny a development permit or its functional equivalent, pursuant to its home rule or governmental regulatory powers for reasons other than school capacity.
- (b) Any applicant submitting a plat or site plan (or functional equivalent) application with a residential component that is not exempt or vested under Subsection 8.11 of this Third Amended and Restated Agreement ~~Amended Agreement~~ is subject to public school concurrency and shall be required to submit a Public School Impact Application (PSIA) to the Local Government, for review by the School District including the following:
 - 1. The name, survey or location map of the development;

2. As applicable, the existing land use or zoning designation, including existing permitted units and type;
 3. The number and type of proposed dwelling units, and if applicable, the bedroom mix (if the type and bedroom mix is not delineated in the application, it shall be reviewed based on the maximum student generation rate for that residential type);
 4. The section, township and range;
 5. Age restrictions for occupancy, if any, and;
 6. Any documentation supporting a request for exemption under Subsection 8.11 of this Third Amended and Restated Agreement. ~~Amended Agreement.~~
- (c) The Local Government shall ensure the applications for residential plat or site plans (or their functional equivalent) are complete and transmit them to the School District for review. Upon determination that the application is complete, the Local Government shall transmit the PSIA to the School District for review. This process does not preclude the Local Government from requiring that the applicant submit the PSIA directly to the School District for review.
- (d) The School District will review the properly submitted and completed PSIA and verify whether or not sufficient capacity is available at the impacted CSA to accommodate students anticipated from the proposed development. The process for review of the application shall be as follows:
1. The School District shall review, on a first come, first serve basis, the completed PSIA. The SCAD Letter shall be sent to the applicant and the affected Local Government no later than forty-five (45) days after receipt of the PSIA.
 2. Notification shall be provided to the applicant and affected Local Government if the application is incomplete.
 3. As authorized by School Board Policy 1161, the School District will charge a non-refundable application fee payable to the School Board to reimburse the cost to review residential plats and site plans (or functional equivalent) and matters related to public school concurrency. Payment shall be required prior to the commencement of review.
- (e) Student Generation Rates Calculation

1. The determination of students anticipated from a proposed PSIA shall be based on the utilization of the effective, adopted and pertinent student generation rates contained within the Broward County Land Development Code (BCLDC). Update of the student generation rates shall be conducted at least once every three (3) years by the School Board in coordination with the County and Municipalities.

(f) Utilization Determination

1. It shall be the responsibility of the School District to maintain the CSA boundaries and related data.
2. The School District shall determine the impact of a proposed development to assigned school(s) by performing the following procedures:
 - (i.) Deduct the Benchmark Twentieth Day Enrollment numbers (or subsequent equivalent in case of future name change) from the school's LOS capacity. The "Benchmark Day" enrollment as used herein is the official school student enrollment data to be used for statistical purposes by the District. The Twentieth Day count is effective on the twentieth day of the school year until the nineteenth day of the next school year.
 - (ii.) Add or deduct capacity from capital projects over the next three years as reflected in the Adopted DEFP, which may include capacity from a new school in an approved boundary that will become effective in the next school year.
 - (iii.) Deduct the number of students from development approved per Subsections 8.11(b) and 8.13(g) of this Third Amended and Restated Agreement ~~Amended Agreement~~ and anticipated to be built within the next three years.
 - (iv.) Deduct the number of students generated from the proposed project.
3. If it is determined that there is no capacity at the assigned school(s) as determined by the procedure described in Subsection 8.13(f)2 above because the projected growth from a residential development causes the adopted LOS to be exceeded in the subject CSA, the School District may, if practical, utilize pertinent options delineated in School Board Policy 5000, to be amended consistent with this Third Amended and Restated Agreement ~~Amended Agreement~~ and as may be amended from time to time to ensure maximum utilization at the CSA. Otherwise, all of the CSAs immediately adjacent to the primary impacted CSA will be examined for

available capacity before a determination letter is issued indicating that the development has satisfied public school concurrency.

4. If necessary, the School District will reassign previously allocated adjacent capacity to achieve maximum utilization, except where such reassignment:
 - (i.) Creates additional transportation cost impacts due to natural or physical barriers; or
 - (ii.) Results in a violation of federal, State or School Board Policy.

A flowchart providing an example of the public school concurrency process is depicted in Appendix "B" "~~C~~", attached hereto and made a part hereof.

