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Memo

To: Honorable Mayor and Village Council

From: Chad S. Friedman, Assistant Village Attorney

Date: November 21, 2008

Subject: Public School Concurrency Comprehensive Plan Amendments

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On July 8, 2008, the Village Council approved on first reading comprehensive plan amendments necessary to implement public school concurrency. As previously provided, the Florida Legislature recently mandated that public school concurrency be adopted by all Florida school boards, counties and non-exempt municipalities by the end of 2008. See, Sections 163.3177(12)(i) and 163.3180(13), Florida Statutes. The Village does not meet the statutory requirement for an exempt municipality because the Village has a public school (Key Biscayne K-8 Center) within its municipal boundaries. "School concurrency" means that public school facilities will be required to be in place at the time that the impacts of residential development are felt, similar to the existing concurrency requirements for water, sewer, roads, drainage, parks and recreation and other public facilities. School concurrency will be tested at the time of subdivision or site plan approval (or functional equivalent), and is a function of the size, type and location of the residential development.

After first reading, the proposed comprehensive plan amendments were transmitted to the Department of Community Affairs (DCA) for review and comment in accordance with state law. In late September, the DCA issued its Objections, Recommendations, and Comments Report (the "ORC") to the Village. In response to the ORC, two minor modifications were made to the proposed comprehensive plan amendments. These modifications are located within the Public School Facilities Element (PSFE-2F) and Capital Improvements Element (Policy 1.5.4) and are identified as double underlined for additions and double strike through for deletions.

It is recommended that the Village adopt these comprehensive plan amendments in order to be in compliance with state law.

ORDINANCE NO. 2008-

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING THE VILLAGE COMPREHENSIVE PLAN BY CREATING THE PUBLIC SCHOOL FACILITIES ELEMENT, AND AMENDING THE INTERGOVERNMENTAL COORDINATION AND CAPITAL IMPROVEMENTS ELEMENTS IN ORDER TO MEET THE STATE MANDATED REQUIREMENTS OF PUBLIC SCHOOL CONCURRENCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2005 the Florida Legislature adopted Senate Bill 360, which, in relevant part, required all non-exempt local governments to adopt the necessary comprehensive plan amendments to establish public school concurrency by 2008; and

WHEREAS, given that the Village is not exempt from public school concurrency, Village staff recommends the creation of the Public School Facilities Element and amendments to Intergovernmental Coordination, and Capital Improvements Elements, attached hereto as Exhibits "A," "B," and "C," within the Comprehensive Plan in order to meet the state mandated requirements of public school concurrency; and

WHEREAS, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed hearing on July 8, 2008, and recommended transmittal to DCA; and

WHEREAS, the Village Council has reviewed this Ordinance at duly noticed hearings and determined that it is consistent with the City's comprehensive plan; and

WHEREAS, the Village Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Creation of the Public School Facilities Element. The Village Council hereby creates the Public School Facilities Element within the Comprehensive Plan, as provided in Exhibit "A," in order to meet the state mandated requirements of public school concurrency.

Section 3. **Amendment to the Intergovernmental Coordination Element.** The Village Council hereby amends the Intergovernmental Coordination Element within the Comprehensive Plan, as provided in Exhibit "B," in order to meet the state mandated requirements of public school concurrency.

Section 4. Amendment to the Capital Improvements Element. The Village Council hereby amends the Capital Improvements Element within the Comprehensive Plan, as provided in Exhibit "C," in order to meet the state mandated requirements of public school concurrency.

Section 5. **Severability**. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Conflicts. All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 7. Effective Date. This Ordinance shall be effective immediately upon passage by the Village Council on second reading, except that the effective date of these plan amendments approved by this Ordinance shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the plan amendments in compliance in accordance

with Section 163.3184, Florida Statutes, whichever occurs earlier. The Department of Community Affairs notice of intent to find the plan amendments in compliance shall be deemed to be a final order if no timely petition challenging the plan amendments is filed.

PASSED AND ADOPTED on first reading this _8th_ day of _July_, 2008.

PASSED AND ADOPTED on second reading this _9th_ day of _December_, 2008.

_____
MAYOR ROBERT L. VERNON

ATTEST:

_____
CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
VILLAGE ATTORNEY

EXHIBIT "A"

PUBLIC SCHOOL FACILITIES ELEMENT[1]

GOAL

DEVELOP, OPERATE, AND MAINTAIN A SYSTEM OF PUBLIC EDUCATION BY MIAMI-DADE COUNTY PUBLIC SCHOOLS, IN COOPERATION WITH THE COUNTY AND OTHER APPROPRIATE GOVERNMENTAL AGENCIES, WHICH WILL STRIVE TO IMPROVE THE QUALITY AND QUANTITY OF PUBLIC EDUCATIONAL FACILITIES AVAILABLE TO THE CITIZENRY OF THE VILLAGE AND OTHER LOCAL GOVERNMENTS WITHIN THE COUNTY.

Objective PSFE-1

Work towards the reduction of the overcrowding which currently exists in the Miami-Dade County Public Schools, while striving to attain an optimum level of service pursuant to Objective PSFE-2. Provide additional solutions to overcrowding so that countywide enrollment in Miami-Dade County's public schools will meet state requirements for class size by September 1, 2010.

Policies

PSFE-1A. Cooperate with the Miami-Dade County Public Schools in their efforts to continue to provide new student stations through the Capital Outlay program, in so far as funding is available.

