THE OVERSIGHT COMMITTEE FOR
THE IMPLEMENTATION OF THE THIRD AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING, BROWARD COUNTY, FLORIDA

Agenda
Oversight Committee Public Meeting
April 17, 2019
12:00 p.m.
Kathleen C. Wright Administration Center, School Board Meeting Room

1. Call to Order
2. Roll Call
3. *Approval of Minutes – January 9, 2019 Meeting (Back-Up Item)
4. Additions to the April 17, 2019 Meeting Agenda
5. *Approval of the Final Agenda for the April 17, 2019 Meeting
6. *Excused Absences for April 17, 2019 Meeting

7. PUBLIC INPUT

8. SUBCOMMITTEE REPORTS
   None

9. OLD BUSINESS
   9.1 *Approval and Issuance of the 2018 Annual Status Report on Implementation of the Second and Third Amended and Restated Interlocal Agreement for Public School Facility Planning (Back-Up Item)
   9.2 *Student Generation Rate and School Impact Fee Study Update (Back-Up Item)

10. NEW BUSINESS
   10.1 Legislative Update (Back-Up Item)

11. INFORMATIONAL ITEMS
   11.1 February 13, 2019 Workshop Presentation to New Oversight Committee Members Draft Minutes (Back-Up Item)
   11.2 March 7, 2019 Staff Working Group Draft (Not Approved) Minutes (Back-Up Item)
   11.3 Next Scheduled Meeting – July 10, 2019

12. *ADJOURN

* Denotes Items Requiring Oversight Committee Formal Action
1. Call to Order

Chair Stermer called the January 9, 2019 Oversight Committee meeting to order at 12.20 p.m.

2. Roll Call

Linda Houchins called the roll, and the following Committee Members were in attendance:

- Alhadeff, Lori
- Curtin, Timothy
- Eichner, Shelley
- Eisinger, Debby
- Fisher, Lamar P.
- Good, Patricia
- Hunschofsky, Christine
- Klopp, Keven
- Resnick, Gary
- Rogers, Roy
- Stermer, Daniel J.
- Wexler, Lois

3. Approval of Minutes – April 11, 2018 Meeting

Committee Member Rogers made a motion to approve the minutes from the January 9, 2019 Oversight Committee meeting. Committee Member Eisinger seconded the motion, and the minutes were approved unanimously.

4. Additions to the January 9, 2019 Meeting Agenda

There were no additions to the January 9, 2019 meeting agenda.

5. Approval of the Final Agenda for the January 9, 2019 Meeting

Committee Member Good made a motion to approve the final agenda for the January 9, 2019 meeting. Committee Member Rogers seconded the motion, and the motion passed unanimously.
6. **Excused Absences for January 9, 2019 Meeting**

Chair Stermer stated that he received an excused absence request for the January 9, 2019 meeting from Committee Member Rich Levinson. Committee Member Eisinger made a motion to accept the excused absence request from Committee Member Rich Levinson. Committee Member Good seconded the motion, and the motion passed unanimously.

7. **Election of Officers**

Committee Member Rogers made a motion to reappoint the current chair, Daniel Stermer. Committee Member Eisinger seconded the motion. Chair Stermer suggested a friendly amendment be accepted to the motion to reappoint the entire current officers for another year. There were no other nominations, and Committee Member Fisher made a motion to close nominations. Committee Member Klopp seconded the motion, and the motion to close nominations passed unanimously. A vote was taken on the main motion including the friendly amendment, and the motion passed unanimously.

Chair Stermer welcomed the new members to the Oversight Committee; School Board Member Alhadeff, Mr. Curtin, Mr. Klopp, Vice Mayor Harris and Commissioner Fisher. He stated that the Committee is scheduled to meet the first month of each quarter. Chair Stermer said that because the Draft Student Generation Rate/School Impact Fee (SGR/SIF Study) was not moving forward and the Third Amended and Restated Interlocal Agreement (TRILA) had been approved, the urgency and need for the Committee to meet quarterly decreased; thus, the October 2018 meeting was canceled. Chair Stermer said the October 2019 meeting conflicted with Yom Kippur, and he suggested that the Committee convene for the April 2019 meeting and dispense with the final two meetings of 2019. Leslie Brown, Chief Portfolio Services Officer advised that the Draft SGR/SIF Study would be discussed at the current meeting. Brief discussions followed regarding the Draft SGR/SIF Study, and Chair Stermer requested that the new members avail themselves of District staff for any questions they may have regarding responsibilities. He also requested that any members that had not completed the 2018/19 parking pass application should email Ms. Houchins. Chair Stermer thanked the committee for the honor to serve as the chair.

8. **PUBLIC INPUT**

There was no public input.

9. **SUBCOMMITTEE REPORTS**

None

10. **OLD BUSINESS**

   10.1 **Status – Student Generation Rate and School Impact Fee Study**

Ms. Brown said she appreciated Chair Stermer’s redirection and codifying responsibilities of the Committee. Ms. Brown talked about the Draft SGR/SIF Study updated timeline. She stated that at the May 2018 School Board Workshop, the School Board directed staff to put the Draft SGR/SIF Study on hold for six (6) months. She said District staff was now asking for the Oversight Committee’s input regarding next steps. Ms. Brown also talked about the time span regarding how often the SGR/SIF Study should be initiated. She said that TRILA called for a SGR/SIF Study to be conducted every three (3) years, and the current Draft SGR/SIF Study was
completed by that deadline in 2017. Ms. Brown also advised that the last recommendations from the SGR/SIF Study were adopted by the Broward County Commission in 2014. Committee Member Wexler asked whether the choices now available to the Committee were to either move the 2017 Draft SGR/SIF Study forward or begin the process over again and initiate a new study in 2020. She said it was important for the new Committee Members to thoroughly understand the findings in the Draft SGR/SIF Study. Committee Member Wexler advised that the recommendations for school impact fees in the Draft SGR/SIF Study proposed dramatic changes in certain fee categories; and moving forward, she did not want construction to be negatively impacted. Chair Stermer asked whether the District would use the same consultants if a new Study were to be initiated in 2020. Ms. Brown said that if a new Study was initiated, the District would prepare a Request For Proposal (RFP) and solicit bids. Chair Stermer suggested that the District wait, and at the appropriate time, put out an RFP and solicit responses from new consultants. He said there were serious concerns regarding the methodology used in the current Draft SGR/SIF Study. Committee Member Rogers suggested that the District wait, and at the appropriate time, put out an RFP and solicit responses from new consultants.

Ms. Eichner shared discussions from the December 2018 Staff Working Group (SWG) meeting regarding the Draft SGR/SIF Study. She said that Lisa Wight had sought feedback from the SWG regarding their opinion if the Study was only conducted once every five (5) years instead of the current three (3) years. Ms. Eichner said the two (2) issues discussed at the SWG were 1) can impact fees be used to pay down the debt service, and 2) should Broward County be still assessing and collecting impact fees which are designated for new capacity while excess student stations exist Districtwide. She said the consensus of the SWG was to recommend to the Oversight Committee that those two (2) issues be resolved before the School District can move forward with the Draft SGR/SIF Study or start a new Study in 2020. Committee Member Resnick asked if any effort had been made to move forward on the items from the Draft SGR/SIF Study that had no issues and asked if there were any lawsuits challenging the use of school impact fees. Ms. Brown stated that there were no lawsuits challenging use of school impact fees. She said that the District’s Chief Financial Officer requested the District Bond Counsel to advise on that subject, and the Bond Counsel said that school impact fees could be used to pay debt service. Ms. Brown said that a legislative bill had been put forth in one of the past legislative sessions to try and force school districts to not use school impact fees towards debt service, but the bill failed. She stated that there was no State Statute that said that impact fees cannot be used toward debt service. Ms. Brown stated that District counsel had advised staff that there had been no prohibition or case law against school districts’ use of impact fees to pay debt service and that the District had the right to assess impact fees. Ms. Brown said it was important for all the Members to understand that the back and forth regarding those issues will go on forever; that all have pertinent interests in the outcome of these issues, and that at this point in time, there is nothing precluding the District from using impact fees for debt service. She said she appreciated the Oversight Committee’s help in thinking through the issues. Chair Stermer added that while there was nothing stating that school impact fees could not be used to pay debt service, there was also nothing specifically stating that they could be used for debt service.

Committee Member Rogers made a motion stating that the Committee defer taking any action on the Draft SGR/SIF Study until all members have had the opportunity to review the whole picture. Committee Member Good said that the Broward County School District was not the only school district to use impact fees to pay debt service, and that it is not unique to Broward County. She said that school impact fees are an important part of the District’s funding process. Discussions followed regarding transmittal of the Draft SGR/SIF Study. Ms. Brown stated that
the timeline listed in the back-up materials was the process that had been traditionally used but was not set on the calendar and could be changed. Committee Member Wexler said there had been several objections from the County regarding the methodology used in the Draft SGR/SIF Study. She asked Josie Sesodia, Director of Planning and Development Management, Broward County, if she was prepared to identify what those objections were. Ms. Sesodia stated the County expressed concerns and recommendations that were articulated in writing to the District, and several meetings occurred between the District and County staff to work out those issues. She said as a result, some revisions were made to the Draft SGR/SIF Study by the consultants which addressed the issues raised by the County. Chair Stermer suggested that District staff send the Draft Proposed SGR/SIF Study, minutes regarding the Study, Broward County comments, comments from other groups, and all questions and concerns to the new Oversight Committee Members; and give them time to review the materials and ask questions. He said the Study gets gaveled by the County Commission, sets impact fees and has a significant impact across Broward County. Ms. Eichner asked that the information should also be sent to the SWG Members.

Ms. Brown said she would like Ms. Sesodia or one of her staff to sit on the RFP Committee for the next Study so that when the methodology for the RFP was developed it would be open and shared before going out to the public. She suggested that if the new Committee Members would like to meet with staff, she would be glad to meet with them. Chair Stermer suggested that after receiving the materials regarding the Draft SGR/SIF Study, if the new Committee members wanted more information, staff could schedule a workshop.

Committee Member Klopp asked if there was anything regarding the methodology that the County was not comfortable with or whether all the issues had been resolved except for the use of impact fees to pay debt service. Chair Stermer stated he believed there were still issues based on the methodology that generated certain dollar amounts for certain categories. Discussions followed regarding delaying the Draft SGR/SIF Study and waiting for the process to begin again in 2020. Ms. Brown shared that the SGR/SIF Study is initiated every three (3) years, and a similar situation occurred with the 2010 Study which was not adopted by the Broward County Commission.

Chair Stermer stated there was a motion on the floor to defer moving forward with the Draft SGR/SIF Study timeline until no earlier than 2020. Committee Member Eisinger seconded the motion. Committee Member Wexler said she thought it would be disingenuous to take action on that point given that there are so many new members and they would not have the opportunity to know what they were voting on. She added that she would be ready to support the motion at the next meeting. Discussions followed regarding the refusal by the County Commission to adopt the 2010 SGR/SIF Study and the modifications made by the County Commission to the 2014 SGR/SIF Study. Committee Member Wexler said there may be an opportunity to salvage the Draft SGR/SIF Study if it were reviewed. Alan Gabriel advised that the School Board makes a recommendation to the County and the County Commission has the authority to make modifications if there is justification to do so. Committee Member Good said she would like to work with the Draft SGR/SIF Study and said it was not acceptable with her to put the Draft SGR/SIF Study on the shelf. Ms. Eichner said it was not the recommendation of the SWG to shelf the Draft SGR/SIF Study, but to not undertake more studies and spend more money until the core issues were resolved. Ms. Brown said she did not think the two issues would ever be resolved. Discussions continued regarding the Draft SGR/SIF Study and the data contained in the Study. Committee Member Resnick said he was not in favor of shelving the Draft SGR/SIF Study and suggested that the Committee give the new members time to review
the materials before taking further action. He also said that he was in favor of working with the existing Draft SGR/SIF Study as revised and suggested providing a presentation to include County staff regarding changes made at the County’s request.

Committee Member Rogers stated that he was a developer for many years with full knowledge and scope of developers, but he was not receiving any input from the development community. He said all the comments had been good, but he withdrew his motion and asked that the meeting proceed as the Chair deemed appropriate. Discussions continued, and Chair Stermer suggested that the Draft SGR/SIF Study be placed on the next Oversight Committee agenda but that prior to that meeting, all the underlining draft Reports, comments, opinions, and minutes be forwarded to the new members and to the SWG, and that a Workshop for the new Committee Members should also be held. Committee Member Good suggested that the Oversight Committee meeting dates be modified to meet earlier than April 2019 to expedite the process. Chair Stermer said the July meetings are usually canceled because of summer. He asked Ms. Houchins to send a survey to the members to see if they would be available to meet either the last week of February or the first week of March 2019; specifically, to discuss the Draft SGR/SIF Study. Committee Member Klopp said the Committee was not taking any action or making any decision but just making a recommendation to the School Board, and he suggested that some recommendation be made so the School Board could decide whether they want to move the Draft SGR/SIF Study forward. He said he was not comfortable supporting doing nothing. Brief discussions followed regarding the Oversight Committees prior recommendation to the School Board and the development communities’ actions regarding the Draft SGR/SIF Study.

Ms. Brown said she wanted the new Committee Members to know that there were one (1) to three (3) categories where the fees increased significantly. She said District staff looked at those increases that were greater than 100% and reduced them by 75%. Ms. Brown said District staff had been working to get the fees to a consistent rational basis. She said based on the Oversight Committee’s direction, staff was willing to go back and look at those fees again.

Chair Stermer said there was no action item on the Draft SGR/SIF Study other than to set a schedule. He said he did not think any member came prepared to vote on any piece of the Draft Study, and he said the decision to calendar the item would be re-engaging the process. Chair Stermer asked that staff ensure than all new members have the information to review and then proceed to schedule a workshop for the new members before the next Oversight Committee meeting. Committee Member Resnick suggested that the legal memorandum from the District Bond Counsel should also be provided to the new members. Ms. Brown asked that since the 5-year versus the 3-year timeframe for the Study was still pending, if the 2016/17 Draft Study moved forward, would it be appropriate to count it as the 2020 Study, so that the District does not have to begin the process over.

10.2 Status – Third Amended and Restated Interlocal Agreement for Public School Facility Planning

Ms. Brown advised that the TRILA successfully passed, and on December 4, 2018, School Board Growth Management Policy 1161 was amended to align with the TRILA.
11. NEW BUSINESS

11.1 Draft 2018 Annual Status Report on Implementation of the Second and Third Amended Interlocal Agreement for Public School Facility Planning

Ms. Brown stated that the Draft 2018 Annual Status Report was provided in the back-up materials for the Committee’s review. Chair Stermer advised that the Report would come back to the Committee for approval at the April 2019 meeting. He said if there were any questions or comments to reach out to District staff. Chair Stermer stated that the Oversight Committee had been more proactive in their efforts with local governments who were unresponsive to the implementation of the TRILA. Ms. Wight said that this year’s Report covered both the Second Amended ILA and the TRILA. Committee Member Klopp commented that District staff had done a good job and stated that the 2018 Annual Status Report had less sections with issues needing resolution than in previous years.

11.2 Revised Interpretation Document Regarding Third Amended and Restated Interlocal Agreement for Public School Facility Planning

Ms. Brown advised that the Interpretation Document has been revised based on approval of the TRILA. Committee Member Eisinger made a motion to accept the revised Interpretation Document regarding the TRILA. Committee Member Rogers seconded the motion, and the motion passed unanimously.

11.3 October 9, 2019 Oversight Committee Meeting Conflict

Chair Stermer suggested deferring the calendaring issue until the April 2019 meeting.

12. INFORMATIONAL ITEMS

12.1 June 7, 2018 SWG Final Minutes

12.2 December 6, 2018 SWG Draft (Not Approved) Minutes

12.3 Next Scheduled Meeting – April 10, 2019

Committee Member Klopp commented on the picture of the Oversight Committee on the District website, and District Staff said they would work towards changing the picture. Chair Stermer suggested that staff make the agenda and back-up materials all one PDF packet.

13. ADJOURN

Chair Stermer adjourned the meeting at 1:35 p.m.

Respectfully submitted by:

________________________________________
Christine Hunschofsky, Secretary

Date
The Oversight Committee
For Implementation of the Third Amended and Restated
Interlocal Agreement for Public School Facility Planning
Broward County, Florida

ANNUAL STATUS REPORT ON IMPLEMENTATION OF
THE SECOND AND THIRD AMENDED AND
RESTATED INTERLOCAL AGREEMENT FOR PUBLIC
SCHOOL FACILITY PLANNING

JANUARY – DECEMBER 2018

April 17, 2019
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A. INTRODUCTION

In compliance with state law, the Interlocal Agreement for Public School Facility Planning (ILA) was initially entered into by The School Board of Broward County, Florida (School Board), the Broward County Commission, and 26 Municipalities in Broward County in 2003, and became effective that same year. The purpose of the Agreement was to address the coordination of growth management issues with Broward County and the Municipalities and the provision and availability of public school facilities in Broward County. Since then, the Agreement was entered into by another Municipality; therefore, the Agreement is currently between the School Board, the Broward County Commission, and 27 Municipalities. Subsequently, the Agreement was amended three times; once to incorporate Public School Concurrency (PSC) provisions in 2008, and in 2010, to include the utilization of portable capacity in addition to the then existing utilization of permanent capacity (and when combined, are commonly referred to as gross capacity) to calculate the Level of Service Standard (LOS) during the implementation of PSC. In 2015, the School Board initiated the amendment process to again revise the LOS in the Second Amended ILA. Throughout 2016, District staff worked in a collaborative process with the County and Municipal Signatories that resulted in the proposed Third Amended and Restated Interlocal Agreement for Public School Facility Planning (TRILA). The School Board adopted the TRILA in June 2017, followed by Broward County in September 2017, and the Municipal Signatories scheduled adoption through the first part of 2018, garnering the requisite approval of 75% of the Municipal Signatories representing at least 50% of the population within Broward County in May 2018. Therefore, for the calendar year 2018, both the Second Amended and Third Amended and Restated ILA were in effect.

Consistent with state law, the ILA is overseen by a fifteen (15) member Oversight Committee that consists of School Board Members, County Commissioner(s), Municipal elected officials, and community stakeholders; five each appointed by the School Board, the Broward County Commission, and the 27 Municipalities through the Broward League of Cities. The Committee meets quarterly each calendar year to conduct public meetings regarding implementation of the Second Amended ILA and other related matters, and during one of the quarterly meetings, issues the Annual Report required by the Second Amended ILA to the School Board, Broward County, the 27 Municipalities and the general public regarding the successes and failures of implementation of the Second Amended ILA in the preceding calendar year.