(g) Issuance and Term of Public School Concurrency

1. If the School District reviews a development project application and determines that sufficient ~~permanent~~ capacity is available at the adopted LOS to accommodate students anticipated from the development, the School District shall issue a SCAD Letter indicating that adequate school facilities exist to accommodate the student impact.
2. After issuance of the SCAD Letter, the District shall add the reserved seats for the number of students anticipated to its database.
3. County plat approval or local government site plan approval or amendment thereto, which are subject to public school concurrency shall not be approved until the SCAD Letter has been received from the School District confirming that capacity is available in the CSA, or if capacity is not available, that proportionate share mitigation has been accepted by the School Board regarding the proposed development. If a plat and site plan (or functional equivalent) are both required for a development, school concurrency shall be applied during the earlier review.
4. Upon final action by the Local Government regarding the development, the Local Government shall provide information in the quarterly report to the School District indicating that the development was granted final approval or denied. If the plat, site plan (or functional equivalent) received final approval, the development and anticipated students shall be considered vested for up to five (5) years consistent with the period of the underlying approval beginning from the date the Developer received final approval from the Local Government. Vesting of a plat beyond the five years requires that one of the following conditions are met within the five (5) year period: 1) the issuance of a building permit for a principal building and first inspection approval or 2)

substantial completion of project water lines, sewer lines and the rock base for internal roads. If the development was denied, the District shall deduct from its database, students associated with the development. Information provided shall be consistent with requirements stated in Subsection 8.2 of this Third Amended and Restated Agreement. ~~Amended Agreement.~~

5. The Local Government shall verify prior to issuing a building permit for a residential development that either the requirements of public school concurrency have been satisfied or that the application is exempt or vested from public school concurrency.
6. Once an approved plat, site plan (or functional equivalent) expires, the SCAD Letter will no longer be valid. If an approval is to be extended, as may be permitted by the applicable Local Government, the applicant or the Local Government shall be required to provide written notice to the School District ~~prior to any such expiration~~ and provide documentation that the extension request was approved. ~~Failure to provide the timely written notice to the School District will result in the expiration of the SCAD Letter.~~
7. In the event that approved changes in the overall mix of residential units and/or mix of bedrooms result in a net reduction in the amount of units constructed, a refund of any portion of the proportionate share mitigation amount paid may be available only if any such amount has NOT been committed for or used by the District to defray the school impacts originally anticipated to occur as a result of the original development, and only if the applicant restricts the property to the revised mix of residential units and/or mix of bedrooms to justify the refund.
8. If the student impacts from a proposed development causes the adopted LOS in a CSA to be exceeded or increase enrollment in a CSA where there is an existing LOS deficiency, a determination letter shall state why the development is not in compliance, and the applicant shall have thirty (30) days to propose proportionate share mitigation to the School District.
9. If the applicant proposes proportionate share mitigation within the thirty (30) day deadline, upon the subsequent acceptance of the proposed mitigation by the School Board, and upon the execution of a legally binding document between the School Board, local government and applicant, a new SCAD Letter shall state that adequate capacity would be available to accommodate the student impact anticipated from the development, and subject to the mitigation measures outlined in the binding agreement. If the proportionate share mitigation is not agreed to, the SCAD Letter, shall state why the mitigation

proposals were rejected and also state why the development is not in compliance with public school concurrency requirements.

8.14 Proportionate Share Mitigation

- (a) The School Board shall consider proportionate share mitigation pursuant to provisions of this Third Amended and Restated Agreement. ~~Amended Agreement~~. Such consideration shall be consistent with the mitigation provisions outlined herein and delineated in School Board Policy 1161, to be amended consistent with this Third Amended and Restated Agreement. ~~Amended Agreement~~ and as may be amended from time to time, regarding public school concurrency. If the proposed mitigation option is accepted and deemed financially feasible by the School Board, the applicant or Local Government shall enter into an enforceable and binding agreement.
- (b) The binding agreement shall be filed against the property by the property owner, reviewed and approved by the School District, and recorded in Broward County public records by the property owner. Subsequently, the recorded agreement shall be provided to the School District, Broward County and Local Government with jurisdiction over the approval of the development order.

8.15 Proportionate Share Mitigation Options

Once it is determined consistent with Sections 8.13 (e) and (f) of this Third Amended and Restated Agreement. ~~Amended Agreement~~ that there is insufficient capacity at the assigned school(s) to serve the proposed development, a development's total proportionate share mitigation value shall be determined as follows:

- (i.) The number of additional (deficit) students generated by the proposed development that would impact school(s) exceeding the adopted LOS, or that would cause the assigned school(s) to exceed the adopted LOS, multiplied by the Florida Student Station Cost Factors for each school type; plus
- (ii.) That development's share of the land acquisition cost for school sites, if any, as determined and published annually in the adopted Five-Year DEFP.

No land cost shall be applied to mitigation on property that is already owned or controlled by the School District at the time the proportionate share mitigation agreement is being executed. Relocatable classrooms or facilities shall not be considered or accepted as an acceptable proportionate share mitigation option.

- (a) The proportionate share mitigation proposed to address the deficit student station(s) at the affected school(s) shall equate to at least one permanent classroom when the following occurs: (i) The development generates the need for the additional capacity and that capacity is not available; (ii) No classroom additions are available within the first three years of the adopted Five-Year DEFP to accommodate the student(s) generated; and/or (iii) No School District funds are available to provide the needed classroom(s). Mitigation to address the anticipated student impact that necessitate the need for school site(s) shall primarily be the dedication of land. The proportionate share mitigation options to satisfy public school concurrency requirements shall include the following:
1. Provide the needed school site(s) for elementary, middle or high school. Acceptability of dedicated land shall be subject to review and determination by the Superintendent or designee that the subject real property satisfies the educational and site requirements of the applicable School Board Policy. The timeframe for the conveyance of the dedicated land shall be as agreed to by the School Board, and specified in the binding agreement. The binding agreement shall provide a condition that no building permit(s) will be issued for residential units associated with the plat or site plan until formal conveyance of the school site(s) to the School Board has occurred. If the appraised value of the dedicated site(s) is less than the school impact fees due for the project, the provision of additional funds towards construction of the school(s) or facilities will be required.
 2. Pay for the project cost for the construction of school(s) scheduled in the Adopted Five-Year DEFP to relieve the primarily impacted CSA(s) plus the cost of the land acquisition, if any, for school sites as determined and published annually in the Adopted Five-Year DEFP or pay the project cost amount deemed necessary in advance of the time set forth in the Adopted Five-Year DEFP. The costs associated with the identified mitigation shall be based on the estimated cost of the improvement on the date that the improvement is programmed for construction. Future costs will be calculated using estimated values at the time the mitigation is anticipated to commence. Unless otherwise agreed to by the School Board, payment of the total amount due shall be made no later than thirty (30) days after the first to occur, the plat, site plan (or functional equivalent) receives final approval from the local governing body. This option shall be subject to specific School Board approval.
 3. Pay for the project cost regarding the construction of a public school facility utilizing urban school concept(s) adopted by the School Board plus the cost of the land acquisition, if any. Also, the construction of such facility shall meet the State of Florida and the School Districts educational facility requirements.

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

4. Pay for one of the following:

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

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

5. Allow proportionate share mitigation funding to be utilized at a charter school, which at a minimum meets all of the following criteria:

- a. The charter school or charter school system is owned by a municipal government.
- b. The charter school or charter school system has been in operation for a minimum of five years.
- c. The charter school or charter school system provides a complete grade configuration for at least a primary learning center, elementary, middle or high school education.
- d. The charter school is located within two miles of the proposed development or within the CSA of the impacted public school(s).
- e. The charter school is built consistent with the state Rules for Educational facilities (SREF) which is contained within the Florida Building Code.
- f. Adopt the same LOS contained in the Third Amended and Restated Agreement. ~~Amended Agreement~~.
- g. Adopt the Florida Department of Education (DOE) design criteria formulas to calculate student capacity.
- h. Enroll student population at a 100% of the charter schools contract capacity.
- i. Funding received shall be used pursuant to Section 1013.62, Florida Statutes.

This option shall be subject to specific School Board approval. If the School Board rejects a proposed proportionate share mitigation funding offer at a charter school, the Board shall provide its reasoning for the refusal.

- 6. Other mitigation option(s) may be proposed by an applicant and shall be subject to specific School Board approval. The timeframe for payment of the total amount due or the provision of the specific proportionate share mitigation shall be as agreed to by the School Board and contained in the binding agreement.
- (b) In no circumstance shall the total amount committed to pay for permanent classroom additions or any of the listed mitigation options be less than the school impact fees due for the units as calculated based on the adopted school impact fee schedule specified in the BCLDC and due for the units at the time of payment. The

school impact fee due for the project shall be considered included in the total proportionate share mitigation amount due or paid, and shall be credited toward the payment of the school impact fee. Specifics regarding the payment of the proportionate share mitigation shall be included within the binding agreement.