The ILA consists of fifteen (15) Articles. However, this Report only examines thirteen (13) pertinent Articles of the Agreement which contains seventy-seven (77) specific measurable requirements. The Articles are as follows: Recitals; Joint Meetings; Student Enrollment and Population Projections; Coordination and Sharing of Information; School Site Selection, Significant Renovations, and Potential School Site Closures; Supporting Infrastructure; Plan Reviews, Consistency Determination; Public School Concurrency; Collocation and Shared Use; Resolution of Disputes; Oversight Process; Effective Date and Term; and Amendment Procedures.

Additionally, this Report indicates that in 2018, the Signatories to the Amended Agreement generally complied with seventy-five (75) of the seventy-seven (77) specific measurable requirements. However, the Report flags two (2) areas of the seventy-seven (77) specific requirements that were noncompliant with the ILA.

Two provisions out of compliance are items 8.2 and 8.7, which require the Signatories to ensure that their comprehensive plans and land development regulations (LDR) are consistent with the TRILA. However,
these violations are because the ILA was only recently amended and it will take some time for all of the Signatories to update their comprehensive plans and LDR in accordance with the new LOS contained in the recently adopted TRILA. Prior to the third amendment, most of the Signatories were in compliance with these provisions (as evidenced in Attachment D-1) and those out of compliance with the Second Amended ILA were waiting for the conclusion of the ILA amendment process to avoid duplication of work. Attachment D-2 reflects the status of the Signatories in relation to the TRILA.

It should be noted that even those Municipalities that have not yet met these requirements per provisions of the TRILA, must work with the District to implement public school concurrency as directed by the TRILA.

B. REPORT SUMMARY

Results of the coordination between the School Board, Broward County and the 27 Municipalities regarding compliance with the requirements of the thirteen (13) specific Articles of the Agreement and the seventy-seven (77) specific measurable requirements are delineated below.

Article II: Joint Meetings

Subsection 2.1 of this Article requires the Staff Working Group (SWG), which consists of staff representatives of the Signatories to the Agreement, to meet at least annually to address growth management issues and the provision and availability of public school facilities. However, to ensure that pertinent issues are adequately addressed, the SWG’s By-Laws require the SWG to meet quarterly. It should be noted that in 2018, the September meeting was cancelled due to a light agenda. School Board and Broward County staff representatives and representatives from the Cities of Deerfield Beach, Fort Lauderdale, Oakland Park, Parkland, Pembroke Pines, Plantation, Pompano Beach, Southwest Ranches, Sunrise, and Wilton Manors attended all three meetings in 2018. The City of West Park and the South Florida Regional Planning Council did not attend any meetings in 2018. Therefore, the vast majority of Signatories satisfied the provisions of Article II (see Attachment “A”).

Article III: Student Enrollment and Population Projections

The School District advised the SWG at the December 2018 meeting that its 2019/20-2023/24 five-year student enrollment projections were made available on the District’s website. In June 2018, Broward County published an update to its Population Forecast and Allocation Model (PFAM). PFAM was produced in 2017 by using as its input, the University of Florida’s Bureau of Economic and Business Research (BEBR) detailed population with estimates for 2015 and by incorporating public comment from local government agencies. PFAM assigns the inputted estimates to Broward County’s Traffic Analysis Zones (TAZ) and municipalities. The next update to the PFAM is expected to occur following the release of 2020 decennial Census data. Thus, the Signatories satisfied the provisions of this Article.
Article IV: Coordination and Sharing of Information

The Superintendent provided the tentative 2018/19–2022/23 District Educational Facilities Plan (DEFP) to local governments for review for consistency with their comprehensive plans, and included schools scheduled for renovations in the DEFP.

Also, the District’s 2015-2020 State Educational Plant Five Year Survey Report (Plant Survey) was approved by the School Board on June 9, 2015, validated by the Florida Department of Education (FDOE) on June 12, 2015, and became effective on July 1, 2015. The recommendations in the approved Plant Survey continue to serve as validation of the projects contained in the currently adopted Five-Year DEFP which was reviewed by Broward County and all the Municipalities.

Additionally, the County in conjunction with most of the Municipalities provided growth and development trends data to the School District, and the County provided the list of approved residential plats and adopted land use plan amendments to the Superintendent. However, ten (10) Municipalities turned in their information to the District late, but were timely enough to be included in the District’s annual update of the student enrollment projections. Only two (2) Municipalities, Fort Lauderdale and Lauderdale-By-The-Sea, failed to provide the growth and development trends altogether. Therefore, the vast majority of Signatories satisfied the provisions of Article IV, and compliance with this section of the ILA has improved since 2017.

Article V: School Site Selection, Significant Renovations, and Potential School Site Closures

The Site Review Committee which includes local government representatives did not review any new potential school sites in 2018. There were also no planned closure of existing schools. Furthermore, the School Board included schools scheduled for renovations in the 2018/19–2022/23 Tentative DEFP that was provided to Broward County and Municipalities. The Signatories satisfied the provisions of Article V.

Article VI: Supporting Infrastructure

The School District continues to work closely with the Municipalities to ensure that the needs of both entities are sufficiently addressed. The School District’s Program Manager staff conducts Design Review Committee Meetings on all major capacity additions and replacement projects during the Schematic and Design Development phases. The City’s needs and ideas are communicated at these meetings. Also, these meetings are open to the public and various other governmental agencies. The School Board requires that Master Plans be developed for all major projects that include replacement of buildings and new additions, and these plans are presented at specific levels of development, with participation by pertinent governmental agencies and Municipal officials. At the directive of the Oversight Committee, representatives of the District’s Office of Facilities and Construction and the SWG worked cooperatively to improve communication processes between the District and the Municipalities on School Board construction activities regarding major School District projects to ensure that the provisions of Article VI continue to be satisfied.
Article VII: Plan Review; Consistency Determination

The School District continues to participate in Broward County land use plan amendment and platting processes, and other growth management issues. The twenty-seven (27) Municipalities have taken action to include a School Board representative on their Local Planning Agency (LPA). (Subsection 7.2, see Attachment “B”). In 2018, School Board representatives received notices from the Municipalities regarding LPA meetings at which the agency was considering applications that would increase residential density and attended those meetings when appropriate (Subsection 7.2).

In 2018, District staff reviewed twelve (12) residential land use plan amendments (LUPAs) and no rezoning application that increased density (see Attachment “C”). The developers of the LUPA applications did not proffer voluntary mitigation for the projects (Subsections 7.3 and 7.9).

The appointed School Board member to the Broward County Planning Council (BCPC) routinely attended and participated in BCPC meetings. In 2018, the District reviewed no non-residential LUPA application, no non-residential rezoning applications, forty-five (45) plat applications, several variances, special exceptions, and vacation petitions, and participated in various growth management meetings. The reports issued for reviewed residential and non-residential LUPA and rezoning applications were classified as "Public Schools Consistency Review". Also, Broward County and the Municipalities considered issues listed in Subsection 7.10 of the Agreement when reviewing comprehensive plans and rezoning applications, and provided workshop notices regarding community development plans to District staff. In 2018, School District staff worked cooperatively to address planning issues involving redevelopment and transportation initiatives that would affect school facilities. Thus, the provisions of Article VII were satisfied by the Signatories.

Article VIII: Public School Concurrency

This Article requires that the County and Municipalities shall ensure that the applications for residential plat or site plan (or their functional equivalent) applications are complete, and the Public School Impact Applications (PSIA) pertaining to the applications are transmitted to the School District for review. This process is to ensure that capacity is available at Broward County Public Schools before such applications are approved and subsequently issued a building permit by the local governments. Subsequently, the County and Municipalities are required to provide quarterly reports to the School District regarding the approval or denial of the reviewed applications. The majority of the provisions of Article VIII were satisfied by the Signatories. However, data indicates that some Municipalities have not amended their comprehensive plans and LDR’s to address provisions of the ILA. Therefore, Subsections 8.2(a) and 8.7(a) of the Article need improvement. It should be noted that because of the recent amendment to the ILA, the Municipalities will need some time to update their plans and ordinances accordingly.

Article IX: Collocation and Shared Use

This Article encourages the School Board and local governments to, during preparation of the Five-Year DEFP and local government capital improvement plans, collaborate on collocating school facilities with local government civic facilities to enable shared use of the facilities. The Article also outlines processes to address the provision of the collocation and shared use facilities information. The School Board, Broward County, and Municipalities through their staff representatives on the SWG continue to
participate in efforts to provide each other with the information on potential collocation facilities, and it is placed as an agenda item for every SWG meeting. The Signatories satisfied the provisions of Article IX.

**Article X: Resolution of Disputes**

This Article outlines how disputes between the Signatories regarding the Amended Agreement should be resolved. However, since the inception of the Agreement, no dispute has arisen between the Signatories.

**Article XI: Oversight Process**

This Article authorized the creation of the Oversight Committee. In 2018, the School Board appointed two (2) new representatives to the Committee and confirmed the continued participation of two (2) of its current representatives; the Broward County Commission appointed two (2) new members at their December 11, 2018 County Commission meeting, and the Municipalities via the Broward League of Cities appointed one (1) new representative and reappointed one (1) of its representatives to the Committee. Therefore, the Signatories satisfied the provisions of Article XI.

**Article XII: Special Provisions**

The evaluation of this Article is not necessary.

**Article XIII: Effective Date and Term**

In 2017, the School Board initiated amendments to the Second Amended ILA that proposed changing the LOS to the higher of: 110% permanent Florida Inventory of School Houses (FISH) capacity or 100% gross capacity. The amendments were memorialized in the TRILA and complied with Section 14.1 (f) of this Amended Agreement. The School Board, Broward County and 26 Municipalities approved the Agreement on the dates depicted in Attachment "D-2". Therefore, the requirements of Article XIII were met by the Signatories.

**Article XIV: Amendment Procedures**

In 2015, the School Board formally initiated an amendment to the Agreement at the January 21, 2015 School Board Meeting. The initial draft amendment proposed to modify Section 8.10 of the Agreement to eliminate the sunset date of 2018/19 to keep the LOS at 100% gross FISH capacity. Throughout 2015, the amendment was discussed numerous times by the Oversight Committee and SWG, and notifications regarding the progress of the amendment were shared with all the Signatories via various written correspondence. This collaborative process resulted in significant changes to the proposed LOS, which necessitated that the amendment process be restarted. On June 13, 2017 the School Board adopted the TRILA, which modifies the LOS to the higher of: 100% gross capacity or 110% permanent FISH capacity. Broward County subsequently adopted the TRILA, followed by the Municipal Signatories through the first part of 2018 with 26 of the 27 Municipal Signatories voting in support of the TRILA. Therefore, the requirements of Article XIV of the Agreement were met by the Signatories.
C. CONCLUSION

The School Board, Broward County, and the 27 Municipalities during the period from January through December 2018 successfully complied with seventy-five (75) of the seventy-seven (77) specific measurable requirements of the Amended ILA but did not comply with two (2) specific measurable requirements. The specific areas pertain to Municipalities that have not amended their comprehensive plans and LDR’s to address provisions of the TRILA. Therefore, the cited specific areas need resolution.

In conclusion, resolution of the two (2) areas cited in this Annual Report may further the successful implementation of the Third Amended and Restated ILA in future.
## Joint Meetings

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<tr>
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<tbody>
<tr>
<td>2.1 - Hold annual Staff Working Group (SWG) meetings.</td>
<td>Quarterly</td>
<td>Consistently attended by School Board representatives.</td>
<td>Consistently attended by Broward County representatives.</td>
<td>Quorum was met at every regularly scheduled meeting. Attachment &quot;A&quot; depicts representatives that attended meetings and those that did not attend meetings in the period covered by this Annual Report.</td>
</tr>
<tr>
<td>2.2 - The SWG shall prepare an annual assessment report on the effectiveness of public school concurrency (PSC).</td>
<td>Annually by December 31 of each year.</td>
<td>Consensus by a majority of the SWG Members is that the pertinent section(s) of the 2018 Annual Report will be used to satisfy this requirement of the Second (and Third) Amended ILA.</td>
<td>Consensus by a majority of the SWG Members is that the pertinent section(s) of the 2018 Annual Report will be used to satisfy this requirement of the Second (and Third) Amended ILA.</td>
<td>Consensus by a majority of the SWG Members is that the pertinent section(s) of the 2018 Annual Report will be used to satisfy this requirement of the Second (and Third) Amended ILA.</td>
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## Student Enrollment and Population Projections

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<tr>
<td>3.1 - School Board, Broward County and Municipalities to coordinate and base plans upon consistent projections of population and student enrollment. Provide five-year student enrollment and countywide population projections to SWG.</td>
<td>Ongoing</td>
<td>2019/20-2023/24 five-year student enrollment projections was distributed on the Demographics &amp; Student Assignments web site in November 2018 following the benchmark day enrollment count.</td>
<td>In June 2018, Broward County published an update to its Population Forecast and Allocation Model (PFAM). PFAM was produced in 2017 by using as its input the University of Florida’s Bureau of Economic and Business Research (BEBR) detailed population with estimates for 2015 and by incorporating public comment from local government agencies. PFAM assigns the inputted estimates to Broward County’s Traffic Analysis Zones (TAZ) and municipalities. The next update to the PFAM is expected to occur following the release of 2020 decennial Census data.</td>
<td>The Municipalities review projections when they are available.</td>
</tr>
<tr>
<td>3.2 - Superintendent to use student population projections provided by the demographic, revenue, and education estimating conference and development trends data provided by the local governments during preparation of student enrollment projections.</td>
<td>Ongoing</td>
<td>Each year, staff prepares student enrollment projections based on a variety of factors. Such factors are, but not limited to, the demographic cohort survival, proportional share of charter enrollment based on the changes in charter enrollment, and forecasted Certificates of Occupancy supplied by each local government.</td>
<td>N/A</td>
<td>N/A</td>
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## SECTIONS

### FREQUENCY

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<tbody>
<tr>
<td>3.3 - Broward County to provide population projections to verify geographic distribution of countywide public school student projections.</td>
<td>Ongoing, The School District will review the projections when available.</td>
<td>In June 2018, Broward County published an update to its Population Forecast and Allocation Model (PFAM). PFAM was produced in 2017 by using as its input the University of Florida’s Bureau of Economic and Business Research (BEBR) detailed population with estimates for 2015 and by incorporating public comment from local government agencies. PFAM assigns the inputted estimates to Broward County’s Traffic Analysis Zones (TAZ) and municipalities. The next update to the PFAM is expected to occur following the release of 2020 decennial Census data.</td>
<td>The Municipalities will review the projections when available.</td>
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### COORDINATION AND SHARING OF INFORMATION

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<tr>
<td>4.1 - Commencing no later than July 30, 2009, and annually thereafter, the Superintendent shall submit the tentative District Educational Facilities Plan (DEFP) to local governments for review for consistency with the local government comprehensive plan.</td>
<td>Annually, July of each year. The tentative DEFP was provided (by email) to Broward County and Municipalities on July 19, 2018. In the correspondence, the entities were advised to share the information with their elected officials and provide necessary comments to District staff.</td>
<td>Broward County received and reviewed the tentative DEFP.</td>
<td>Municipalities received and reviewed the tentative DEFP.</td>
</tr>
<tr>
<td>4.2 - Include schools scheduled for renovations in the tentative DEFP.</td>
<td>Annually, The School Board included schools scheduled for renovations in the 2018/19 - 2022/23 tentative DEFP, including the projects paid for with the General Obligation Bond.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
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</table>
## DRAFT STATUS REPORT ON IMPLEMENTATION OF THE THIRD AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING
### JANUARY- DECEMBER 2018

### SECTIONS

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<tbody>
<tr>
<td>4.3 - Coordinate development of the Five-Year Educational Plant Survey with the SWG.</td>
<td>Once in five years</td>
<td>The District’s 2015-2020 State Educational Plant Five Year Survey Report (Plant Survey) was approved by the School Board on June 9, 2015, was validated by the Florida Department of Education (FLDOE) on June 12, 2015, became effective on July 1, 2015 and will remain valid for five years. The recommendations in the approved Five-Year Educational Plant Survey serve as validation of the projects in the tentative and subsequent adopted District Educational Facilities Plan (DEFP) which is reviewed by Broward County and all the Municipalities.</td>
<td>N/A</td>
</tr>
<tr>
<td>4.4 - 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.</td>
<td>Annually, by August 31 of each year</td>
<td>Staff coordinates the collection of five-year municipal Certificate of Occupancy data and receives the development trends report from the Municipalities. For 2018, the Demographics &amp; Student Assignments Department did not receive development trends report by the deadline from 12 of the 27 Municipalities.</td>
<td>The County in conjunction with the Municipalities provide growth and development trends data to the School District.</td>
</tr>
<tr>
<td>4.5 - Quarterly, the County to provide a list of residential plats approved by the Broward County Commission during the preceding quarter to the Superintendent.</td>
<td>Quarterly</td>
<td>The School District regularly receives the list of approved residential plats provided by Broward County.</td>
<td>As applicable, Broward County consistently provided this information to the School District on a monthly basis.</td>
</tr>
<tr>
<td>4.6 - The County to provide a list of land use plan amendments adopted or denied by the Broward County Commission to the Superintendent.</td>
<td>Periodically, no later than the 15th day of each month</td>
<td>The School District continually receives the list of adopted or denied land use plan amendments provided by the Broward County Planning Council.</td>
<td>As applicable, Broward County Planning Council consistently provided the information to the School District.</td>
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### SCHOOL SITE SELECTION, SIGNIFICANT RENOVATIONS, AND POTENTIAL SCHOOL SITE CLOSURES

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<tr>
<td>5.1 - School Board staff to review potential sites for new schools, closure of existing schools and significant renovations consistent with School Board Policy 5000. Include the recommendations in the DEFP.</td>
<td>Annually</td>
<td>The Site Review Committee which includes local government representatives did not review any new potential school sites in 2018.</td>
<td>N/A</td>
</tr>
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<tr>
<td>5.2 - Site Review Committee to submit a list of potential new schools, closure of existing schools and renovations to local governments for an informal consistency review with the comprehensive plan.</td>
<td>Periodically</td>
<td>The Site Review Committee which includes local government representatives did not review any new potential school sites in 2018. Additionally, the School Board included schools scheduled for renovations in the 2018/19 - 2022/23 tentative DEFP that was provided to Broward County and Municipalities.</td>
<td>N/A</td>
</tr>
<tr>
<td>Expand the Superintendent's Site Review Committee to include a permanent local government representative and a floating member. Amend School Board Policy 7000 to list membership of the Committee.</td>
<td>As necessary</td>
<td>In 2004, School Board Policy 7000 was amended to include all representatives in accordance with provisions of the Amended Interlocal Agreement, and subsequently amended in 2008 to include additional representatives. In 2014, the Policy underwent additional changes to include clarifications and a reduction in the Committee membership.</td>
<td>Broward County is represented on the Site Review Committee.</td>
</tr>
<tr>
<td>5.3 - The Superintendent to coordinate site plan information for new schools with affected local governments in accordance with state statutes.</td>
<td>As necessary</td>
<td>With several exceptions, the majority of the work identified in the current ADEFP is for life safety renovations and building envelope repairs. There are no completely new Educational Facilities identified in the 5 year ADEFP for fiscal years 2018-19 to 2022-23 that would require an internal School Board DRC review.</td>
<td>N/A</td>
</tr>
<tr>
<td>5.4 - Pursuant to Section 1013.33(11), at least 60 days prior to acquisition or leasing of property for new public educational facility, Superintendent to provide written notice to pertinent local government. Local government to provide comments within 45 days indicating plans consistency with local government's land use and comprehensive plan to the Superintendent.</td>
<td>As necessary</td>
<td>The School Board did not acquire any new school sites in 2018.</td>
<td>N/A</td>
</tr>
</tbody>
</table>
## Sections

### 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(12), F.S., as may be amended. If a local government determines 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.