- (c) In exchange for payment towards the provision of student stations to equate full classroom(s), payment for the construction of a public school facility, or dedication of school site(s), the School District will establish a mitigation bank for the Developer, which would address credits for permanent school capacity in excess of what is required to serve the proposed residential development. In such scenario, the Developer will have the right to sell credits within the affected CSA or adjacent CSA for the excess permanent capacity, upon receiving approval from the School District. Upon granting of such approval, the District shall send written notice to the Developer, with copy to Broward County and the Local Government issuing the development order or functional equivalent for the project. Details concerning excess permanent capacity derived from paid proportionate share mitigation shall be addressed in the LDRs and in School Board Policy 1161.
- (d) An applicant may request a refund for monies paid (i) if the proposed development is not constructed in any part, or (ii) the plat or site plan (or functional equivalent) approval expires and the approval has not been extended, and (iii) the monies have not been committed or used by the District to defray the school impacts originally anticipated to occur as a result of the proposed development, and (iv) none of the proportionate share mitigation credit has been sold or transferred to subsequent Developer(s).

8.16 Formula for the Calculation of Proportionate Share Mitigation Options

- (a) The general formulas to calculate each proportionate share mitigation are as delineated below.
 - 1. If a Developer elects the Dedication of School Sites option, the need for land shall be as delineated below:

- (i.) Dedication of School Sites

- Specific language regarding the thresholds that would trigger the need for school site(s) generated by a residential development shall be as stated in School Board Policy 1161.

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

2. Project cost for construction of school(s) or additions to school(s) located immediately adjacent to the primarily impacted CSA(s) as found in the current adopted District Educational Facilities Plan.

The formula regarding the above option shall at the minimum be based on estimated cost of the improvement on the date that the improvement is programmed for construction as provided in Subsection 8.15(a)(2) of this Third Amended and Restated Agreement. ~~Amended Agreement.~~

3. Provision of Modular Classroom

Specific language regarding the number of elementary, middle and high school students that constitute a classroom shall be as stated in School Board Policy 1161.

- (b) A Mitigation contribution provided by a Developer to offset the impact of a residential development must be directed by the School Board toward a permanent school capacity project identified in the first three years of the School District's adopted Five-Year DEFP, or as appropriate, scheduled as a new project in the first three years of the adopted Five-Year DEFP. If the School Board accepts proportionate share mitigation based on the latter, the Board shall amend the adopted Five-Year DEFP to include the proportionate share amount or value of the mitigation. Capacity projects identified within the first three (3) years of the Five-Year Capital Facility Plan shall be considered as committed in accordance with the pertinent Sections of this Third Amended and Restated Agreement. ~~Amended Agreement.~~
- (c) If capacity projects are planned in years four (4) or five (5) of the School Board's adopted Five-Year DEFP within the same CSA as the proposed residential development, and if the School Board agrees, the Developer may pay his proportionate share to advance the improvement into the first three years of the adopted Five-Year DEFP to mitigate the proposed development in accordance with the formula provided herein.
- (d) Guidelines for the expenditure of proportionate share mitigation funds towards permanent capacity identified in the adopted Five-Year DEFP, shall be as follows:
 1. The School Board shall utilize monies paid by applicants, to provide needed permanent capacity at those schools identified in the District's development review report as being impacted by the development.

2. If site constraints or other feasibility issues make it impracticable for the School Board to provide the needed permanent capacity at the affected school(s) as delineated above, as feasible, the School Board will make efforts to provide the needed capacity at school(s) located immediately adjacent to the primarily impacted CSA(s) as found in the current Adopted Five-Year DEFP (s), thus relieving overcrowding at the primary identified impacted school(s).
3. If disbursement of the mitigation funds is not possible as outlined above, the funds will be spent in the applicable school impact fee service area delineated in the adopted BCLDC in a manner that ensures that the impact of the development is still addressed at the primary affected CSA or an adjacent CSA.

8.17 Appeal Process

A Developer or Local Government receiving a SCAD Letter that indicates ~~permanent~~ capacity is not available may implement the applicable process outlined below.

- (a) A Developer adversely impacted by a SCAD Letter made as a part of the public school concurrency process may appeal such determination by written request to the School Board.
- (b) If the School Board rules in favor of the Developer, School District staff shall issue a subsequent SCAD Letter based on the decision of the School Board. If the School Board does not rule in favor of the Developer or upholds the decision of District staff, the Developer may elect to pursue other appropriate measures.
- (c) A Developer adversely impacted by a non-acceptance of proposed proportionate share mitigation made as a part of the public school concurrency process may elect to pursue other appropriate measures.
- (d) A Developer adversely impacted by a Local Government decision made as a part of the public school concurrency process may appeal such decision using the process identified in the Local Government's regulations for appeal of development orders.
- (e) A Local Government adversely impacted by a SCAD Letter made as a part of the public school concurrency process may initiate the process outlined in Subsection 10.1(a) of this Third Amended and Restated Agreement. ~~Amended Agreement~~. If the issue cannot be resolved, the Local Government may appeal such determination to the School Board. If the Local Government is not satisfied with the decision of the School Board, the Local Government or the School Board may seek an advisory opinion from the Oversight Committee. If either the School

Board or the Local Government is not satisfied with the opinion of the Oversight Committee, either party may pursue the process outlined in Subsection 10.1.(b) of this Third Amended and Restated Agreement. ~~Amended Agreement.~~

- (f) If the School Board does not accept proportionate share mitigation proposed by a Local Government, and such decision results in a dispute between the entities, the Local Government or the School Board may seek an advisory opinion from the Oversight Committee. If the Local Government is not satisfied with the opinion of the Oversight Committee, either party may pursue the process outlined in Subsection 10.1.(b) of this Third Amended and Restated Agreement. ~~Amended Agreement.~~

ARTICLE IX COLLOCATION AND SHARED USE

Section 9

- 9.1 Collocation and shared use of facilities are important to both the School Board and local governments. In accordance with pertinent School Board growth management policy, the School Board will look for opportunities to collocate and share use of school facilities and civic facilities when preparing the District Educational Facilities Plan. 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, opportunities for collocation and shared use with public schools will be considered for libraries, parks, recreation facilities, community centers, auditoriums, learning centers, museums, performing arts centers, and stadiums. In addition, collocation and shared use of school and governmental facilities for health care and social services will be considered.
- 9.2 To enable the collocation/shared use of public school facilities with Local Government/civic facilities, the Local Governments shall in January of each year provide to the Staff Working Group information on Local Government public/civic facilities planned for inclusion in its five-year capital improvements plan that could potentially be collocated with public school facilities. Upon receipt of the information, the Staff Working Group shall forward the information to the School District. Also, the Local Governments shall examine the annually submitted School Board's Five-Year Tentative DEFP provided pursuant to Subsection 4.1 of this Third Amended and Restated Agreement, ~~Amended Agreement~~ and include in the written comments back to the School District information regarding the potential public/civic facilities that could be collocated with planned new schools delineated in the Five-Year Tentative DEFP. This requirement shall not prevent

the Local Government from providing information on collocation to the Staff Working Group throughout the calendar year. Information provided to the Staff Working Group and School District shall at the minimum include the planned type of public facility, acreage and location/parcel map. Information provided shall be in hard copy and electronic copy. Upon receiving such information, the School District shall organize meetings with the subject Local Government(s) to further pursue and work towards the collocation of the facilities. The entities shall notify the Staff Working Group of their efforts towards collocation of the subject facilities. As part of efforts towards the collocation such facilities in Broward County, the Staff Working Group shall include in all of its meeting agendas, an agenda item relating to the provision information regarding collocation as stated herein. Subsequently, the Staff Working Group shall in its report to the Oversight Committee, advise the Committee of ongoing efforts towards collocation, including information on facilities that have been collocated in the calendar year.

- 9.3 A separate agreement will be developed for each instance of collocation and shared use which addresses, but is not limited to, legal liability, operating and maintenance costs, scheduling of use, and facility supervision or any other issues that may arise from collocation and shared use once constructed.

ARTICLE X RESOLUTION OF DISPUTES

Section 10

- 10.1 If the parties to this Third Amended and Restated Agreement ~~Amended Agreement~~ are unable to resolve any issue in which they may be in disagreement covered in this Third Amended and Restated Agreement, ~~Amended Agreement~~ such dispute will be resolved in the following manner:
- (a) First, the disputing parties will meet together through their respective county or municipal manager or administrator and the Superintendent or their respective designee;
 - (b) If the disputing parties are still unable to resolve the dispute, the disputing parties agree to further attempt to resolve the dispute in accordance with governmental conflict resolution procedures specified in Chapter 164 or 186, Florida Statutes or such other processes deemed mutually agreeable and appropriate by the parties involved.