- **Frequency**: As necessary
- **School Board**: As stated above, the School Board did not acquire any new school sites in 2018.
- **Broward County**: N/A
- **Municipalities**: N/A

### Supporting Infrastructure

### 6.1 - 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 proposed significant renovation.

- **Frequency**: As necessary
- **School Board**: The School Board has hired a third-party program manager that continues the adopted process of identifying upcoming construction projects by sending a copy of the Notice to Proceed to the Mayor, City Manager and City Planner for construction projects that are identified as other than routine maintenance.
- **Broward County**: The County continues to work closely with the School Board, Municipalities and developers.
- **Municipalities**: The Municipalities continue to work closely with the School Board, the County and developers.
### PLAN REVIEWS; CONSISTENCY DETERMINATION

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<tr>
<td>7.1 - School Board to appoint representatives to sit on Broward County and pertinent municipal local planning agency (LPA).</td>
<td>Immediately</td>
<td>The Signatories of the Third Amended and RestatedILA were sent written notification regarding the appointed School Board's representative to Broward County and Municipalities.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>7.2 - Local governments to take action to include School Board representatives on LPA and enable the representatives to attend meetings at which the LPA considers comprehensive plan amendments and rezoning applications that would increase residential density.</td>
<td>Immediately</td>
<td>In 2018, School Board representatives attended six (6) Broward County LPA meetings but did not attend any Municipal LPA meetings because either: (i) the Municipalities did not have any LPA meetings that necessitated the representative’s attendance, or (ii) because the Municipalities did not provide written notice requesting the Board representative to attend the meetings.</td>
<td>Broward County took action on 8/5/03 to include a School Board representative on the County's LPA.</td>
<td>To date, 27 of the 28 Municipalities listed on the Amended ILA have taken action to include a School Board representative on their LPA. However, it should be noted that the Village of Lazy Lake is the 28th Municipality that thus far has not signed the Agreement.</td>
</tr>
<tr>
<td>7.3 - Broward County and Municipalities agree to provide to the Superintendent, rezoning and comprehensive plan amendment applications that will increase residential density. The Superintendent shall review the applications and provide a report indicating anticipated student impact to the local government. The County and Municipalities shall provide deadline for receiving comments from the Superintendent, however, the deadline shall be no less than 30 days from the date the information is provided. The County and Municipalities will provide written quarterly reports to the Superintendent when the application receives final approval.</td>
<td>Quarterly</td>
<td>In 2018 staff reviewed eleven (11) residential land use plan amendments (LUPAs) and no rezoning application that increased density. The developers of the LUPA applications did not proffer voluntary mitigation for the project. (See Attachment &quot;C&quot;).</td>
<td>Attachment &quot;E-1&quot; depicts quarterly reports provided by Broward County to the School District regarding LUPA applications that were reviewed by the Broward County Planning Council.</td>
<td>The LUPA applications reviewed by the District in 2018 were located in the Cities of Cooper City, Deerfield Beach, Hollywood, Lighthouse Point, Miramar, Oakland Park, Parkland, Sunrise, and Tamarac.</td>
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<tr>
<td>7.4 - School Board to continue participation in the Broward County land use plan amendment review process.</td>
<td>Ongoing</td>
<td>In 2018, the appointed School Board Member to the Broward County Planning Council (BCPC) routinely attended and participated in BCPC meetings.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>7.5 - School Board to continue to review non-residential development and other pertinent development applications that may affect school properties, and as necessary participate on other growth management issues.</td>
<td>Ongoing</td>
<td>In 2018, the District reviewed no non-residential LUPA applications, 45 plat applications, several variances, special exceptions, and vacation petitions, and participated in various growth management meetings.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>7.6 - Broward County and Municipalities to provide public notice of land use and comprehensive plan amendments, rezonings, development of regional impact applications and other residential or mixed-use projects with residential component pending before them that may affect student enrollment, projections and school facilities to the Superintendent. Notice to be provided at the same time as provided to the public under County or Municipal ordinance.</td>
<td>Ongoing</td>
<td>N/A</td>
<td>As applicable, Broward County complied with this requirement in 2018.</td>
<td>As applicable, a majority of the Municipalities complied with this requirement in 2018.</td>
</tr>
<tr>
<td>7.7 - The review of LUPA and rezoning applications by the Superintendent shall be classified as &quot;Public Schools Consistency Review&quot;, and applicants may delineate the residential type, units and bedroom mix of the project if known; if not specified, the review shall be based upon the maximum student generation rates for that residential type.</td>
<td>Ongoing</td>
<td>The reports issued for reviewed residential and non-residential LUPA applications complied with the requirements of this Subsection.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>7.8 - Written comments provided by the Superintendent to the County and Municipalities regarding the &quot;Public Schools Consistency Review&quot; will specify the anticipated student impact, capacity status of affected schools, depict ten year student enrollment projects by planning area, planned capacity improvements, identify available alternatives, and state that the proposed development will be subject to public school concurrency review at the time of plat and site plan review.</td>
<td>Ongoing</td>
<td>At the minimum, the reports issued for &quot;Public Schools Consistency Review&quot; projects in 2018 contained all the information required by this Subsection.</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>7.9</td>
<td>Immediately</td>
<td>No voluntary mitigation was offered for any of the LUPA applications with increased density that were reviewed by the School District in 2018.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>7.10</td>
<td>Ongoing</td>
<td>N/A</td>
<td>Broward County as appropriate considers issues depicted in the Subsection, and School District staff comments when reviewing LUPA applications.</td>
<td>The Municipalities as appropriate consider issues depicted in the Subsection, and School District staff comments when reviewing LUPA applications.</td>
</tr>
<tr>
<td>7.11</td>
<td>As necessary</td>
<td>In 2018, School District staff attended no community development plan workshops; however District staff actively participated and coordinated with County staff in the BrowardNEXT 2.0 re-write of their comprehensive plan.</td>
<td>In 2018, the County did not hold community development plan workshops that may affect public school facilities.</td>
<td>In 2018 School District staff did not attend a community development plan workshops for any Municipalities, however District staff worked in cooperation with various City staff and their Educational Advisory Boards to address planning issues involving redevelopment plans and transportation initiatives that would affect school facilities.</td>
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### PUBLIC SCHOOL CONCURRENCY

**8.1 Required Elements of Public School Concurrency**

- **8.1(a)** - The amendments to Public School Facilities Element (PSFE) and related amendments to the Capital Improvement Element (CIE) and the Intergovernmental Coordination Element (ICE) in the County and Municipal comprehensive plans to satisfy Sections 163.3177 and 163.3180 F.S. are being adopted into the comprehensive plans of the County and Municipalities concurrently with the execution of the Amended ILA by the County and municipalities.

- **Attachment "D-1"** shows the County’s compliance with this section of the ILA as it pertains to the Second Amendment. The Third Amendment only obtained the requisite approvals to pass in mid-2018, and the subsequent required amendments to the local governments’ comprehensive plans are underway and depicted in Attachment "D-2".

- The Municipalities have established PSC management systems within their jurisdictions, and the date the Municipalities amended their comprehensive plans and land development codes to address the provisions of the Second Amended ILA are depicted in Attachment "D-1". The Third Amendment only obtained the requisite approvals to pass in mid-2018, and the subsequent required amendments to the local governments' comprehensive plans are underway and depicted in Attachment "D-2".
### SECTIONS

**8.1(b)** - The experience under the revised comprehensive plans and the School Board's adopted Five-Year DEFP shall be reviewed each year by the County and Municipalities at the SWG meeting to determine whether updates to the comprehensive plans are required. The Five-Year DEFP shall be updated annually to add a new fifth year. Any other amendments to the comprehensive plans shall be transmitted in time to allow their adoption concurrently with update to the School Board's adopted Five-Year DEFP.

**8.1(c)** - School related amendments shall be provided to the School Board at least 60 days prior to transmittal or adoption if no transmittal is required, unless adopting school-related amendments that are identical to Broward County, then they shall be provided at least 1 month prior to the Local Planning Agency (LPA) meeting. The School Board shall review the amendments and provide comments in writing if any, to the local government either (i) at least one week prior to the LPA meeting on the amendment, or (ii) by attending and providing comments at the LPA meeting.

**8.1(d)** - The County and Municipalities school-related element provisions must be consistent with each other and with the School Board’s facilities plan and policies. Municipalities may choose to adopt all or a portion of the County's school-related element provisions by reference, or it may adopt its own provisions. If a Municipality adopts its own 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 counter part in the County and Municipalities comprehensive plans.

### FREQUENCY

- **Annually by March 31**
- **At least 60 days prior to transmittal or one month prior to LPA meeting**
- **Ongoing**

### SCHOOL BOARD

- Notice of the link to access the Tentative DEFP was provided to the County and Municipalities on July 19, 2016. The School Board adopted the Five-Year DEFP on September 5, 2018, and the adopted Plan was subsequently made available to the County and Municipalities online.
- Broward County staff worked in coordination with District staff to update its proposed Public School Facilities Element policy amendments.
- The County's School Related Amendments have been consistent with those of the Municipalities and with the School Board’s facilities plan and policies.

### BROWARD COUNTY

- The County received and reviewed the Five-Year adopted DEFP that was provided by the School Board.
- Broward County's comprehensive plan amendments that were needed to be consistent with the provisions of the Second Amended ILA were approved by the Broward County Commission on March 27, 2012. The comprehensive plan amendments to incorporate the provisions of the Third Amended and Restated ILA are expected to take place in 2018 and 2019, and County staff has worked in coordination with District staff on these amendments.

### MUNICIPALITIES

- The Municipalities received and reviewed the Five-Year adopted DEFP that was provided by the School Board.
- In 2018, there was one Municipality that requested District staff review their proposed comprehensive plan amendments.
If any school-related element amendment is proposed that affects the uniform district-wide school concurrency system, it shall not become effective in accordance with Section 14.1 (f) of this Amended Agreement. Municipalities and the County may adopt the School Board’s adopted Five-Year DEFP either by reference or by restatement of the relevant portions of the adopted Five-Year DEFP, but the Municipalities and the County shall not attempt to modify the adopted Five-Year DEFP. To the extent feasible, the County and Municipalities agree to coordinate the timing of approval of the amendments.

### 8.1(e) - In addition to the other coordination procedures provided for in this 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.

In 2017, the School Board initiated amendments to the Second Amended ILA to modify the LOS to 100% gross capacity or 110% permanent capacity depending on the school type. The amendments complied with Section 14.1 (f) of this Amended Agreement. In 2018, the requisite number of approvals by the Signatories were established to enable the Third Amended and Restated ILA (and LOS) to become effective.

### 8.2 Specific Responsibilities

(a) Broward County and the Municipalities, within 90 days of the comprehensive plan amendments in accordance with this Amended Agreement becoming effective shall amend their respective Land Development Codes (LDC) and adopt the required public school concurrency (PSC) provisions, consistent with the requirements of this Amended Agreement. Such amendment shall include the public school concurrency management system outlining the development review process for proposed residential developments.

In 2018, the Second Amended ILA was in effect until the Third Amended ILA became effective, upon the requisite number of approvals. Data depicted in Attachment "D-1" indicates the date Broward County amended its comprehensive plan and LDC to adopt PSC provisions in the Second Amended ILA. Attachment "D-2" reflects the status of the same as it pertains to the Third Amended and Restated ILA.

Data depicted in Attachment "D-1" indicates the date Municipalities amended their comprehensive plans and LDC’s to adopt PSC provisions in the Second Amended ILA. Attachment "D-2" reflects the status of the same as it pertains to the Third Amended and Restated ILA.
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<td>(b) Broward County and the Municipalities, in accordance with the Amended ILA 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 Amended ILA until the District has reported that the school concurrency requirement has been satisfied. 2.) Maintain data for approved residential development that was the subject of PSC review. The data shall be provided to the District in a quarterly report after final approval of the application by the governing body, and must include information stated in this Subsection. 3.) Transmit residential plats and site plans (or their functional equivalents) and proposed amendments to such applications to the District for review and comment, consistent with Subsection 8.13 of this Amended ILA. 4.) Commencing August 31, 2007, and annually thereafter as a part of the growth and development trend required by Subsection 4.4, provide the total number of dwelling units issued certificates of occupancy to the School Board.</td>
<td>Ongoing</td>
<td>Attachments &quot;G-1&quot; and &quot;G-2&quot; represent written notice received by the District regarding formal action taken by Broward County and Municipalities on the residential plats, site plans and (functional equivalent) applications reviewed by the District.</td>
<td>Attachment &quot;E-1&quot; depicts quarterly reports provided by Broward County to the School District regarding residential plat applications that were reviewed by Broward County. It also depicts information on approval or denial of the applications by the Broward County Commission.</td>
<td>Attachment &quot;E-2&quot; depicts Municipalities that provided or did not provide quarterly reports during each quarter to the District regarding residential site plan (or functional equivalent) applications processed by the Municipalities. The Attachment also depicts the formal action taken by their governing bodies on the applications.</td>
</tr>
<tr>
<td>(c) The School Board shall do the following: 1.) Annually prepare and update its adopted Five-Year DEFP, which for the purposes of PSC 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 each District elementary, middle and high school, during the five year period, but no later than the fifth year of the Five-Year Capital Facilities Plan. 2.) Establish a process to ensure the maximum utilization of permanent capacity at each District elementary, middle and high school and to ensure that the schools are operating at or below the adopted LOS.</td>
<td>Ongoing</td>
<td>The School Board’s public hearing was held on September 5, 2018, to adopt the Five-Year DEFP. Additionally, the District has an established process to ensure the maximum utilization of capacity at each elementary, middle and high school, to maintain data regarding capacity availability at elementary, middle and high schools, and has an established mechanism for the review of proportionate share mitigation.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
3.) Commencing October 15, 2009, and annually thereafter, provide the County and Municipalities with the required School District data related to PSC, 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 PSC requirements. 5.) As a component of the District’s PSC 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 mitigation options. 7.) Prior to the effective date of PSC, amend School Board Policy 1161 to incorporate PSC provisions and delineate the District’s PSC management system. 8.) As necessary, amend the DEFP to incorporate funds accepted as proportionate share mitigation.

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<tr>
<td>(c) 3.)</td>
<td>Ongoing</td>
<td>In December 2018, the District provided Broward County and the Municipalities with the required School District data related to PSC, and related analysis needed to amend or annually update their comprehensive plans. Plat and site plan (or functional equivalent) applications reviewed in 2018 for PSC determinations are depicted in Attachment &quot;G-1&quot; and &quot;G-2&quot;. The District also updated periodically and published, the &quot;Public School Concurrency Planning Document&quot; (PSCP), which is used to maintain data regarding available capacity at each elementary, middle and high school after factoring the student impact anticipated from proposed residential developments.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>8.3 Adopted School Board DEFP</td>
<td>Annually, on or before September 30th</td>
<td>Same as above</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(a) Same requirement as Subsection 8.2(c)(1)</td>
<td></td>
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<td>(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 Amended Agreement.</td>
<td>Same as above</td>
<td>The School Board adopted the Five-Year DEFP on September 5, 2018, and the adopted Plan was subsequently made available to the County and Municipalities online.</td>
<td>N/A</td>
<td>N/A</td>
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### DRAFT STATUS REPORT ON IMPLEMENTATION OF THE THIRD AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING
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<tr>
<td>(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.</td>
<td>Same as above</td>
<td>The School Board adopted the Five-Year DEFP on September 5, 2018, and the adopted Plan was subsequently made available to the County and Municipalities online.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(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.</td>
<td>Same as above</td>
<td>The School Board adopted the Five-Year DEFP on September 5, 2018, and the adopted Plan was subsequently made available to the County and Municipalities online.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(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.</td>
<td>Same as above</td>
<td>On March 20, 2018, the School Board adopted the 2018/19 school boundaries (effective CSAs) for elementary, middle, and high schools. The adopted school boundaries are consistent with permanent capacity additions reflected in the adopted Five-Year DEFP.</td>
<td>N/A</td>
<td>N/A</td>
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### 8.4 Transmittal
(a) In addition to the provisions pertaining to the Tentative District Educational Facilities Plan as delineated in Article IV of this Amended Agreement, the School Board, upon completion and adoption of the Five-Year DEFP, shall make the DEFP available to the Local Governments no later than thirty (30) days after adoption of the District Educational Facilities Plan. | No later than 30 days after adoption | The School Board adopted the Five-Year DEFP on September 5, 2018, and the adopted Plan was subsequently made available to the County and Municipalities online. | N/A | N/A |
### 8.5 Comprehensive Plans - Development, Adoption and Amendment of the Capital Improvements Elements

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<tr>
<td>(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 DEFP” or applicable sections of the Adopted DEFP as a part of the Capital Improvements Element (CIE) of their comprehensive plans.</td>
<td>Ongoing</td>
<td>N/A</td>
<td>As applicable, Broward County will adopt the transmitted School Board adopted Five-Year DEFP.</td>
<td>As applicable, Municipalities will adopt the transmitted School Board adopted Five-Year DEFP.</td>
</tr>
<tr>
<td>(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.</td>
<td>Ongoing</td>
<td>No amendments have been made to the School Board's Five-Year DEFP since transmittal of the document to Broward County and the Municipalities.</td>
<td>N/A</td>
<td>N/A</td>
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### 8.6 Public School Concurrency Standard

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<tr>
<td>(a) The PSC standard requires Broward County, the Municipalities and the School Board to maintain the adopted LOS for Broward County Public Schools. The PSC 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.</td>
<td>Ongoing</td>
<td>Plat, site plan (or functional equivalent) applications reviewed by the School District in 2018 are depicted in Attachments &quot;G-1&quot; and &quot;G-2&quot;.</td>
<td>Attachment &quot;E-1&quot; depicts quarterly reports provided by Broward County to the School District regarding residential plat applications that were reviewed by Broward County. It also depicts information on approval or denial of the applications by the Broward County Commission.</td>
<td>Site plan (or functional equivalent) applications reviewed by the School District in 2018 are depicted in Attachment &quot;G-2&quot;. Attachment &quot;E-2&quot; depicts Municipalities that provided or did not provide quarterly reports during each quarter to the District regarding residential site plan (or functional equivalent) applications processed by the Municipalities. Also, the Attachment depicts the formal action taken by their governing bodies on the applications.</td>
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### SECTIONS

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#### 8.7 Commencement

(a) PSC described in this Amended Agreement shall commence upon the comprehensive plan amendments related to the PSFE by the County and Municipalities becoming effective, and the execution of this Amended Agreement by the parties identified herein.