ARTICLE XI OVERSIGHT PROCESS

Section 11

- 11.1 The School Board, the County and the Municipalities shall each appoint up to five members to serve on a fifteen (15) member committee to monitor the implementation of this Third Amended and Restated Agreement. ~~Amended Agreement~~. Committee members shall be notified in writing and advised of the meetings referenced in Article II and shall receive copies of all pertinent reports and documents produced pursuant to this Third Amended and Restated Agreement. ~~Amended Agreement~~. The Superintendent shall organize and staff the meetings of this Committee, utilizing the Staff Working Group for assistance as needed. Also, the County and Municipalities shall cooperate as needed to further the work of the Oversight Committee to the extent feasible. The Committee shall appoint a chairperson, meet at least annually to adopt and issue a report to participating local governments, the School Board, the County and the general public on the effectiveness with which this Third Amended and Restated Agreement ~~Amended Agreement~~ is being implemented. The Chairperson of the Committee shall preside over the meeting and within thirty (30) days issue the report stated herein regarding successes and failures regarding implementation of the interlocal agreement during the preceding calendar year. The Committee meeting regarding review of the interlocal agreement shall be conducted as a public meeting advertised to provide opportunity for public participation.
- 11.2 For purposes of selecting the five appointed Municipal members, the Municipalities will appoint the five representatives through a process deemed mutually agreeable and appropriate by those Municipalities who are a party to this Third Amended and Restated Agreement. ~~Amended Agreement~~.
- 11.3 The Oversight Committee shall have the powers outlined in Subsections 8.17 (e) and (f) of this Third Amended and Restated Agreement, ~~Amended Agreement~~ and as further specified within this Third Amended and Restated Agreement. ~~Amended Agreement~~.

ARTICLE XII SPECIAL PROVISIONS

Section 12

12.1 Land Use Authority

The School Board, County and Municipalities specifically acknowledge that each Local Government is responsible for approving or denying comprehensive plan amendments and development orders within its own jurisdiction. Nothing herein represents or authorizes a transfer of this authority to any other party.

**ARTICLE XIII
EFFECTIVE DATE AND TERM**

Section 13

- 13.1 This Third Amended and Restated Agreement ~~Amended Agreement~~ shall become effective upon the signatures of the School Board, the County and at least seventy-five percent (75%) of the Municipalities which include at least fifty percent (50%) of the population within Broward County. This Third Amended and Restated Agreement ~~Amended Agreement~~ may be cancelled by mutual agreement of the School Board, the County and the respective Municipalities, unless otherwise cancelled as provided or allowed by law.

**ARTICLE XIV
AMENDMENT PROCEDURES**

Section 14

14.1 Process to Amend the Interlocal Agreement

The procedures to amend this Third Amended and Restated Agreement ~~Amended Agreement~~ shall be as follows:

- (a) The party wishing to amend one or more of the above-listed items shall be the "Initiating Party." The Initiating Party may be the School Board, County, or Municipality subject to the requirements of public school concurrency.
- (b) The Staff Working Group shall review the proposed amendment and supporting data and analysis.
- (c) The Initiating Party shall submit the proposed amendment to the Staff Working Group. At the minimum, information submitted shall include:
 - 1. A letter addressed to the Chair of the Oversight Committee which notifies the chair of the proposal to amend the Third Amended and Restated Agreement ~~Amended Agreement~~ and outlining the proposed amendment(s);
 - 2. A narrative describing the purpose of the proposed amendment and a statement regarding the impact of the proposed amendment on the School Board's Plan and adopted Five-Year DEFP, and the Local Government's Comprehensive Plan and other elements of public school concurrency addressed by this Third Amended and Restated Agreement. ~~Amended Agreement.~~