As applicable to the entity:

- PSC is currently effective in Broward County.
- Subsequently, the County incorporated pertinent provisions of the Second Amended ILA into its comprehensive plan, and the date the amended comprehensive plan became effective is depicted in Attachment "D-1". The Third Amendment only obtained the requisite approvals to pass in mid-2018, and the subsequent required amendments to the local governments’ comprehensive plans are underway and depicted in Attachment "D-2".
- PSC is currently effective in the Municipalities.
- Subsequently, the Municipalities incorporated pertinent provisions of the Second Amended ILA into their comprehensive plans, and the date the amended comprehensive plan became effective in each Municipality is depicted in Attachment "D-1". The Third Amendment only obtained the requisite approvals to pass in mid-2018, and the subsequent required amendments to the local governments’ comprehensive plans are underway and depicted in Attachment "D-2".

#### 8.8 Concurrency Service Areas

EVALUATION OF SUBSECTIONS (a) (b) and (c) IS NOT NECESSARY

#### 8.9 Adoption of Concurrency Service Areas

(a) Adoption of the CSA's shall be as delineated in School Board Policy 5000 to be amended consistent with the Amended Agreement, and as may be amended from time to time.

As required, the adoption of the CSA's are delineated in School Board Policy 5000. On March 20, 2018, the School Board adopted the 2018/19 effective CSAs for elementary, middle, and high schools.

(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 CSA’s 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.

On March 20, 2018, the School Board adopted the 2018/19 effective CSA’s for elementary, middle, high, and combinations school boundaries, and they were incorporated into the data and analysis in support of the PSFE of the comprehensive plan.

#### 8.10 Level of Service Standard

EVALUATION OF SUBSECTIONS (a) (b) (c) (d) (e) IS NOT NECESSARY
### 8.11 Exemptions and Vested Developments

**(a)** The following residential plats and site plans (or functional equivalent) shall be exempt from the requirements of PSC: 1. All residential plats and site plans (or functional equivalent) which generate less than one student in the relevant CSA. 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. (The former and latter developments 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 PSC: 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, 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 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.

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<tbody>
<tr>
<td>8.11 Exemptions and Vested Developments</td>
<td>Ongoing</td>
<td>The list of the residential plat, site plan (or functional equivalent) applied that were submitted to the School District in 2018, and reviewed by the District to determine that they met this Subsection, are depicted in Attachments &quot;G-1&quot; and &quot;G-2&quot;.</td>
<td>Attachment &quot;E-1&quot; depicts quarterly reports provided by Broward County to the School District regarding residential plat applications that were reviewed by Broward County. It also depicts information on approval or denial of the applications by the Broward County Commission.</td>
<td>Site plan (or functional equivalent) applications reviewed by the School District in 2018 are depicted in Attachment &quot;G-2&quot;. Also, Attachment &quot;E-2&quot; depicts Municipalities that provided or did not provide quarterly reports during each quarter to the District regarding residential plat applications (or functional equivalent) applications processed by the Municipalities. Also, the Attachment depicts the formal action taken by their governing bodies on the applications.</td>
</tr>
<tr>
<td>(a) The following residential plats and site plans (or functional equivalent) shall be exempt from the requirements of PSC: 1. All residential plats and site plans (or functional equivalent) which generate less than one student in the relevant CSA. 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. (The former and latter developments 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.</td>
<td>Ongoing</td>
<td>In 2018, the School District reviewed seven (7) applications that met the provisions of this Subsection. These applications are included in the list of reviewed residential projects contained in Attachments &quot;G-1&quot; and &quot;G-2&quot;.</td>
<td>Attachment &quot;E-1&quot; depicts quarterly reports provided by Broward County to the School District regarding residential plat applications that were reviewed by Broward County. It also depicts information on approval or denial of the applications by the Broward County Commission.</td>
<td>Same as above</td>
</tr>
</tbody>
</table>
### 8.12 Public School Concurrency Management System

**SUBSECTIONS (a) and (b) SAME AS SUBSECTION 8.2 (a).**
**SUBSECTION 8.12(c) SAME AS SUBSECTION 8.2(c)(7).** *THUS, EVALUATION OF SUBSECTIONS IS NOT NECESSARY*

### 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 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.

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<tr>
<td>(b) 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.</td>
<td>Ongoing</td>
<td>In 2018, the School District received quarterly reports from the Municipalities which indicated that no site plan applications were approved which met this Subsection. (See Attachment &quot;F&quot;).</td>
<td>In 2018, all of the reports provided by the County to the School District indicated that no site plan applications vested under this Subsection were approved.</td>
<td>In 2018, the reports provided by the Municipalities to the School District indicated that no site plan applications that were vested under this Subsection were approved.</td>
</tr>
<tr>
<td>(c) EVALUATION OF THIS SUBSECTION IS NOT NECESSARY</td>
<td></td>
<td></td>
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</tr>
<tr>
<td><strong>8.13 Review Process</strong></td>
<td>Ongoing</td>
<td>Documentation regarding the achievement and maintenance of the adopted LOS by the School District is contained in the LOS Plan, which is a component of the School Board adopted Five-Year DEFP. Also, the plat, site plan (or functional equivalent) applications reviewed by the School District in 2018 are depicted in Attachments &quot;G-1&quot; and &quot;G-2&quot;.</td>
<td>Attachment &quot;E-1&quot; depicts quarterly reports provided by Broward County to the School District regarding residential plat applications that were reviewed by Broward County. It also depicts information on approval or denial of these applications by the Broward County Commission.</td>
<td>Attachment &quot;E-2&quot; depicts Municipalities that provided or did not provide quarterly reports during each quarter to the District regarding residential site plan (or functional equivalent) applications processed by the Municipalities, and formal action taken by their governing bodies on the applications.</td>
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<tr>
<td>(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 Amended Agreement is subject to PSC and shall be required to submit a Public School Impact Application (PSIA) to the Local Government, for review by the School District including information called for in this Subsection.</td>
<td>Ongoing</td>
<td>Same as above.</td>
<td>Same as above.</td>
<td>Same as above.</td>
</tr>
<tr>
<td>(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.</td>
<td>Ongoing</td>
<td>N/A</td>
<td>Same as above.</td>
<td>Same as above.</td>
</tr>
<tr>
<td>(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 thirty (30) days after receipt of the PSIA. 2. Notification shall be provided to the applicant and affected Local Government if the application is incomplete. 3. THIS SUBSECTION IS NOT NECESSARY FOR EVALUATION.</td>
<td>Ongoing</td>
<td>The SCAD Letters issued for the received/reviewed PSIA were transmitted to the applicant, and as applicable to Broward County and the Municipalities within the maximum 30-day review period.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
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<tr>
<td><strong>(e) Student Generation Rates Calculation</strong>&lt;br&gt;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.</td>
<td>Ongoing/Three Year Update</td>
<td>In 2018, the update of the Student Generation Rate/School Impact Fee Study was completed by the consultant selected by the School Board. The update study is anticipated for consideration by the School Board in early 2019, and depending on outcome, could be transmitted to Broward County for adoption.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>(f) Utilization Determination</strong>&lt;br&gt;EVALUATION OF SUBSECTIONS (f)(1) and (2) IS NOT NECESSARY</td>
<td>Ongoing</td>
<td>In 2018, the School District's Capacity Allocation Team (CAT) (the Group responsible for the allocation of available excess capacity from adjacent CSAs as called for in School Board Policy 1161) met 13 times to consider and allocate excess available capacity to 10 plat and 23 site plan applications reviewed by the District.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>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 Amended Agreement and as may be amended from time to time to ensure maximum utilization at the CSA. Otherwise, all of the CSA’s 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 PSC.</td>
<td>Ongoing</td>
<td>In 2018, the School District did not reassign previously allocated adjacent capacity to achieve maximum utilization.</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>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.</td>
<td>Ongoing</td>
<td>In 2018, the School District did not reassign previously allocated adjacent capacity to achieve maximum utilization.</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>(g) Issuance and Term of Public School concurrency - EVALUATION OF THIS SUBSECTION IS NOT NECESSARY</td>
<td>Ongoing</td>
<td>In 2018, no developer proffered proportionate share mitigation.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>8.14 Proportionate Share Mitigation</td>
<td>(a) The School Board shall consider proportionate share mitigation pursuant to provisions of this 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 Amended Agreement and as may be amended from time to time, regarding PSC. 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.</td>
<td>Ongoing</td>
<td>In 2018, no developer proffered proportionate share mitigation.</td>
<td>N/A</td>
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<tr>
<td>8.15 Proportionate Share Mitigation Options</td>
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<tr>
<td>EVALUATION OF THE ENTIRE SUBSECTION 8.15 IS NOT NECESSARY</td>
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| 8.16 Formula for the Calculation of Proportionate Share Mitigation Options | (a) EVALUATION OF THIS SUBSECTION IS NOT NECESSARY | | | |
| (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 Amended Agreement. | Ongoing | In 2018, no developer proffered proportionate share mitigation. | N/A | N/A |
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<td>(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.</td>
<td>Ongoing</td>
<td>In 2018, no developer proffered proportionate share mitigation.</td>
<td>N/A</td>
</tr>
<tr>
<td>(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.</td>
<td>Ongoing</td>
<td>Same as above</td>
<td>N/A</td>
</tr>
</tbody>
</table>

---

**Page 27**
# 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.

<table>
<thead>
<tr>
<th>SECTIONS</th>
<th>FREQUENCY</th>
<th>SCHOOL BOARD</th>
<th>BROWARD COUNTY</th>
<th>MUNICIPALITIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) A Developer adversely impacted by a SCAD Letter made as a part of the PSC process may appeal such determination by written request to the School Board.</td>
<td>Ongoing</td>
<td>None of the SCAD Letters issued by the School District in 2018 were appealed by developers.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(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.</td>
<td>Ongoing</td>
<td>None of the SCAD Letters issued by the School District in 2018 were appealed by developers.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(c) A Developer adversely impacted by a non-acceptance of proposed proportionate share mitigation made as a part of the PSC process may elect to pursue other appropriate measures.</td>
<td>Ongoing</td>
<td>In 2018, no developer proffered proportionate share mitigation.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>(d) A Developer adversely impacted by a Local Government decision made as a part of the PSC process may appeal such decision using the process identified in the Local Government's regulations for appeal of development orders.</td>
<td>Ongoing</td>
<td>In 2018, no developer appealed a public school concurrency decision made by Broward County.</td>
<td>In 2018, no developer appealed a public school concurrency decision made by a Municipality.</td>
<td>N/A</td>
</tr>
<tr>
<td>(e) A Local Government adversely impacted by a SCAD Letter made as a part of the PSC process may initiate the process outlined in Subsection 10.1(a) of this 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 Amended Agreement.</td>
<td>Ongoing</td>
<td>None of the SCAD Letters issued by the School District in 2018 were appealed by local governments.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>
(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 Amended Agreement.

<table>
<thead>
<tr>
<th>SECTIONS</th>
<th>FREQUENCY</th>
<th>SCHOOL BOARD</th>
<th>BROWARD COUNTY</th>
<th>MUNICIPALITIES</th>
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</thead>
<tbody>
<tr>
<td>9.1 - During preparation of the DEFP and local government capital improvement plans, the School Board and local governments are encouraged to collocate school facilities with local government civic facilities to enable shared use of the facilities.</td>
<td>Ongoing</td>
<td>The School Board, through its staff representative on the SWG, continues to participate in the collocation efforts.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>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 SWG 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 SWG 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 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.</td>
<td>January of each year/ongoing</td>
<td>In 2018, the School District did not receive any information via the SWG regarding the new opportunities for collocation of future local government public/civic facilities. This is because the County and Municipalities indicated that there were no new public/civic facilities in their five-year capital improvements plan that could potentially be collocated with public school facilities.</td>
<td>In 2018, Broward County indicated that there were no new public/civic facilities in its five-year capital improvements plan that could potentially be collocated with public school facilities.</td>
<td>In 2018, Municipalities indicated that there were no new public/civic facilities in their five-year capital improvements plan that could potentially be collocated with public school facilities.</td>
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### SECTIONS

<table>
<thead>
<tr>
<th>FREQUENCY</th>
<th>SCHOOL BOARD</th>
<th>BROWARD COUNTY</th>
<th>MUNICIPALITIES</th>
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</thead>
<tbody>
<tr>
<td>This requirement shall not prevent the Local Government from providing information on collocation to the SWG throughout the calendar year. Information provided to the SWG 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 SWG of their efforts toward collocation of the subject facilities. As part of efforts toward the collocation of such facilities in Broward County, the SWG shall include in all of its meeting agendas, an agenda item relating to the provision information regarding collocation as stated herein. Subsequently, the SWG shall in its report to the Oversight Committee, advise the Committee of ongoing efforts toward collocation, including information on certificates of occupancy to the School Board.</td>
<td></td>
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<tr>
<td>Same as above</td>
<td>Same as above</td>
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9.3 - Separate legal agreement to address each collocated facility.

<table>
<thead>
<tr>
<th>FREQUENCY</th>
<th>SCHOOL BOARD</th>
<th>BROWARD COUNTY</th>
<th>MUNICIPALITIES</th>
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</thead>
<tbody>
<tr>
<td>As necessary</td>
<td>The School Board has one (1) Recreation Lease Agreement (formerly known as Master Recreation Lease Agreement) with the Broward County Sheriff's Department and with eighteen (18) Municipalities. It also has Reciprocal Use Agreements with sixteen (16) Municipalities.</td>
<td>Broward County Sheriff's Department has one (1) Recreation Lease Agreement (RLA) with the School Board.</td>
<td>Eighteen (18) Municipalities have RLAs with the School Board. Also, sixteen (16) Municipalities have Reciprocal Use Agreements with the School Board.</td>
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### RESOLUTION OF DISPUTES

10.1 - Dispute Resolution

<table>
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<tr>
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<th>MUNICIPALITIES</th>
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</thead>
<tbody>
<tr>
<td>As necessary</td>
<td>In 2018, the School Board did not invoke and was not involved in dispute resolution regarding the Agreement.</td>
<td>In 2018, Broward County did not invoke and was not involved in dispute resolution regarding the Agreement.</td>
<td>In 2018, no Municipality invoked nor was involved in dispute resolution regarding the Agreement.</td>
</tr>
</tbody>
</table>

### OVERSIGHT PROCESS

11.1 - The School Board, Broward County and Municipalities to each appoint five representatives to the Oversight Committee.

<table>
<thead>
<tr>
<th>FREQUENCY</th>
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<th>BROWARD COUNTY</th>
<th>MUNICIPALITIES</th>
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</thead>
<tbody>
<tr>
<td>Immediately</td>
<td>At a School Board meeting on December 18, 2018, the School Board appointed one (1) new representative to the Oversight Committee, and at the November 20, 2018 Organizational Meeting, the School Board confirmed the continued participation of two (2) of it's currently appointed members and appointed one (1) new member.</td>
<td>Broward County appointed two (2) new members to the Oversight Committee at the December 11, 2018 County Commission meeting.</td>
<td>In 2018, the Broward League of Cities appointed one (1) new member and reappointed one (1) of its representatives to the Oversight Committee.</td>
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</tbody>
</table>

11.2 - Municipalities to appoint their five representatives to the Oversight Committee through a mutually agreeable process.

<table>
<thead>
<tr>
<th>FREQUENCY</th>
<th>SCHOOL BOARD</th>
<th>BROWARD COUNTY</th>
<th>MUNICIPALITIES</th>
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</thead>
<tbody>
<tr>
<td>Immediately</td>
<td>N/A</td>
<td>N/A</td>
<td>The Municipalities continue to appoint all five Municipal representatives to the Committee through the Broward League of Cities.</td>
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11.3 - THIS SUBSECTION IS NOT NECESSARY FOR EVALUATION
<table>
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<tr>
<th>SECTIONS</th>
<th>FREQUENCY</th>
<th>SCHOOL BOARD</th>
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<th>MUNICIPALITIES</th>
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<td><strong>SPECIAL PROVISIONS</strong></td>
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<td>12.1 - THE ABOVE SUBSECTION IS NOT NECESSARY FOR EVALUATION</td>
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<tr>
<td><strong>EFFECTIVE DATE AND TERM</strong></td>
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<tr>
<td>13.1 - This 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 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.</td>
<td>Prior to December 31, 2008, and Dates for Proposed Amendments</td>
<td>In the 2009/10 school year, the School Board initiated amendments to the Amended ILA that proposed changing the LOS from 110% permanent FISH capacity to 100% gross capacity through the 2018/19 school year. The amendments were memorialized in the Second Amended ILA and compiled with Section 14.1 (f) of this Amended Agreement. The School Board approved the Agreement on the date depicted in Attachment &quot;D-1&quot;. In 2017, the School Board approved a third amendment to the ILA to modify the LOS to 100% gross capacity or 110% permanent capacity, depending on the school type. This approval date is depicted in Attachment &quot;D-2&quot;.</td>
<td>Broward County approved the Second Amended ILA, and the approval date is depicted in Attachment &quot;D-1&quot;. The third amendment was adopted by the County in September 2017, as depicted in Attachment &quot;D-2&quot;.</td>
<td>Initially, 22 Municipalities approved the Second Amended ILA in 2010. Subsequently, the Town of Lauderdale-By-The-Sea approved the Agreement. Also, the dates the Municipalities adopted the Second Amended ILA are depicted in Attachment &quot;D-1&quot;. The third amendment received the requisite number of approvals in 2018, the approval dates associated with the third amendment is depicted in Attachment &quot;D-2&quot;</td>
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<tr>
<td><strong>AMENDMENT PROCEDURES</strong></td>
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<tr>
<td>14.1 Process to Amend the Interlocal Agreement - NOT NECESSARY TO DEPICT PROCESS IN THIS REPORT</td>
<td></td>
<td>Ongoing</td>
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<td></td>
<td></td>
<td>On June 13, 2017, the School Board approved a third amendment to the ILA to modify the LOS to 100% gross capacity or 110% permanent capacity, depending on the school type.</td>
<td>In 2018, Broward County did not propose any amendments to the Amended ILA.</td>
<td>In 2018, the Municipalities did not propose any amendments to the Amended ILA.</td>
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<tr>
<td><strong>MISCELLANEOUS</strong></td>
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<tr>
<td>15 - THE ABOVE SUBSECTION IS NOT NECESSARY FOR EVALUATION</td>
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Sections with Issues that Need Resolution

Source: The Amended Interlocal Agreement for Public School Facility Planning, December 6, 2018 Staff Working Group Meeting
<table>
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<tr>
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<tr>
<td>Davie</td>
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<td>Lauderdale-By-The-Sea</td>
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<tr>
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<tr>
<td>Lauderhill</td>
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<tr>
<td>Margate</td>
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<tr>
<td>Miramar</td>
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<td>North Lauderdale</td>
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<tr>
<td>Oakland Park</td>
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<tr>
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<td>Broward County Planning Council*</td>
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<td>South Florida Regional Planning Council*</td>
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</tr>
</tbody>
</table>

* Governmental Agency

x Denotes attendance by local Government Representative

Did not attend any meetings in 2018

Source: The School Board of Broward County, Florida, Growth Management Department
# LIST DEPICTING ACTION BY LOCAL GOVERNMENT REGARDING INCLUSION OF SCHOOL BOARD REPRESENTATIVE ON LOCAL PLANNING AGENCY

**ATTACHMENT "B"**

<table>
<thead>
<tr>
<th>Number</th>
<th>City</th>
<th>Action Taken</th>
<th>Date Action Taken</th>
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<td>2</td>
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<td>Coral Springs</td>
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<td>28</td>
<td>Broward County</td>
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Source: The School Board of Broward County, Florida, Facility Planning and Real Estate Department

*X Denotes that Local Government took formal action to include representative on the local planning agency*
## REVIEWED RESIDENTIAL LAND USE PLAN AMENDMENT/REZONING DEVELOPMENTS WITH INCREASED DENSITY

### 2018

<table>
<thead>
<tr>
<th>No.</th>
<th>Project Name/Number</th>
<th>Existing Land Use/Zoning</th>
<th>Permitted Units &amp; Type</th>
<th>Proposed Land Use/Zoning</th>
<th>Additional Units &amp; Type</th>
<th>Jurisdiction</th>
<th>Total Number of Units and Type</th>
<th>Schools Impacted</th>
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<tr>
<td>1</td>
<td>Pine Plaza Apartments</td>
<td>Commercial</td>
<td>0</td>
<td>Irregular (29) Road</td>
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### TOTAL

| Source: School Board of Broward County, Florida, Facility Planning and Real Estate Department |

**SF**: Single Family, 2,977; **TH**: Townhomes, 2,049; **Gc**: Garden Apartments, 10,061; **MB**: Midrise, 1,939; **HR**: Highrise, 350; **MH**: Mobile Homes, 32

**NA**: Not Applicable
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<tr>
<th>Local Governments/Entity</th>
<th>Second Amended ILA Approval Date</th>
<th>* Effective Date For Comprehensive Plan Amendment</th>
<th>**Land Development Code/Policy Adoption Date</th>
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Source: The School Board of Broward County, Florida, Facility Planning and Real Estate Department

N/A  Not Applicable
TBD - To Be Determined

Municipality denied or did not take formal action on Second Amended ILA

* Comprehensive Plan Amendment which includes the Capital Improvement Element

** Per Local Government/School Board

*** Reflects date School Board took action to address correction to the initially approved (2/2/10) Second Amended ILA
## APPROVAL/EFFECTIVE DATES REGARDING IMPLEMENTATION OF THE PROVISIONS OF THE THIRD AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING

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Source: The School Board of Broward County, Florida, Facility Planning and Real Estate Department
N/A = Not Applicable
TBD = To Be Determined

* Comprehensive Plan Amendment which includes the Capital Improvement Element
** Per Local Government/School Board
*** Reflects date School Board took action to address correction to the initially approved (2/2/10) Second Amended ILA
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<td>West Oak Estates, 9 SF (1 SF existing on Parcel A and 8 SF proposed on Parcel B), approved 8/14/2018</td>
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<td>The Parkside Plat (Residences at Equality Park), 44 age-restricted MR and 17 TH, approved 10/23/2018</td>
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Source: The School Board of Broward County, Florida, Facility Planning and Real Estate Department
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## MUNICIPAL QUARTERLY REPORTS REGARDING APPROVED RESIDENTIAL LUPA'S, REZONING AND SITE PLAN APPLICATIONS

### 2018

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<td>Hallandale Beach</td>
<td>448 Holiday Drive SP, FDR-17-02024, 1 SF</td>
<td>New Adventure Townhomes SP, #81-1, 4 TH</td>
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<td>2143-2016</td>
<td>Beaconcliff Duplex SP, #81-08701, 2 SF</td>
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| Hollywood            | 2091-2016           | Cypress Commons, F6-DPZ-72, 12 MR       | 3/16/2018     | 5/22/2020           | No Activity |
|                      | 2309-2018           | Pinnacle at Plantation SP, F14-SP-01, 120 MR | 9/12/2018 | 5/22/2020           | No Activity |


| Lauderdale Lakes     | Commerce Park LUPA, 1 SF | Expires 6/1/2020, District reviewed as Plat | 6/30/2019      | No Activity |
|                      | 4/18/2018           | District did not review this LUPA | 10/17/2018 | No Activity |
|                      | 4/25/2016           | No Activity | 9/11/2019 | No Activity |

| Margate              | 2/14/2019          | No Activity | 7/12/2018 | No Activity |

| Miramar              | 224-2017           | Atlantic Ocean Inn SP, #10000068, 300 TH | 2/14/2019 | 7/3/2018 | No Activity |
|                      | 2336-2017          | Seabreeze Inn SP, #10000068, 300 TH | 2/14/2019 | 7/3/2018 | No Activity |

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## MUNICIPAL QUARTERLY REPORTS REGARDING APPROVED RESIDENTIAL LUPA'S, REZONING AND SITE PLAN APPLICATIONS

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The School Board of Broward County, Florida, Facility Planning and Real Estate Department

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2/12/2018
## MUNICIPAL QUARTERLY REPORTS REGARDING APPROVED VESTED SITE PLANS

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Source: The School Board of Broward County, Florida, Facility Planning and Real Estate Department
SBBC: The School Board of Broward County, Florida

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<td>Vista Haus South Townhouse Development</td>
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<td>74</td>
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<td>10/26/2018</td>
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<td>Pine Plaza Apartments</td>
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<td>Hallandale Beach Townhomes</td>
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Source: The School Board of Broward County, Florida, Facility Planning and Real Estate Department
SBBC: The School Board of Broward County, Florida
* Determined exempt by SBBC
AUDITOR GENERAL’S RESPONSE ON USE OF SCHOOL IMPACT FEES TO PAY DEBT SERVICE, SUPERINTENDENT’S RESPONSE TO SCHOOL BOARD MEMBERS AND RELATED ITEMS
March 5, 2019

Mr. Robert Runcie, Superintendent
Broward County District School Board
600 S.E. 3rd Avenue
Ft. Lauderdale, Florida 33301

Dear Superintendent Runcie:

Enclosed is a list of preliminary and tentative audit findings and recommendations that may be included in a report to be prepared on our operational audit of the Broward County District School Board.

Pursuant to Section 11.45(4)(d), Florida Statutes, you are required to submit within thirty (30) days after receipt of the list of findings a written statement of explanation concerning all of the findings, including therein your actual or proposed corrective actions. If within the 30-day period you have questions or desire further discussion on any of the preliminary and tentative audit findings and recommendations, please contact this Office.

Your written explanation should be submitted electronically in source format (e.g., Word or WordPerfect) and include your signature. For quality reproduction purposes, if you are not submitting your response in source format, please convert your response to PDF and not scan to PDF. If technical issues make an electronic response not possible, a hard copy (paper) response will be acceptable.

Please e-mail this Office at flaudgen_audrpt_dsb@aud.state.fl.us to indicate receipt of the list of preliminary and tentative audit findings and recommendations. Absent such receipt, delivery of the enclosed list of findings is presumed, by law, to be made when it is delivered to your Office.

The preliminary and tentative audit findings are intended solely for information and use of management and those charged with governance, and is not intended to be, and should not be, used by anyone other than these specified parties.

Sincerely,

Sherrill F. Norman

SFN/rba
Enclosure
c: School Board Members
FINDINGS AND RECOMMENDATIONS

Finding 1: Impact Fees

State law\(^1\) authorizes local governments to collect impact fees for use in funding the infrastructure necessitated by new growth and development. Pursuant to a Broward County (County) ordinance,\(^2\) in December 1982 the District and the County entered into an interlocal agreement to establish certain procedures for the transfer and expenditure of educational impact fee proceeds. The County Ordinance and the interlocal agreement require that, after receipt of the impact fee proceeds from the County, the District use the proceeds within a reasonable time for acquiring school sites or constructing or expanding new educational facilities for new users.

The Florida Supreme Court has opined that, to establish eligibility for expenditure of impact fee proceeds, "the local government must demonstrate a reasonable connection, or rational nexus, between the expenditures of the funds collected and the benefits accruing to the subdivision (i.e., new development). In order to satisfy this requirement, the ordinance must specifically earmark the funds collected for use in acquiring capital facilities to benefit the new residents."\(^3\)

The District accounts for impact fee activities in the Capital Projects – School Impact Fees Fund. For the 2017-18 fiscal year, the District impact fee proceeds totaled $15.2 million and impact fee transfers to other funds and expenditures totaled $20.3 million and $81,679, respectively. To determine the propriety of the impact fee uses, we examined District records supporting the impact fee transfers of $20.3 million to other funds. We found that the transfers did not appear to be for authorized purposes as the $20.3 million was used to service debt incurred several years before the collections were made, rather than for infrastructure necessitated by new growth.

Specifically, the transfers were to District debt service funds for the District debt service requirements of the Certificate of Participation Series (COPS) 2004A, 2004B, 2007A, 2008, 2009, 2011A,\(^4\) 2012A,\(^5\) 2012B, 2014A,\(^6\) 2015A,\(^7\) 2015B,\(^8\) 2015C,\(^9\) 2016A,\(^10\) and 2016B.\(^11\) Because the $20.3 million was used to service debt incurred several years before the collections were made, it is not apparent that the transfers benefitted the recent feepayers.

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\(^{1}\) Section 163.31801, Florida Statutes.
\(^{2}\) Broward County Ordinance, Chapter 5, Article IX, Division 2, Section 5-182(m) Adequacy of School Sites and Facilities.
\(^{3}\) St. Johns County v. Northeast Florida Builders Association, Inc. 583 So 2d 635 (Fla. 1991).
\(^{4}\) Refunded Series 1997B, 2001A, and 2001B.
\(^{6}\) Refunded Series 2004D.
\(^{7}\) Refunded Series 2005A and 2006A.
\(^{8}\) Refunded Series 2007A.
\(^{9}\) Refunded Series 2006B.
\(^{10}\) Refunded Series 2008A.
\(^{11}\) Refunded Series 2009A.
In response to our inquiries, District personnel indicated that they plan and build additional schools in anticipation of future growth so that sufficient educational facilities are available when that growth occurs. District personnel also indicated that they believed the impact fee use was allowable under the interlocal agreement. Notwithstanding this response, based on the District Educational Facilities Plan dated September 6, 2017, and received by the Florida Department of Education (FDOE) on November 28, 2017, the Board had no plans to construct new schools or expand existing schools within the next 5 years. Although we requested, District records were not provided to evidence that use of impact fee proceeds to service debt incurred in previous fiscal years met the rational nexus test by directly relating to the educational infrastructure needs of the residents of the new residential developments that paid the impact fees. Consequently, the impact fee transfers totaling $20.3 million represent questioned costs.

Recommendation: The District should ensure that impact fee proceeds are expended only for authorized purposes. Additionally, the District should either document to the FDOE the allowability of the impact fee transfers totaling $20.3 million to the debt service funds or restore those funds to the 2017-18 fiscal year Capital Projects – School Impact Fees Fund.
March 20, 2019

TO: School Board Members

FROM: Robert W. Runcie, Superintendent of Schools

SUBJECT: PRELIMINARY AUDITOR GENERAL REPORT

On March 5, 2019, the Florida Auditor General released the preliminary and tentative operational audit report for Broward County Public Schools for the year ended June 30, 2018. Upon the release of the report, the District has 30 days to complete responses to the findings. The District’s responses will be included in the final report issued by the Auditor General.

Since the Sun Sentinel opted to publish an article based on the preliminary report and not the final report where our responses would be available, it is important to share some of the information with the Board that will be included in our Audit responses, especially relating to impact fee uses. It would have been prudent if the Sun Sentinel had been more forthcoming in stating that the District has 30 days to respond and that some of the tentative issues may not even make the final report.

Several Districts across the State use impact fees to pay debt service. These Districts include Miami-Dade, Lee, Lake and Collier County, to name a few. Broward County has used impact fees to pay allowable debt service for over a decade. During the 2018 legislative session, a bill was introduced to exclude debt service from being an allowable use of impact fees. The bill did not pass. A similar bill is being introduced this session and staff is monitoring the bill closely as session continues. If the bill were to pass, its impact would be prospective and staff would implement full compliance with any and all requirements contained in that law. Given the 2018 legislative outcome, the District will continue to use impact fees to pay debt service.

Attached is a legal opinion dated March 11, 2019 from bond counsel that supports the usage of impact fees for debt service. The letter will be included in the District’s response to the Auditor General.

The administration takes the findings included in the Auditor General report very seriously and are working very hard to continually revise and update processes and procedures. The current preliminary report contains nine tentative findings (three fewer than the last report). Staff has formed work groups to address the issues and has compiled action plans aimed at the root cause of all nine tentative findings. One of the tentative findings is already closed and one tentative finding is substantially closed.

We look forward to responding to the final audit report and providing the Board with updates as we work through process improvements in the areas discussed in the report.

If you need additional information or have questions, please contact Chief Financial Officer, Judith Marte, at 754-321-1990 or Chief Auditor, Joris Jabouin, at 754-321-2400.

Attachment
March 11, 2019

Ms. Judith Marte  
Chief Financial Officer  
School District of Broward County, Florida  
600 S.E. 3rd Avenue  
10th Floor  
Ft. Lauderdale, Florida 33301

Re: Education Impact Fees

Dear Judy:

You have requested an opinion whether The School Board of Broward County (the “School Board”) has the right to use education impact fees imposed and collected pursuant to Section 5-182(m) of the Broward County Land Development Code (“Land Development Code”) to make payments on Certificates of Participation (“COP’s”) issued under its Master Lease Program to finance new construction or additions to schools designed to increase student capacity for growth. With certain exceptions, such as assisted living facilities and deed restricted adult communities, the Land Development Code imposes public school concurrency requirements pursuant to the County’s comprehensive plan, and an interlocal agreement between the County and the School Board dating back to 1982. The Land Development Code divides the County into four Concurrency Service Areas (which are to be the approved school boundaries for elementary, middle and high schools, as annually adopted by the School Board), establish processes for proportionate share mitigation, exemption, vesting, satisfaction and adequacy, and includes an Impact Fee Schedule. The Land Development Code also includes a table of student generation rates based on the most recent study, a draft report on which is dated November 3, 2017, by Tindale Oliver, as required by the second amended interlocal agreement (“SILA”) among the School Board, the County and the municipalities. The Land Development Code also establishes four school impact fee service areas covering the entire County from north to south, and a trust account for each service area, into which impact fees are deposited. The impact fees are to be used “for the acquisition of school sites or the provision of additional capacity which will substantially benefit the residents of the developed area. The SILA requires that the impact fee study be reviewed by the County and the School Board every three years, to ensure that the fee does not exceed reasonably anticipated costs associated with growth necessitated capital improvements.

As stated in the School Board’s offering documents published in connection with the financing of schools under its Master Lease Program, revenues generated from school impact fee levies are deposited into a trust account and can only be used for the purpose of providing growth-necessitated capital improvements to educational plants which have been approved by the School Board in its capital budget consistent with the School District’s school plant survey approved by the Florida Department of Education. School impact fees, along with capital outlay millage and other legally available sources, are available to be appropriated each year by the School Board, to
make the lease payments on growth-necessitated school facilities that serve students in the service area from which the impact fees were derived.

The School Board has been criticized by the Community and Economic Development Council for using “impact fees from new residential developments to pay existing debt for previously approved and unrelated infrastructure projects”. The Council’s representative cites recent declining student enrollment in certain schools previously built and financed in part with impact fees as proof that impact fees cannot be used. But the author ignores the fact that a new impact fee eligible school built to accommodate growth must be financed over a term which could extend up to 30 years under Florida law. And it is because of the availability of the student stations produced by that school that concurrency is satisfied and building permits are issued for new residential growth in future years within the same impact fee service area. The Tindale Oliver report recognizes that capacity expansion projects are frequently financed with COP’s “to ensure that necessary capacity can be built in a timely manner and is available for additional students. Use of impact fees for the payment of debt service is similar to building school capacity with cash payments of impact fee revenues. In both cases, impact fee revenues are used to fund new/additional capacity.” The report calculates a debt service credit per student based on the capacity expansion projects in each of the School Board’s outstanding COP issues.

Common law on impact fees in Florida was first enunciated by the Florida Supreme Court in the City of Dunedin v. Builders Association of Pinellas County (1976) case, involving imposition of impact fees for extension of water and sewer lines that were financed through the issuance of bonds. While approving the ability of the City to collect such fees previously authorized by ordinance in 1972, the Supreme Court invalidated the ordinance because it failed to sufficiently restrict the use of the impact fees to expansion of the system, as opposed to replacement of existing facilities (which should be paid for by all customers in their monthly rates and charges and not just new customers). The City then adopted a new ordinance curing the prior defect, and obtained approval from the Second District Court of Appeal in 1978 to expend impact fee moneys collected after the date of correction of the ordinance but paid under protest, on expanding the water and sewer system or paying debt service on its bonds issued four years previously for the expansion of the system. The appeals court stated: “Those funds may now be used for the purpose of further expansion or retiring bonds issued for the earlier [post-1974] expansion of the system”.

The common law of impact fees was first applied to schools by the Florida Supreme Court in St. Johns County v. N.E. Florida Builders Association (1991). Pursuant to an expert methodology report the County adopted an ordinance imposing an impact fee on new residential construction, to be placed in trust and spent by the school board to “acquire, construct, expand and equip the educational sites and educational capital facilities necessitated by new development”. The Supreme Court acknowledged Dunedin, and cited the “dual rational nexus” test as explained in Hollywood, Inc. v. Broward County (1983), a Fourth District Court of Appeals case: “In order to satisfy these requirements, the local government must demonstrate a reasonable connection, or
rational nexus, between the need for additional capital facilities and the growth in population generated by the subdivision. In addition, the government must show a reasonable connection, or rational nexus, between the expenditures of the funds collected and the benefits accruing to the subdivision. In order to satisfy this latter requirement, the ordinance must specifically earmark the funds collected for use in acquiring capital facilities to benefit the new residents.”