3. The submitted information must also include all data and analysis supporting the proposed amendment. As necessary, the School District will assist the County and Municipalities in the provision of any school related data regarding amendment(s) proposed by them.
- (d) Within sixty (60) days of receipt of a proposed amendment from the Initiating Party, the Staff Working Group shall review the proposed amendment and supporting data and analysis, and provide written recommendation to the Oversight Committee regarding the proposed amendment. Included in the recommendation shall be whether the proposed amendment is consistent with the Comprehensive Plan as required by Sections 163.3177 and 163.3187, F.S. If the proposed amendment is not consistent with the requirements of the cited statutes, the Staff Working Group shall indicate in its recommendation reasons for the inconsistency with the cited statutes. Upon receipt of the Staff Working Group's recommendation, the Oversight Committee shall meet and make a final recommendation to the School Board, the County and the Municipalities regarding the proposed amendment. In order to resolve any objections to the proposed amendment, designees of the Initiating Party may meet and confer with the Staff Working Group prior to the Staff Working Group's recommendation to the Oversight Committee.
 - (e) If the Oversight Committee cannot reach a consensus on the proposed amendment, the matter shall be resolved pursuant to the dispute resolution process set forth in Article X of this Third Amended and Restated Agreement. ~~Amended Agreement.~~
 - (f) The parties agree that no proposed amendment will be implemented without the transmittal of the Staff Working Group's recommendation to the Oversight Committee, the final recommendation made by the Oversight Committee, and agreed to by the County and the School Board, and at least seventy-five percent (75%) of the Municipalities which include at least fifty percent (50%) of the population within Broward County. Where the consent of the necessary parties to the Interlocal Agreement is not obtained, no proposed amendment will be implemented unless it is determined to be appropriate through the dispute resolution process set forth in Article X of this Third Amended and Restated Agreement. ~~Amended Agreement.~~
 - (g) The parties agree that, once a proposed amendment has the required consent of each of the necessary signatories to the Third Amended and Restated Agreement ~~Amended Agreement~~ or is determined to be appropriate through dispute resolution, each party will undertake work_program, Comprehensive Plan, and regulatory changes necessary to effectuate the amendment.

**ARTICLE XV
MISCELLANEOUS**

Section 15

15.1 Entire Agreement

This Third Amended and Restated Agreement ~~Amended Agreement~~ constitutes the entire agreement and understanding between the parties, and supersedes all other agreements concerning the subject matter contained herein. Any amendments to this Third Amended and Restated Agreement ~~Amended Agreement~~ shall be in writing and executed by each respective party. Notwithstanding the foregoing, the parties hereto agree and acknowledge that this Third Amended and Restated Agreement ~~Amended Agreement~~ is not intended to usurp or modify the authority, rights, or obligations of the School Board, County or Municipalities as such may be provided elsewhere by law.

15.2 Severability

If any one or more of the provisions contained in this Third Amended and Restated Agreement ~~Amended Agreement~~ shall for any reason be held invalid, illegal, unlawful, void or unenforceable with respect to any party hereto, the remainder of this Third Amended and Restated Agreement ~~Amended Agreement~~ or the application of such provisions to a party other than those to whom is held invalid, illegal, unlawful, void or unenforceable, shall not be affected and each provision of this Third Amended and Restated Agreement ~~Amended Agreement~~ shall be valid and enforceable to the fullest extent permitted by law as if such invalid, illegal unlawful, unenforceable or void provision had never been included herein.

15.3 Notices

All notices or other communications (other than notices for meetings as provided for elsewhere in this Third Amended and Restated Agreement ~~Amended Agreement~~) which shall or may be given pursuant to this Third Amended and Restated Agreement ~~Amended Agreement~~ shall be in writing and shall be delivered by personal service or by certified mail addressed to the parties at their respective addresses as specified in Exhibit "A", attached hereto and made a part hereof. Any party may from time to time designate any other address for this purpose by written notice to the parties hereto. 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.

15.4 Governing Law

This Third Amended and Restated Agreement ~~Amended Agreement~~ shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Third Amended and Restated Agreement ~~Amended Agreement~~ and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

15.5 Headings

The captions, section numbers, article numbers, title and headings appearing in this Third Amended and Restated Agreement ~~Amended Agreement~~ are inserted only for convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Third Amended and Restated Agreement, ~~Amended Agreement~~ nor in any way effect this Third Amended and Restated Agreement ~~Amended Agreement~~ and shall not be construed to create a conflict with the provisions of this Third Amended and Restated Agreement. ~~Amended Agreement~~

15.6 Counterparts

This Third Amended and Restated Agreement ~~Amended Agreement~~ may be executed in counterparts, each of which shall be deemed an original.

15.7 Supplementary Agreements

All parties to this Third Amended and Restated Agreement ~~Amended Agreement~~ stipulate that the School Board may enter into Supplementary Agreements with individual municipalities to address individual circumstances. Any such Supplementary Agreement shall not be inconsistent with this Third Amended and Restated Agreement. ~~Amended Agreement~~.