In St. Johns County, the Supreme Court approved the expert methodology based on the average number of public school children living in single family and multi-family units in the county, and found that the first part of the dual rational nexus test had been met. However, the Court found that the second part of the test (sufficient earmarking) had not been met for two reasons. First, the ordinance did not apply in any municipality unless the municipality entered into an interlocal agreement with the County, but there is no reason to distinguish between residents in incorporated and unincorporated areas as far as schools are concerned. Second, the ordinance also exempted homeowners who warranted that their children would attend private schools but agreed to pay later if their children switched to the public-school system. The Supreme Court felt that the latter provision would turn the fee into a user fee which could violate Article IX, section 1 of the Florida Constitution guaranteeing free public schools. The Court concluded that if the impact fee were countywide with no requirement for municipal interlocal agreements, and without the exemption for private school attendance, the Court could conclude that the second prong of the dual rational nexus test had been met. And in Collier County v. State (1999), which was not an impact fee case, in passing on an assessment the Supreme Court reiterated its prior conclusion in its St. Johns County decision that the St. Johns County ordinance failed the second prong of the dual rational nexus test, because even though the impact fee was not required to be imposed in municipalities, there was nothing in the ordinance that restricted use of impact fees to construction of schools that would only benefit those residents outside municipalities who would have been the only ones paying the fee.

Recent State Auditor General criticisms of several school districts concerning their use of education impact fees has not challenged the first part of the dual rational nexus test, that is, the reasonable connection between the need for additional school facilities and the growth in population generated. It has, instead, focused on the connection between the expenditure of the funds and the benefits accruing to the population paying the impact fees: i.e., the earmarking of the funds. That is more of a factual inquiry within each Concurrency Service Area involving tracking the collection and deposit in trust of impact fees, the schools constructed or expanded to accommodate growth therein, the lease payments made with respect to those schools or additions, the sources of the lease payments and whether the use of the impact fees collected were and are limited to paying for the capacity expansion that accommodated the residential growth. As is evident in the Dunedin case, impact fees can be used to pay debt service as long as they are limited to paying for expansion necessitated by growth. And the Supreme Court stated in St. Johns County that even without separate concurrency service areas within a county, “if this were a countywide impact fee designed to fund construction of new schools as needed throughout the county, we could easily conclude that the second prong of the test had been met”.

GREENBERG TRAURIG, P.A.  ATTORNEYS AT LAW  WWW.GTLAW.COM
Based on the presentation in the Tindale Oliver Report, the division of the County into four concurrency service areas with a separate trust account for tracking impact fees within each area, pursuant to the Land Development Code and the SILA, and the limiting of impact fees to the portion of the lease payments allocable to impact fee eligible schools or additions in each respective area, we are comfortable in concluding that the School Board is following the requirements of Florida law in its expenditure of education impact fees.

Respectfully submitted,

[Signature]

P.A.
Ms. Sherrill F. Norman, CPA  
Auditor General, State of Florida  
Claude Denson Pepper Building, Suite G74  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

Please find below the School Board of Broward County’s (the District) responses to the list of preliminary and tentative audit findings and recommendations that were provided to the District on March 5, 2019 regarding the State of Florida Auditor General’s operational audit of the Broward County District School Board.

**Finding No. 1: Impact Fees**

The District respectfully disagrees with Finding 1.

The District and several districts across the State use impact fees to pay debt service. Broward County has used impact fees to pay allowable debt service for over a decade and will continue to do so unless legislation is passed that limits our ability to do so. During the 2018 legislative session, a bill was introduced to exclude debt service from being an allowable use of impact fees. The bill did not pass. A similar bill is being introduced this session, and staff is monitoring the bill closely as session continues. If the bill were to pass, its impact would be prospective, and staff would implement full compliance with any and all requirements contained in that law.

Attached to this letter is a legal opinion dated March 11, 2019 from our bond counsel that supports the use of impact fees for debt service.
March 14, 2019

Dear Mr. Runcie:

The Community & Economic Development Council respectfully requests this letter be circulated to all School Board members and entered into the record for the April 10, 2019, Broward School Board Oversight Committee meeting regarding impact fees. It is critically important that new board members understand the dual rational nexus test which is necessary for imposing impact fees, and the liability from not exercising prudent legal decisions when funding school projects.

Our continued concern is that neither Broward County ("County") nor its School Board can continue to use impact fees to pay debt unrelated to new developments, and cannot use impact fees for conversion of classrooms that do not proportionately benefit new residents paying the impact fee. We recognize that impact fees are an important source of revenue for a local government, but we also recognize that these fees can only be used for funding infrastructure necessitated by new growth – something the County and School Board cannot show. Thus, the School Board must use revenue from its general revenue fund to convert portable classrooms, because the School Board cannot meet the dual rational nexus test in this particular scenario.

Summary

A School Board cannot use impact fees from new residential developments to pay existing debt for previously approved and unrelated infrastructure projects. In addition, each school identified in your April 10, 2018, letter is experiencing a decline in student enrollment and will have student capacity for at least the next five years; thus, there is no need for expanding these schools. This undisputed fact is very problematic for the School Board, because the School Board cannot legally use impact fees to convert existing, portable classrooms to permanent unless new population growth from new residential developments triggers the investment. Put simply, neither the County nor its School Board can support using impact fees to fund its capital facilities plan, because student enrollment is declining and each school shows a 10 – 20% surplus student capacity by year 2023. In addition, the School Board has not demonstrated that new residents that pay the impact fee will accrue the benefits proportionately. Explained in more detail below, the "dual rational nexus test," legally requires the County and its School Board to establish a "need" for school expansion, and the benefits from the expenditure of the fee must be proportionate to the impact fee levied on new residents. I.e., the collection, expenditure and benefits must all be symmetrical to one another or the impact fee is invalid.
In summation, the County should immediately cease collecting impact fees for payment of unrelated debt, and it needs to reevaluate the proper mechanism for funding portable classrooms. The School Board has already misused more than $40 millions of impact fees, and should not increase its liability any further. The School Board’s conversion plan for portable classrooms can only come from the School Board’s general revenue - not from impact fees.

**Dual Rational Nexus Test**

Impact fees have their roots in common law, and a number of court decisions have defined the parameters by which a local government can collect and use the impact fees. All cases reflect the fact that impact fees are a one-time charge, and are tailored to pay the cost of additional infrastructure necessitated by new development. As a result, impact fees are viewed as a prospective fee, and are not to be used retroactively.

Under Florida law, impact fees were first introduced in *City of Dunedin v. Builders Association of Pinellas County*, 329 So. 2d 314 (1976). In *Dunedin*, the court specifically held “The cost of new facilities should be borne by new users to the extent new use requires new facilities, but only to that extent. When new facilities must be built in any event, looking only to new users for necessary capital gives old users a windfall at the expense of new users.” (Emphasis added) See, 329 So. 2d 314 at 321 (1976). This holding became known as the “dual rational nexus” test, and the test was first explained by the courts in *Hollywood, Inc. v. Broward County*, 431 So. 2d 606, 611-12 (Fla. 4th DCA), review denied, 440 So. 2d 352 (Fla. 1983).

In *Hollywood*, the court held that “The local government must demonstrate a reasonable connection, or rational nexus, between: “... the need for additional capital facilities” and “the growth in population generated by the subdivision.” Eight years later, the Florida Supreme Court, in *St. Johns County v. NE Fla. Builders Ass'n, Inc.*, 583 So. 2d 635 (1991), added a requirement that the local government “earmark” the funds when it held that “In addition, the government must show a reasonable connection, or rational nexus, between the expenditures of the funds collected and the benefits accruing to the subdivision. In order to satisfy this latter requirement, the ordinance must specifically earmark the funds collected for use in acquiring capital facilities to benefit the new residents.” (emphasis added)

The high court also added a “pro rata share” requirement when calculating the impact fee. In *St. Johns County*, 583 So. 2d 635 (1991), the court held that “Raising expansion capital by setting connection charges, which do not exceed a pro rata share of reasonably anticipated costs of expansion, is permissible where expansion is reasonably required, if use of the money collected is limited to meeting the costs of expansion.” (Emphasis included). Specifically, the Court determined that the ordinance did not restrict the use of the funds to sufficiently ensure that such fees would be spent for the benefit of those who had paid the fees, and on this basis, the ordinance did not satisfy the second prong of the dual rational nexus test. Thus, the calculation of the fee must accurately reflect anticipated costs of accommodating population growth, and benefit the new residents proportionately. Otherwise, the ordinance will be struck down and deemed invalid.

In conclusion, the case law above requires that the School Board must demonstrate a reasonable connection, or rational nexus, between the need for additional capital facilities and the growth in population generated by the new subdivision. And in the event there is a reasonable connection, Florida
law requires the School Board to specifically earmark the funds collected for use in acquiring capital facilities to benefit the new residents or there will be an unlawful windfall to other residents. The cost of new facilities should be borne by new users but only to the extent new use requires new facilities.

**Broward County Facts Applied**

According to the School Board, it asked outside counsel “whether the School Board of Broward County . . . can use education impact fees imposed and collected . . . to make payments on Certificates of Participation . . . to finance new construction or additions to schools designed to increase student capacity to accommodate new growth.” (See page 1, Legal Memorandum by Bob Gang with Greenberg Traurig dated April 10, 2018). In short, the School Board may be able to do this if the new capital facilities are necessitated by new population from new residential developments. But, that is not the case here. In the case at hand, the School Board is not collecting impact fees to expand school capacity, because no population growth from residential communities is triggering the need for expanded classrooms. The conversion of portable classrooms to permanent is a laudable goal, but the conversion is not necessitated by new developments. Thus, new developments should not pay for the conversion of portable classrooms.

In addition, the School Board is improperly collecting and spending $40 million of impact fees since year 2010, and cannot meet the dual rational nexus test described above for conversion of portable classrooms. As seen in the charts below, the public schools are experiencing student enrollment declines due to an increase of charter schools that are syphoning off students from traditional schools. This migration of students result in a projected capacity of ~10 - 20% by year 2023 for the public schools you identify in the April 10, 2019, letter. In light of these facts, the School Board cannot use impact fees for portable classroom conversions, because it cannot demonstrate a need for expanding Cypress Bay High School, Flanagan High School and Falcon Cove Middle School. Again, none of the schools have reached capacity or will reach capacity in the near future (next five years).

**Percentage of Gross Capacity Utilized**

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<th>19/20</th>
<th>20/21</th>
<th>21/22</th>
<th>22/23</th>
</tr>
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<tr>
<td>Cypress Bay</td>
<td>98.2%</td>
<td>88.7%</td>
<td>88.1%</td>
<td>87.6%</td>
<td>87.1%</td>
</tr>
<tr>
<td>Flanagan</td>
<td>85.4%</td>
<td>83.1%</td>
<td>82.2%</td>
<td>81.2%</td>
<td>80.3%</td>
</tr>
<tr>
<td>Falcon Cove</td>
<td>100.7%</td>
<td>89.3%</td>
<td>88.9%</td>
<td>88.4%</td>
<td>87.9%</td>
</tr>
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</table>

As seen in the chart below, the schools you identified in your April 10, 2018, letter show a decline in enrollment over the next five years despite new residential growth from planned developments.

**Enrollment/Projections**

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<th>School</th>
<th>17/18</th>
<th>19/20</th>
<th>20/21</th>
<th>21/22</th>
<th>22/23</th>
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In light of the undisputed facts above, neither the County, nor the School Board, can justify a “need” for new capital facilities when student enrollment is declining, and capacity for new students is increasing.
At a minimum, student growth is needed to justify using impact fees to pay for expansion or conversion of these school classrooms. If the School Board cannot show student growth then it cannot pass the dual rational nexus test, and thus, must use funds from its general revenue fund to pay for the school conversion.

Moreover, replacing portable classrooms, with permanent classrooms, will only benefit currently-enrolled students. Under the law, Broward County must specifically earmark the funds collected for use in acquiring capital facilities to benefit the new residents or there will be an unlawful windfall to other residents (i.e., pro rata requirement). As a reminder, the law only allows the cost of new facilities to be borne by new users, but only to the extent new use requires new facilities. As stated above, neither new, nor planned residential developments, triggered the need for the School Board’s replacement projects. Thus, the School Board is prohibited from using impact fees for these “replacement” projects due to the fact that each school is increasing its student capacity because student enrollment is declining.

Lastly, the School Board of Broward County confirmed in its April 10, 2018, letter that it has a 10% surplus at public schools and no need to expand schools for our developments. In addition, the same letter explained that the School Board issued debt in 2009-2010 because lack of revenue - not population growth. Specific reasons for issuing debt stem from an unexpected economic downturn of revenue from Great Recession; reduced residential construction which also reduced revenues from impact and reduced budget allocations from State of Florida (legislative budget cuts). These reasons do not support the continued levying of impact fees, because there is no “rational nexus” to new housing developments which is required under the law.

**Broward County’s Improper Use and Expenditure of Impact Fees**

It’s worth repeating for the School Board’s new members that Broward County’s current practice of collection and expenditure of millions of impact fees is improper and inconsistent with Florida law. In addition, it is noteworthy that the School Board is currently being audited by the Auditor General of Florida; the same Auditor General that has consistently concluded that a local government cannot use impact fees to pay down unrelated debt.

Recently, an operational audit on Lake County and found “... that transfers did not appear to be for authorized purposes as the $10.3 million was used to service debt that predated approval of the 2016-17 fiscal year impact fee.”iv The Auditor General was troubled by the use of impact fees to pay Certificate of Participation for projects in years 2003, 2005, 2006, 2012, 2014, and 2015. In the Lake County audit, the Auditor General found that “impact fees were not rationally linked to the educational infrastructure needs of the residents who paid the impact fees assessed for new residential developments.”iv In the case at hand, Broward is also using impact fees to retroactively pay debt for previously approved projects. Some of these projects date back to the 1990s and were refinanced in year 2010.

To date, Broward County has collected, and is continuing to collect impact fees – originally intended for new capital projects - to pay existing, unrelated debt service for previously-approved projects under its Master Lease Program. There is no correlation of debt incurred by the School Board is related or directly proportionate in benefits to future residents in new residential communities. Most troubling is that fact that some of this debt dates back to 1990, and School Board relied on the same outside counsel that
Lake County relied. Both counties relied on the same attorney, at the same firm, and used the same legal logic. In fact, the School Board’s outside counsel legal memorandum is almost verbatim in the Lake County audit and the case at hand in Broward County.

CONCLUSION

In light of the above, the School Board’s use of our impact fee payments will solely benefit currently-enrolled students (housed in portables) and/or the School Board is improperly using impact fees to pay debt for unrelated projects stemming from a 1990 Master Plan. To date, there is no capital outlay for school additions that will benefit new homeowners, and the planned investment (conversion of portables) was triggered by population growth from new residential communities. It is also undisputed that all schools have student capacity that will only grow over time. This unlawful practice started when money dried up because of the Great Recession and the increase of charter schools that contributes to traditional public school decline.

In closing, the C&E DC respectfully request an answer to our letter and concerns raised here in.

Regards,

Skeet Jemigan, President

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11 See Broward County School Board Planning Tool for Cypress Bay High School: https://webapp.browardschools.com/schoolenrollment/Default.aspx?id=245
12 See Broward County School Board Planning Tool for Flanagan High School: https://webapp.browardschools.com/schoolenrollment/Default.aspx?id=68
13 See Broward County School Board Planning Tool Falcon Cove Middle School: https://webapp.browardschools.com/schoolenrollment/Default.aspx?id=66
15 *Id at page 3.
List of School Districts Using
School Impact Fee
Revenues for Debt Service

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<th>No.</th>
<th>School District</th>
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Source: Tindale Oliver 2019

Note: Alachua County Administrative Manual allows for this - not sure if they actually used it.
Legislative Update
<table>
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<tr>
<th>Bill Number</th>
<th>Related Bill(s)</th>
<th>Key Issues</th>
<th>Potential Impact to the Broward County Public Schools (BCPS) Department/District</th>
<th>FPRE Staff Recommended Action</th>
<th>Status of Bill</th>
<th>Date Bill would potentially become effective</th>
<th>Comments</th>
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<tr>
<td>SB 144</td>
<td>HB 207</td>
<td>The bills require local governments to specifically earmark funds collected by the impact fees for use in acquiring, constructing or improving capital facilities to benefit the &quot;new users.&quot; The legislation prohibits the use of impact fee revenues to pay existing debt or for prior approved projects, unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or commercial construction. Would prevent School District from spending impact fee dollars to pay existing or prior debt service.</td>
<td>Oppose Informed Capital Budget to review for potential impact</td>
<td>12/13/2018 Senate • Filed 1/10/2019 Senate • Referred to Community Affairs; Finance and Tax; Appropriations - 2/5/2019 Senate • On Committee agenda-- Community Affairs 2/28/2019 Senate • On Committee agenda-- Community Affairs; 3/5/2019 Senate • Introduced -SJ 42 • Favorable by Community Affairs; YEAS 5 NAYS 0 3/6/2019 Senate • Now in Finance and Tax 3/11/2019 Senate • Finance and Tax, 03/20/19, 1:30 pm, 401 Senate Building 3/20/2019 Senate • Favorable by Finance and Tax; YEAS 8 NAYS 0 3/22/2019 Senate • On Committee agenda-- Appropriations, 3/25/2019 Senate • On Committee agenda-- Appropriations, 3/27/2019 Senate • Favorable by- Appropriations; YEAS 19 NAYS 0 3/28/2019 Senate • Placed on Calendar, on 2nd reading 4/1/2019 Senate • Placed on Special Order Calendar, 04/03/19</td>
<td>7/1/2019</td>
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<td>SB 350</td>
<td>HB 1155</td>
<td>Authorizes local governments to provide waivers of impact fees for affordable housing developments but allows the waiver to be granted without having to use other revenues to offset the action. Negligible, currently BCPS has a school impact fee waiver program, which annually allocates $375 towards school impact fee waivers for affordable housing. Also changes the reporting requirements for impact fees collected.</td>
<td>N/A Informed Capital Budget to review for potential impact</td>
<td>1/16/2019 Senate • Filed 1/25/2019 Senate • Referred to Community Affairs; Infrastructure and Security; Appropriations - SJ 57 2/28/2019 Senate • On Committee agenda-- Community Affairs, 03/05/19, 2:30 pm, 301 Senate Building 3/5/2019 Senate • Introduced - SJ 57 • CS by Community Affairs; YEAS 5 NAYS 0 - SJ 187 3/7/2019 Senate • Pending reference review under Rule 4.7(2) - (Committee Substitute) • Now in Infrastructure and Security • CS by Community Affairs read 1st time - SJ 189</td>
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A bill to be entitled
An act relating to impact fees; amending s. 163.31801, F.S.; revising the minimum requirements for impact fees adopted by a local government; exempting water and sewer connection fees from the Florida Impact Fee Act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 163.31801, Florida Statutes, is amended to read:

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges definitions; ordinances levying impact fees.—

(1) This section may be cited as the “Florida Impact Fee Act.”