15.8 Authority

Each person signing this Third Amended and Restated Agreement ~~Amended Agreement~~ on behalf of either party individually warrants that he or she has full legal power to execute this Third Amended and Restated Agreement ~~Amended Agreement~~ on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Third Amended and Restated Agreement. ~~Amended Agreement~~.

15.9 Indemnification

Each party agrees to be fully responsible for its acts of negligence or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

15.10 No Waiver of Sovereign Immunity

Nothing contained in this Third Amended and Restated Agreement ~~Amended Agreement~~ is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

15.11 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 Third Amended and Restated Agreement. ~~Amended Agreement~~ None of the parties intend to directly or substantially benefit a third party by this Third Amended and Restated Agreement. ~~Amended Agreement~~ The parties agree that there are no third party beneficiaries to this

Third Amended and Restated Agreement ~~Amended Agreement~~ and that no third party shall be entitled to assert a claim against any of the parties based upon this Third Amended and Restated Agreement. ~~Amended 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.

15.12 Non-Discrimination

The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Third Amended and Restated Agreement ~~Amended Agreement~~ because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

15.13 Records

Each party shall maintain its own respective records and documents associated with this Third Amended and Restated Agreement ~~Amended Agreement~~ in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

IN WITNESS WHEREOF, this Third Amended and Restated Interlocal Agreement has been executed on the respective dates under each signature by and on behalf of Broward County, each of the respective Municipalities and the School Board of Broward County, Florida on this _____ day of _____, 2017~~5~~.

[REMAINING PORTION OF THIS PAGE IS INTENTIONALLY LEFT BLANK.
SIGNATURE PAGES FOLLOW.]

Signature Pages

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By _____
Abby M. Freedman, School Board Chair

Witness as to all Signatories
Print Name _____

ATTEST: _____
Robert W. Runcie, Superintendent
Of Schools

Witness as to all Signatories
Print Name _____

(CORPORATE SEAL)

State of Florida, Broward County

WITNESS my hand and official seal this _____ day of _____, 2017~~6~~

Print Name _____ (AFFIX NOTARY SEAL)

My Commission Expires: _____

Approved as to form: _____
Barbara Myrick, General Counsel

BROWARD COUNTY through its Mayor, authorized to execute same by Board action on the __ day of _____, 2017.

ATTEST:

BROWARD COUNTY, by and through its
BOARD OF COUNTY COMMISSIONERS

Broward County Administrator, as
Ex-officio Clerk of the Broward
County Board of County Commissioners

By: _____
Barbara Sharif, Mayor

_____ Day of _____, 2017.

Approved as to form by
Office of County Attorney
Broward County, Florida
Joni Armstrong Coffey, County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: _____
Assistant County Attorney

Adopted
6/13/2017

CITY OF PEMBROKE PINES through its Mayor, authorized to execute same by Commission action on the ___ day of _____, 2017.

ATTEST:

CITY OF PEMBROKE PINES, FLORIDA

By: _____
MARLENE GRAHAM, CITY CLERK

By: _____
MAYOR FRANK C. ORTIS

APPROVED AS TO FORM:

SAM GOREN, CITY ATTORNEY

Proposed Third Amended and Restated ILA Summary

- Please be advised that this Third Amended and Restated Interlocal Agreement for Public School Facility Planning (ILA) is needed to alleviate the School District's burden of meeting and maintaining the Level of Service Standard (LOS) at each bounded elementary, middle and high school in Broward County under the era of public school concurrency.
- In 2010, the ILA was amended was to temporarily modify the LOS from 110% permanent Florida Inventory of School Houses (FISH) capacity to 100% gross capacity to enable portables to count towards the LOS, sun-setting the use of portables in 2018/19.
- In advance of this deadline, staff embarked on analyzing the impact of returning to an LOS based on 110% permanent capacity and found that some schools were better off with one LOS than the other depending on whether there were portables on their campuses. Therefore, this amendment proposes the LOS as the higher of: 100% gross capacity or 110% permanent capacity so that each school can utilize the maximum available capacity onsite for development review and public school concurrency purposes.
- This would avoid unnecessary school boundary changes that would be driven by the requirement for the School District to meet its LOS obligations when there are available seats in portables onsite.
- The School Board supports this LOS as a threshold that would not jeopardize the educational operations of its schools while still maintaining maximum thresholds to keep proposed residential development accountable for its impact on the school system.