(2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments’ reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district adopts an impact fee by resolution, the governing authority complies with this section.

(3) At a minimum, an impact fee adopted by ordinance of a county or municipality or by resolution of a special district...
must satisfy all of the following conditions, at minimum:

(a) Require that The calculation of the impact fee must be based on the most recent and localized data.

(b) The local government must provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity shall account for the revenues and expenditures of such impact fee in a separate accounting fund.

(c) Limit Administrative charges for the collection of impact fees must be limited to actual costs.

(d) The local government must provide notice that no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.

(e) Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.

(f) The impact fee must be reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.

(g) The impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or commercial construction.

(h) The local government must specifically earmark funds collected under the impact fee for use in acquiring,
constructing, or improving capital facilities to benefit new users.

(i) Revenues generated by the impact fee may not be used, in whole or in part, to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or commercial construction.

(4) Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section.

(5) In any action challenging an impact fee, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee meets the requirements of state legal precedent or this section. The court may not use a deferential standard.

(6) This section does not apply to water and sewer connection fees.

Section 2. This act shall take effect July 1, 2019.
A bill to be entitled
An act relating to affordable housing; amending s. 163.31801, F.S.; authorizing local governments to provide exceptions or waivers for impact fees for affordable housing developments; requiring that certain data relating to impact fees be included in the annual financial reports for specified entities; creating s. 420.0007, F.S.; providing a local permit approval process; amending s. 420.5087, F.S.; revising the criteria used by a review committee when evaluating and selecting specified applications for state apartment incentive loans; amending s. 420.5095, F.S.; creating the Community Workforce Housing Loan Program in the place of the Community Workforce Housing Innovation Pilot Program to provide workforce housing for essential services personnel affected by the high cost of housing; redefining the term “workforce housing”; deleting definitions; authorizing the Florida Housing Finance Corporation to provide loans under the program to applicants for construction of workforce housing; requiring the corporation to establish a certain loan application process; requiring projects to receive priority consideration under certain circumstances; requiring that the corporation award loans at a specified interest rate and for a limited term; amending s. 420.9071, F.S.; revising the definition of the term “local housing incentive strategies”; reenacting s. 193.018(2), F.S., relating to land owned by a community land trust used
to provide affordable housing, to incorporate the amendment made to s. 420.5095, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (6) and (7) are added to section 163.31801, Florida Statutes, to read:

163.31801 Impact fees; short title; intent; definitions; ordinances levying impact fees.—

(6) A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as defined in s. 420.9071. If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact.

(7) In addition to the items that must be reported in the annual financial reports under s. 218.32, counties, municipalities, and special districts must report all of the following data on all impact fees charged:

(a) The specific purpose of the impact fee, including the specific infrastructure needs to be met, such as transportation, parks, water, sewer, and schools.

(b) The impact fee schedule policy describing the method of calculating impact fees, such as flat fees, tiered scales based on number of bedrooms, or tiered scales based on square footage.

(c) The amount assessed for each purpose and for each type of dwelling.

(d) The total amount of impact fees charged by type of
(e) Each exception and each waiver provided for affordable housing developments.

Section 2. Section 420.0007, Florida Statutes, is created to read:

420.0007 Local permit approval process for affordable housing.—

(1) A local government has 15 days after the date it receives an application for a development permit, a construction permit, or a certificate of occupancy for affordable housing to examine the application and notify the applicant of any apparent errors or omissions and to request any additional information that the local government is authorized by law to require.

(2) If a local government does not request additional information within the timeframe specified in subsection (1), the local government may not deny a development permit, construction permit, or certificate of occupancy for affordable housing if the applicant has failed to correct the error or the omission or to supply additional information.

(3) The local government may require any additional requested information to be submitted not later than 10 days after the date of the notice specified in subsection (1).

(4) For good cause shown, the local government shall grant a request for an extension of time for submitting the additional information.

(5) An application is complete upon receipt of all requested information and upon the correction of any error or omission for which the applicant was timely notified or when the time for notification has expired.
The local government shall approve or deny an application for a development permit, a construction permit, or a certificate of occupancy for affordable housing within 60 days after receipt of a completed application unless a shorter period of time for action by local government is provided by law.

If the local government does not approve or deny an application for a development permit, a construction permit, or a certificate of occupancy for affordable housing within the 60-day, or a shorter, time period, the permit is considered approved and the local government shall issue the development permit, the construction permit, or the certificate of occupancy, which may include reasonable conditions as authorized by law.

An applicant for a development permit, a construction permit, or a certificate of occupancy seeking to receive a permit by default under this section must notify the local government in writing of the intent to rely upon the default approval provision of this section but may not take any action based upon the default development permit, construction permit, or certificate of occupancy until the applicant receives notification or a receipt that the local government received the notice. The applicant must retain the notification or the receipt.

Section 3. Paragraph (c) of subsection (6) of section 420.5087, Florida Statutes, is amended to read:

420.5087 State Apartment Incentive Loan Program.—There is hereby created the State Apartment Incentive Loan Program for the purpose of providing first, second, or other subordinated mortgage loans or loan guarantees to sponsors, including for-
profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.

(6) On all state apartment incentive loans, except loans made to housing communities for the elderly to provide for lifesafety, building preservation, health, sanitation, or security-related repairs or improvements, the following provisions shall apply:

(c) The corporation shall provide by rule for the establishment of a review committee for the competitive evaluation and selection of applications submitted in this program, including, but not limited to, the following criteria:

1. Tenant income and demographic targeting objectives of the corporation.

2. Targeting objectives of the corporation which will ensure an equitable distribution of loans between rural and urban areas.

3. Sponsor’s agreement to reserve the units for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, for a time period that exceeds the minimum required by federal law or this part.

4. Sponsor’s agreement to reserve more than:
   a. Twenty percent of the units in the project for persons or families who have incomes that do not exceed 50 percent of the state or local median income, whichever is higher; or
   b. Forty percent of the units in the project for persons or families who have incomes that do not exceed 60 percent of the state or local median income, whichever is higher, without requiring a greater amount of the loans as provided in this section.
5. Provision for tenant counseling.

6. Sponsor’s agreement to accept rental assistance certificates or vouchers as payment for rent.

7. Projects requiring the least amount of a state apartment incentive loan compared to overall project cost, except that the share of the loan attributable to units serving extremely-low-income persons must be excluded from this requirement.

8. Local government contributions and local government comprehensive planning and activities that promote affordable housing and policies that promote access to public transportation, reduce the need for onsite parking, and expedite permits for affordable housing projects as provided in s. 420.0007.


10. Economic viability of the project.

11. Commitment of first mortgage financing.

12. Sponsor’s prior experience.

13. Sponsor’s ability to proceed with construction.

14. Projects that directly implement or assist welfare-to-work transitioning.

15. Projects that reserve units for extremely-low-income persons.

16. Projects that include green building principles, storm-resistant construction, or other elements that reduce long-term costs relating to maintenance, utilities, or insurance.

17. Job-creation rate of the developer and general contractor, as provided in s. 420.507(47).

Section 4. Section 420.5095, Florida Statutes, is amended to read:
420.5095 Community Workforce Housing Loan Innovation Pilot Program.—

(1) The Legislature finds and declares that recent rapid increases in the median purchase price of a home and the cost of rental housing have far outstripped the increases in median income in the state, preventing essential services personnel from living in the communities where they serve and thereby creating the need for innovative solutions for the provision of housing opportunities for essential services personnel.

(2) The Community Workforce Housing Loan Innovation Pilot Program is created to provide affordable rental and home ownership community workforce housing for essential services personnel affected by the high cost of housing, using regulatory incentives and state and local funds to promote local public-private partnerships and leverage government and private resources.

(3) For purposes of this section, the term:

(a) “workforce housing” means housing affordable to natural persons or families whose total annual household income does not exceed 80% 140% percent of the area median income, adjusted for household size, or 120% 150% percent of area median income, adjusted for household size, in areas of critical state concern designated under s. 380.05, for which the Legislature has declared its intent to provide affordable housing, and areas that were designated as areas of critical state concern for at least 20 consecutive years prior to removal of the designation.

(b) “Essential services personnel” means persons in need of affordable housing who are employed in occupations or professions in which they are considered essential services personnel.
personnel, as defined by each county and eligible municipality within its respective local housing assistance plan pursuant to s. 420.9075(3)(a).

(c) “Public-private partnership” means any form of business entity that includes substantial involvement of at least one county, one municipality, or one public sector entity, such as a school district or other unit of local government in which the project is to be located, and at least one private sector for-profit or not-for-profit business or charitable entity, and may be any form of business entity, including a joint venture or contractual agreement.

(4) The Florida Housing Finance Corporation is authorized to provide loans under the Community Workforce Housing Innovation Pilot program loans to applicants an applicant for construction or rehabilitation of workforce housing in eligible areas. This funding is intended to be used with other public and private sector resources.

(5) The corporation shall establish a loan application process under s. 420.5087 by rule which includes selection criteria, an application review process, and a funding process. The corporation shall also establish an application review committee that may include up to three private citizens representing the areas of housing or real estate development, banking, community planning, or other areas related to the development or financing of workforce and affordable housing.

(a) The selection criteria and application review process must include a procedure for curing errors in the loan applications which do not make a substantial change to the proposed project.
(b) To achieve the goals of the pilot program, the application review committee may approve or reject loan applications or responses to questions raised during the review of an application due to the insufficiency of information provided.

(c) The application review committee shall make recommendations concerning program participation and funding to the corporation’s board of directors.

(d) The board of directors shall approve or reject loan applications, determine the tentative loan amount available to each applicant, and rank all approved applications.

(e) The board of directors shall decide which approved applicants will become program participants and determine the maximum loan amount for each program participant.

(f) The corporation shall provide incentives for local governments in eligible areas to use local affordable housing funds, such as those from the State Housing Initiatives Partnership Program, to assist in meeting the affordable housing needs of persons eligible under this program. Local governments are authorized to use State Housing Initiative Partnership Program funds for persons or families whose total annual household income does not exceed:

(a) One hundred and forty percent of the area median income, adjusted for household size; or

(b) One hundred and fifty percent of the area median income, adjusted for household size, in areas that were designated as areas of critical state concern for at least 20 consecutive years prior to the removal of the designation and in areas of critical state concern, designated under s. 380.05, for
which the Legislature has declared its intent to provide affordable housing.

(7) Funding shall be targeted to innovative projects in areas where the disparity between the area median income and the median sales price for a single-family home is greatest, and where population growth as a percentage rate of increase is greatest. The corporation may also fund projects in areas where innovative regulatory and financial incentives are made available. The corporation shall fund at least one eligible project in as many counties and regions of the state as is practicable, consistent with program goals.

(6)(8) Projects must be given shall receive priority consideration for funding if where:

(a) The local jurisdiction has adopted, or is committed to adopting, appropriate regulatory incentives, or the local jurisdiction or public-private partnership has adopted or is committed to adopting local contributions or financial strategies, or other funding sources to promote the development and ongoing financial viability of such projects. Local incentives include such actions as expediting review of development orders and permits, supporting development near transportation hubs and major employment centers, and adopting land development regulations designed to allow flexibility in densities, use of accessory units, mixed-use developments, and flexible lot configurations. Financial strategies include such actions as promoting employer-assisted housing programs, providing tax increment financing, and providing land.

(b) Projects are innovative and include new construction or rehabilitation; mixed-income housing; commercial and housing
mixed-use elements; innovative design; green building principles; storm-resistant construction; or other elements that reduce long-term costs relating to maintenance, utilities, or insurance and promote homeownership. The program funding may not exceed the costs attributable to the portion of the project that is set aside to provide housing for the targeted population.

(b) (c) The projects that set aside not more than 50 at least 80 percent of units for workforce housing and at least 50 percent for essential services personnel and for projects that require the least amount of program funding compared to the overall housing costs for the project.

(9) Notwithstanding s. 163.3184(4)(b) (d), any local government comprehensive plan amendment to implement a Community Workforce Housing Innovation Pilot Program project found consistent with this section shall be expedited as provided in this subsection. At least 30 days prior to adopting a plan amendment under this subsection, the local government shall notify the state land planning agency of its intent to adopt such an amendment, and the notice shall include its evaluation related to site suitability and availability of facilities and services. The public notice of the hearing required by s. 163.3184(11)(b)2. shall include a statement that the local government intends to use the expedited adoption process authorized by this subsection. Such amendments shall require only a single public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(4)(c). Any further proceedings shall be governed by s. 163.3184(5) (13).

(10) The processing of approvals of development orders or
development permits, as defined in s. 163.3164, for innovative community workforce housing projects shall be expedited.

(7) The corporation shall award loans with interest rates set at 1 to 3 percent interest rate for a term that does not exceed 15 years, which may be made forgivable when long-term affordability is provided and when at least 80 percent of the units are set aside for workforce housing and at least 50 percent of the units are set aside for essential services personnel.

(12) All eligible applications shall:

(a) For home ownership, limit the sales price of a detached unit, townhome, or condominium unit to not more than 90 percent of the median sales price for that type of unit in that county, or the statewide median sales price for that type of unit, whichever is higher, and require that all eligible purchasers of home ownership units occupy the homes as their primary residence.

(b) For rental units, restrict rents for all workforce housing serving those with incomes at or below 120 percent of area median income at the appropriate income level using the restricted rents for the federal low-income housing tax credit program and, for workforce housing units serving those with incomes above 120 percent of area median income, restrict rents to those established by the corporation, not to exceed 30 percent of the maximum household income adjusted to unit size.

(c) Demonstrate that the applicant is a public-private partnership in an agreement, contract, partnership agreement, memorandum of understanding, or other written instrument signed by all the project partners.
(d) Have grants, donations of land, or contributions from the public-private partnership or other sources collectively totaling at least 10 percent of the total development cost or $2 million, whichever is less. Such grants, donations of land, or contributions must be evidenced by a letter of commitment, agreement, contract, deed, memorandum of understanding, or other written instrument at the time of application. Grants, donations of land, or contributions in excess of 10 percent of the development cost shall increase the application score.

(e) Demonstrate how the applicant will use the regulatory incentives and financial strategies outlined in subsection (8) from the local jurisdiction in which the proposed project is to be located. The corporation may consult with the Department of Economic Opportunity in evaluating the use of regulatory incentives by applicants.

(f) Demonstrate that the applicant possesses title to or site control of land and evidences availability of required infrastructure.

(g) Demonstrate the applicant’s affordable housing development and management experience.

(h) Provide any research or facts available supporting the demand and need for rental or home ownership workforce housing for eligible persons in the market in which the project is proposed.

(13) Projects may include manufactured housing constructed after June 1994 and installed in accordance with mobile home installation standards of the Department of Highway Safety and Motor Vehicles.

(8)(14) The corporation may adopt rules pursuant to ss.
120.536(1) and 120.54 to implement this section.

(15) The corporation may use a maximum of 2 percent of the annual program appropriation for administration and compliance monitoring.

(16) The corporation shall review the success of the Community Workforce Housing Innovation Pilot Program to ascertain whether the projects financed by the program are useful in meeting the housing needs of eligible areas and shall include its findings in the annual report required under s. 420.511(3).

Section 5. Subsection (16) of section 420.9071, Florida Statutes, is amended to read:

420.9071 Definitions.—As used in ss. 420.907-420.9079, the term:

(16) “Local housing incentive strategies” means local regulatory reform or incentive programs to encourage or facilitate affordable housing production, which include at a minimum, expediting development permits, as defined in s. 163.3164, for affordable housing projects as provided in s. 420.0007 assurance that permits for affordable housing projects are expedited to a greater degree than other projects, as provided in s. 163.3177(6)(f)3.; an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption; and a schedule for implementing the incentive strategies. Local housing incentive strategies may also include other regulatory reforms, such as those enumerated in s. 420.9076 or those recommended by the affordable housing advisory committee in its triennial evaluation of the implementation of affordable housing
Section 6. For the purpose of incorporating the amendment made by this act to section 420.5095, Florida Statutes, in a reference thereto, subsection (2) of section 193.018, Florida Statutes, is reenacted to read:

193.018 Land owned by a community land trust used to provide affordable housing; assessment; structural improvements, condominium parcels, and cooperative parcels.—

(2) A community land trust may convey structural improvements, condominium parcels, or cooperative parcels, that are located on specific parcels of land that are identified by a legal description contained in and subject to a ground lease having a term of at least 99 years, for the purpose of providing affordable housing to natural persons or families who meet the extremely-low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004, or the income limits for workforce housing, as defined in s. 420.5095(3). A community land trust shall retain a preemptive option to purchase any structural improvements, condominium parcels, or cooperative parcels on the land at a price determined by a formula specified in the ground lease which is designed to ensure that the structural improvements, condominium parcels, or cooperative parcels remain affordable.

Section 7. This act shall take effect July 1, 2019.
February 13, 2019 Workshop Presentation to New Oversight Committee Members Draft Minutes
1. Call to Order

Leslie Brown, Chief Portfolio Services Officer, called the meeting to order at 10.30 a.m. She advised that the room had been reserved for this meeting until 11:30 a.m.

2. Roll Call

Linda Houchins advised that Timothy Curtin and Keven Klopp were in attendance, and School Board Member Lori Alhadeff, Commissioner Bill Harris and Commissioner Lamar Fisher would not be attending the meeting. She said that Commissioner Fisher had sent Mabel Hurtago as his designee.

3. PowerPoint Presentation – Student Generation Rate and Impact Fee Study Review

Ms. Brown welcomed those in attendance and suggested that “Community Input” be added as Item No. 4 on the agenda to give community members an opportunity to speak. She advised that community members would have three (3) minutes to speak. She advised that the meeting was being recorded and that the minutes for the meeting would be made available upon finalization.

Ms. Brown gave the background of the Student Generate Rate/School Impact Fee Study (Study). She stated that the Interlocal Agreement for Public School Facility Planning (ILA) is the document used in assessing and collecting student generation rates and school impact fees through community organizations and through Broward County. She stated that the District is required to update the Study every three (3) years. Ms. Brown talked about the past three (3) Studies. She said in 2010, the Study was not approved by Broward County because of concerns regarding the methodology utilized in developing the Study and therefore, between 2007 and 2014, there were no increases made to the school impact fees. Ms. Brown stated that the 2014 Study was approved by Broward County, and the fees were phased in over a two (2) year period. She said that the 2017 Draft Study is the present cycle. Mr. Klopp asked if there was anything other than the ILA that sets the three (3) year time frame. Ms. Brown said that the District’s School Board Policy 1161 must be revised when the ILA is amended, and that the ILA is the Agreement that set the three (3) year time frame. Mr. Curtin asked whether the 2017 Study had been signed or approved.
Ms. Brown answered that the School Board had given staff direction to move the 2017 Study forward to the Oversight Committee. She said the Oversight Committee will decide whether to make additional recommendations regarding the Draft Study to the School Board; and once approved by the School Board, the Draft Study will move to Broward County for approval. She said the 2017 Draft Study was on hold and had not gone to the County for approval.

Ms. Brown talked about the calculation of School impact fees and stated that it was a very clinical and specifically documented calculation process. She said that the calculation of the fees included the cost of facilities, the proportionate fair share, the size of the development, the impact and the land value. She stated that capital costs included in the Study have to do with education only. Ms. Brown said that the Study gives the basic methodology used, shows where the data came from, how the data was broken down by individual units, and also calculated how much it has cost the District to build a classroom. She said that the calculations include the higher costs of a facility, the transportation costs and the cost of the land, and said it was important to understand that even though the calculations are capital costs that a new development creates for the District, impact fees are not used to buy buses. Ms. Brown said the Study was conducted based on the most current and localized data available and advised that is why the Study is done in a three (3) year cycle. She said the Oversight Committee has talked about changing the cycle to every five (5) years. Ms. Brown talked about the process involved in the update of the Study including community outreach meetings held during the process.

Ms. Brown stated that an external consultant was used in updating the Study. She said that all the available housing data was used along with the rate of new homes and housing data over a six (6) year period. Ms. Brown stated that there was a 27% higher rate of costs per student than was projected in the 2014 Study. She said the Draft Study also found that students are residing in all dwelling unit types as compared to previous studies. Ms. Brown said that a very specific Geographic Information System (GIS) methodology was used in the Draft Study that pinpoints where a child lives on a GIS map. Brief discussions followed regarding the shift of where students are now residing.

Ms. Brown talked in depth about the key issues raised regarding the Study Update and the resolution of those issues including the methodology used, the significant school impact fee increases in certain unit categories, and the use of school impact fees to pay for debt service due to past school construction (Slide 6 and Slide 12 of the PowerPoint Presentation). She talked about the fact that the impact fee dollars must go back into the communities in the four (4) impact fee zones where those dollars were generated. Mr. Klopp said that in the first issue raised regarding resolution of the methodology, comments stated “to the satisfaction of all stakeholders” while the remaining issues did not have that statement, and he asked if the other resolutions had been found satisfactory in general? Ms. Brown said within different groups there may be agreement or there may not be agreement. She stated that the Study does meet the School Impact Fee Act of 2006 and is the methodology used in all the Studies across the State of Florida. Mr. Klopp asked if the consultant had been asked to subtract out the transportation cost components to see what impact it would have on the overall findings. Ms. Brown answered that the consultant was not asked to subtract the transportation costs.
Ms. Brown gave the reasons for the District’s continued reliance on impact fees and the financial challenges the School Board continues to experience. She said there has been significant cost increases over the years and those increases are expected to continue.

Ms. Brown gave some general information regarding how the District has been working with the Oversight Committee regarding the Relocatable Reduction Plan. She said with direction from the Oversight Committee, staff has developed a clear Relocatable Reduction Plan over the last four (4) years which has shifted space utilization in the District in a positive way. Ms. Brown said the information is included in the District Educational Facilities Plan (DEFP) which is adopted by each Municipality. Mr. Klopp asked what the dedicated funding support has been over those four (4) years and if it has been consistent. Ms. Brown answered that the funding support has been consistent until this current year when additional pressure has been placed on District resources. She said the Relocatable Reduction Plan has been a great work and is a true part of the DEFP and that she appreciates the Oversight Committee’s help on getting the Plan started.

Ms. Brown talked about the Student Success Opportunity Schools (SSOS) and said that much work has been done in consolidating and redesigning schools to meet the needs of the community. She said that the community has been very supportive of the SSOS process looking for new opportunities for their schools. Ms. Brown also talked about the General Obligation Bond which is providing critically needed funding to enhance students’ learning environments by investing in existing school facilities. Additionally, she said that the goal of School Board Policy 5000 is to balance student enrollment and the level of service standard. She stated that since the amendment of the ILA in 2010, the School Board has approved forty-one (41) school boundary changes.

Ms. Brown talked about the role of the Oversight Committee and said that the Committee’s core obligation is to generate an annual report on the successes and failures of implementation of the ILA. She said the Committee has been successful in positively impacting implementation of the ILA.

Mr. Klopp asked if the PowerPoint Presentation would be presented at the March 4, 2019 Oversight Committee meeting, and what the specific next steps would be. Ms. Brown stated that the PowerPoint had already been presented to the Oversight Committee, and the March 2019 meeting would look at next steps regarding where the Oversight Committee would like to go with the Draft Study. Mr. Klopp asked what the options were. Ms. Brown said that the District could work with the Chief Financial Officer to again look at the impact fee rates, and staff could go back to the School Board and ask if they are interested in applying a rationale that could be applied across the board. Ms. Brown said she thought the Oversight Committee may look for direction regarding the 2017 Draft Study versus 2020 or they could move the Draft Study forward to Broward County to have them vote for or against the Draft Study. Ms. Brown said she appreciated Mr. Klopp’s recommendation to determine if there might be an opportunity to remove the transportation cost components from the impact fee calculation and said she would discuss that opportunity with the Consultant.
Mr. Curtin said when he looked at the numbers from the 2014 Study and the numbers from the current Draft Study, most increases are 50 percent, some are 100 percent. He said there is a disconnect when he hears there is a 27 percent net increase. Ms. Brown stated that the costs have gone up and those increased costs are multiplied by the number of students that have increased and is a two-pronged calculation. She said that those costs have risen 27 percent and that the first part of the Study, the student generation rate calculation, looks at the costs of construction times the increase in the number of students and the calculation also includes any revenue credit such as funding services to the District. The student generation rate (the number of students), construction costs and credits are put back against that rate.

4. Public Input/Next Steps

Skeet Jernigan, President of the Community and Economic Development Council, stated that the Student Generation Rate/School Impact Fee Studies are very detailed and that it is difficult for the private sector to do an in-depth assessment of them. He said it is also difficult for the public to express their opinions regarding the Studies because they are usually allowed only three (3) minutes to speak. He said that staff has done a good job of demonstrating how the costs for impact fees are calculated, but they have not explained when and how an impact fee can be imposed legally. Mr. Jernigan said the Draft Study shows that there is currently a 10-13 percent student station surplus in the District. He said the unused capacity for the District over the next five (5) years is projected to grow to approximately 20 percent. Mr. Jernigan said it was hard to visualize how the argument could be made legally that development should pay for its impact on the school system by virtue of the number of students that will come from that development and claim there is not space for those students and therefore a fee must be paid. He said that enrollment is dropping and asked how the District can justify capital construction at schools when the student population is dropping. Mr. Jernigan sited Court cases regarding the legal basis for an impact fee, the dual rational nexus test, which says that local government can charge an impact fee if there is a need for capacity that does not exist and in exchange for charging the fee, the local government must provide the capacity that the fee was charged for. Mr. Jernigan said the District relied on its General Counsel and their consultants who stated that the District can legally use impact fee dollars to pay debt service. However, Mr. Jernigan said that impact fee dollars cannot be used to pay debt service. He stated that the Auditor General of the State of Florida in three (3) audits of Miami/Dade, Lee, and Lake Counties said that the District records do not always evidence that impact fees were used only for authorized purposes. Mr. Jernigan said that Broward County has just undergone an audit by the Auditor General’s Office, and the audit has not yet been released.

Jo Sesodia, Director of Planning and Development Management for Broward County pointed out that using the data from the Draft Study, the County’s calculation shows that the student station costs increase is 39 per cent not 27 percent. She also said that it is required that the Board of County Commissioners adopt the impact fees, but it is not required that they adopt the exact recommendations of the School Board, and therefore there is the possibility that the Board of County Commissioners could adopt a lesser amount than the maximum that is set in the Draft Study.
Andrew Disbury, City of North Lauderdale, asked for the Policy Number regarding affordable housing, and Ms. Brown answered that School Board Policy 1161 dealt with affordable housing issues, and Lisa Wight was the contact person for specific information regarding that Policy.

Mr. Jernigan said if anyone had additional questions for him, he could be reached at 954-240-9113.

5. **Adjourn**

The Workshop adjourned at 11:35 a.m.
1. Call to Order and Roll Call

Vice Chair Wight called the March 7, 2019 Staff Working Group (SWG) meeting to order at 9:35 a.m. Linda Houchins took roll call, and the following members were in attendance:

- Buckeye, Rick  
- Carcamo, Alexandra  
- Carpenter, Paul  
- Carrano, Susanne  
- Coyle, Matt  
- Disbury, Andrew  
- Dokuchitz, Peter  
- Hickey, Jim  
- Jacobson, Bonnie  
- Johnson, Ann  
- Kalargyros, Nick  
- Kalus, Evy  
- Lajoie, Corinne  
- Leiva, Fernando  
- Leroy, Vanessa  
- Pinney, Andrew  
- Morris, Carole  
- Swing, Bradley  
- Teetsel, Dawn  
- Wight, Lisa  
- Williams, Sharon  
- Wood, Matthew

Others in attendance at the SWG meeting were as follows:

- Huaman, Leroy  
- Jernigan, Skeet
2. Election of Officers

Vice Chair Wight opened the floor for nominations for the position of Chair of the SWG. Sharon Williams made a motion to nominate Lisa Wight as Chair of the SWG. Rick Buckeye seconded the motion. There were no other nominations for Chair, and nominations were closed. The motion passed unanimously. Chair Wight opened the floor for nominations for the position of Vice Chair of the SWG. Lisa Wight nominated Sharon Williams as Vice Chair of the Committee. Matt Wood seconded the motion. There were no other nominations, and nominations were closed. The motion passed unanimously.

3. Election of Staff Working Group Ex Officio on the Oversight Committee

Chair Wight opened the floor for nominations for the SWG Ex-Officio member on the Oversight Committee. She explained that the Ex-Officio was a non-voting member of the Committee but would provide feedback from the Oversight Committee meetings to the SWG. Chair Wight said that the SWG often gives their expertise to the Oversight Committee, and that the Oversight Committee often asks for the SWG’s opinion on various issues. She stated that the Oversight Committee meets quarterly, and it is important that the Ex-Officio member attend all meetings to represent the voice of the SWG. Sue Carrano nominated Evy Kalus, City of Wilton Manors, for the Ex-Official position on the Oversight Committee. Sharon Williams seconded the motion. There were no other nominations, and nominations were closed. The motion passed unanimously.

4. Addition(s) to the March 7, 2019 Agenda

There were no additions to the March 7, 2019 agenda. Chair Wight stated that Mr. Skeet Jernigan was at the meeting to speak regarding the Draft Student Generation Rate/School Impact Fee Study and suggested that he be allowed to speak on that issue under Item No. 8.2.

5. Approval of the Final Agenda for the March 7, 2019 Meeting

Peter Dokuchitz made a motion to approve the final agenda for the March 7, 2019 meeting. Sharon Williams seconded the motion, and the motion passed unanimously.

6. Approval of Minutes from the December 6, 2018 Meeting

Sharon Williams made a motion to approve the minutes from the December 6, 2018 SWG meeting. Sue Carrano seconded the motion, and the minutes were approved unanimously.

7. Subcommittee Reports (None)

8. Old Business

8.1 Feedback from the January 9, 2019 Oversight Committee Meeting

Chair Wight advised that the January 9, 2019 Oversight Committee meeting was predominantly regarding the Draft Student Generation Rate/School Impact Fee Study (Draft Study). She stated that Item No. 8.1 and 8.2 would be taken together. Chair Wight said the Draft Study went to the School Board for a Workshop, and feedback from the Board was that now was not the right time to
move the Draft Study forward. She said that the Draft Study was tabled for approximately six (6) months. Chair Wight said the next step in moving the Draft Study forward was to send it back to the Oversight Committee for their recommendations. She said there was much discussion regarding whether the Study should be done every three (3) years or every five (5) years and whether a new Study should be started, or whether they should revise the Draft Study and use for the next update. Chair Wight said there were many new members to the Oversight Committee, and the Committee recommended that a Workshop be held for those new members to provide them with education regarding the Draft Study and all of its issues.

Skeet Jernigan, President, Community & Economic Development, said that he has been involved in issues regarding impact fees for many years and is not opposed to the concept of impact fees if they are done legally and correctly. He said that he has serious concerns regarding the school impact fee increases proposed by the School District. Mr. Jernigan talked about the legal challenges involved when Broward County passed the school concurrency ordinance which resulted in the school concurrency proposal in Broward County being repealed because of legal mistakes made. He said the legal basis for an impact fee comes from several Court cases, and he talked about those cases. Mr. Jernigan said the Court’s position was that it is proper for a municipality or county to impose an impact fee if they pass a two-prong dual rational nexus test which says that a fee may be imposed if it is demonstrated that a development impacted the system and that system did not have the capacity to accommodate that impact; but, he continued, if a fee is charged, a facility must be constructed that was necessitated by the growth from that development. Mr. Jernigan said the Draft Study shows that the Broward County School System currently has between 10 and 20 percent surplus capacity. Additionally, he said that between 2010 and 2017 the School District spent $40,500,000 of school impact fee dollars to pay old debt service dating back to the 1990’s, and no fees were spent to build new capacity. Mr. Jernigan said for the School District to ask for an increase in school impact fees that are not necessary and which have not previously been spent correctly, shows that the impact fees are improper and possibility illegal. He said that the District’s bond attorney advised the District that impact fee dollars can be spent on debt service, but stated that the Auditor General for the State of Florida after auditing Miami/Dade, Lee and Lake Counties has stated that spending school impact fee dollars to pay debt service is an inappropriate use of the funds and that the expenditures should either be justified to the Department of Education or returned to the impact fee line item in the Districts’ budgets. Mr. Jernigan said he believes the proposal to increase school impact fees is not proper or legally justified and that the current level of impact fee collections is also improper and not legally justified. He said that impact fees are not a funding source for the school system, are not intended to replace costs by the legislature, supplement the tax base and they must be done legally and properly, and he stated that what is being proposed by the School District is not legal or proper.

Discussions followed regarding Senate Bill 144, neighborhood schools, addressing county-wide capacity, domino boundary changes and funding to address the county-wide capacity issues.

Chair Wight talked about student generation rates and said there had been an eleven (11) year span without updating the school impact fees prior to school concurrency, so the numbers were antiquated. She said in response to those antiquated numbers, the Oversight Committee had requested to require in the ILA that the Study be done every three (3) years. Chair Wight said that currently the District is finding that every three (3) years may be too often. Ms. Wight stated that at the last SWG meeting, she had asked whether the Committee was opposed to doing the SGR/SIF Study every five (5) years. She said she had not heard any opposition to the five (5) year request but said the SWG wanted the remaining issues with the Draft Study to be resolved first. Discussions followed regarding the correlation between housing unit type, bedroom mix and
students generated. Chair Wight stated that the Draft Study looked at how many students are generated by unit type. She said that most counties in Florida determine the impact fees by square feet per unit or by single family versus multi-family, but Broward County determines the fees by bedroom mix and unit type. Discussions continued, and the question was asked whether Broward County could adopt just the student generation rates portion of the Study because the data of how development is generating students needs to be current. Mr. Jernigan said that the adoption of an impact fee is a legislative action by the local government. He said the Draft Study does two (2) things; it identifies how many students are coming from different housing types with different bedroom mixes, and it calculates what the cost would be to put that student in a school. Mr. Jernigan said that the County does not have to adopt both parts of the Draft Study. Chair Wight said there seemed to be consensus from the SWG that it is important to update the new student generation rates. Bonnie Jacobson, City of Deerfield Beach, made a motion that regardless of what the outcome is regarding the school impact fee portion of the Draft Study, that the Student Generation Rates portion of the Draft Study should be adopted and moved forward for planning purposes. Sharon Williams, City of Pembroke Pines, seconded the motion, and the motion passed unanimously. Evy Kalas agreed to bring that message to the Oversight Committee.

8.2 Status – Draft Student Generation Rate/School Impact Fee Study

See Item No. 8.1 above.

8.3 New Collocation Facilities

The Municipalities had no new collocation facilities to report. Chair Wight advised that at Olsen Middle School in the City of Dania Beach, the City is proposing to do improvements on the land through a Recreation Lease Agreement which proposes that during school hours the improvements will be part of the school, and after-school hours it will be a community park. The SWG asked that a Presentation on that subject be added to the next SWG meeting agenda.

8.4 Status – Broward County and Municipal Comprehensive Plans and Land Development Codes/Regulations

Brad Swing stated that the City of Sunrise had completed their Comprehensive Plan. Evy Kalus said that the City of Wilton Manors Comprehensive Plan will go to the City Commission on March 12, 2019, and that they are in the process of updating the Evaluation and Appraisal Report and the Land Development Code. Chair Wight asked the SWG to provide approval dates to Linda Houchins.

8.5 Update on Broward County and Municipalities Evaluation and Appraisal Report

Sue Carrano advised that March 28, 2019 at 10:00 a.m. is the adoption date for Broward County’s Comprehensive Plan. She said the anticipated effective date will be early May 2019.
9. **New Business**

9.1 **Citizen’s Advisory Committee Appointment for Broward Metropolitan Planning Organization (MPO)**

Chair Wight said that she sits on the Technical Advisory Committee for the Broward MPO. She said that the School Board has a position to fill on another MPO Committee, the Citizens Advisory Committee (CAC) and asked the SWG if they could recommend any active citizens who may be interested in sitting on the CAC who are Broward County residents. The following names were recommended:

John Perez, City of Plantation  
Justin Profitt  
Lew Naylor

10. **Next Staff Working Group Meeting**

10.1 **June 6, 2019 (Regularly Scheduled Quarterly Meeting)**

Chair Wight advised that the next SWG meeting was scheduled for June 6, 2019. Paul Carpenter said there is a blank signature page in the executed and approved Third Amended and Restated ILA (TRILA) and asked whether the document was considered a fully executed copy. Chair Wight advised that the City of Margate had denied approval of the TRILA but said even though the City did not approve the TRILA, the Agreement was still effective in that City. She said she would reach out to the City and make the request that they sign the signature page.

11. **Adjourn**

Chair Wight adjourned the meeting at 10:33 a.m.

Respectfully submitted by:

____________________________________  ____________________________________
Lisa Wight, Chair  Linda Houchins, Recording Secretary