PSFE-1B. Collect impact fees from new development for transfer to the Miami-Dade County Public Schools to offset the impacts of these additional students on the capital facilities of the school system.

PSFE-1C. Cooperate with the Miami-Dade County Public Schools in their efforts to develop and implement alternative educational facilities, such as primary learning centers, which can be constructed on small parcels of land and relieve overcrowding at elementary schools, in so far as funding and rules permit.

PSFE-1D Cooperate with the Miami-Dade County Public Schools in their efforts to provide public school facilities to the students of the Village, which operate at optimum capacity, in so far as funding available. Operational alternatives may be developed and implemented, where appropriate, which

[1] Changes made in response to the Department of Community Affairs (DCA) Objections, Reccomendations, and Comments Report (ORC) are shown as follows: additions are double underlined and deletions are ~~double strike-through~~.

mitigates the impacts of overcrowding while maintaining the instructional integrity of the educational programs.

PSFE-1E. Cooperate with the Miami-Dade County Public Schools in their efforts to maintain and/or improve the established level of service (LOS), for Public Educational Facilities, as established for the purposes of school concurrency.

PSFE-1F The Village will through the Staff Working Group of the Interlocal Agreement for Public School Facility coordinate with Miami-Dade County Public Schools, and applicable municipalities to review annually the Educational Element and school enrollment projections.

Objective PSFE-2

The Village shall coordinate new residential development with the future availability of public school facilities consistent with the adopted level of service standards for public school concurrency, to ensure the inclusion of those projects necessary to address existing deficiencies in the 5-year schedule of capital improvements, and meet future needs based upon achieving and maintaining the adopted level of service standards throughout the planning period.

Policies

PSFE-2A Public school concurrency shall be applied on a less than district-wide basis in the form of concurrency service areas, except for Magnet Schools where public school concurrency shall be applied on a district wide basis. Level of Service standards for public school facilities apply to those traditional educational facilities, owned and operated by Miami-Dade County Public Schools, that are required to serve the residential development within their established concurrency service area. Level of Service standards do not apply to charter schools. However, the actual enrollment (October Full Time Equivalent (FTE)) of both magnet and charter schools as a percentage of the total district enrollment will be credited against the impact of development.

PSFE-2B The adopted Level of Service (LOS) Standard for all Miami-Dade County Public School facilities is 100% FISH Capacity (With Relocatable Classrooms). This LOS Standard, except for Magnet Schools, shall be applicable in each public school concurrency service area (CSA), defined as the public school attendance boundary established by the Miami-Dade County Public Schools. The adopted LOS standard for Magnet Schools is 100% of FISH (With Relocatable Classrooms) which shall be calculated on a district-wide basis.

PSFE-2C It is the goal of the Village and Miami-Dade County Public Schools for all public school facilities to achieve 100% utilization of Permanent FISH (No Relocatable Classrooms) by January 1, 2018. To help achieve the desired 100% of permanent FISH utilization by 2018, Miami-Dade County Public Schools should continue to decrease the number of relocatable classrooms over time. Public school facilities that achieve 100% utilization of Permanent FISH capacity (No Relocatable Classrooms) should, to the extent possible, no longer utilize relocatable classrooms, except as an operational solution. Relocatable classrooms may be used by the Miami-Dade County Public School System as an operational solution during replacement, renovation, remodeling or expansion of a public school facility; and in the event of a disaster or emergency which prevents the School Board from using a portion of the affected school facility.

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

In the event the adopted LOS standard of the Miami-Dade County Public Schools established CSA cannot be met as a result of a proposed development's impact, the development may proceed provided at least one of the following conditions is met:

1. The development's impact can be shifted to one or more contiguous CSAs that have available capacity and is located, either in whole or in part, within the same Geographic Areas (Northwest, Northeast, Southwest, Southeast, see Figure 1A through 1D) as the proposed development; or

2. The developments' impact is mitigated, proportionate to the demand for public schools it created, through a combination of one or more appropriate proportionate share mitigation options, as defined in Section 163.3180(13)(e)1, Florida Statutes. The intent of these options is to provide for the mitigation of residential development impacts on public school facilities, guaranteed by a legal binding agreement, through mechanisms that include, one or more of the following:

    a. Contribution of land;

    b. The construction, expansion, or payment for land acquisition or construction of a permanent public school facility; or

c. The creation of a mitigation bank based on the construction of a permanent public school facility in exchange for the right to sell capacity credits.

The legally binding proportionate share mitigation agreement is subject to the approval of Miami Dade County School Board and the Village and must be identified in the Miami-Dade County Public School Facilities Work Program.

3. The development's impacts are phased to occur when sufficient capacity will be available.

If none of the conditions are met, the development shall not be approved.

PSFE-2D Concurrency Service Areas (CSA) shall be delineated to: (1) Maximize capacity utilization of the facility; (2) Limit maximum travel times and reduce transportation costs; (3) Acknowledge the effect of court-approved desegregation plans; (4) Achieve socio-economic, racial, cultural and diversity objectives; and (5) Achieve other relevant objectives as determined by the School Board's policy on maximization of capacity. Periodic adjustments to the boundary or area of a CSA may be made by the School Board to achieve the above stated factors. Other potential amendments to the CSAs shall be considered annually at the Staff Working Group meeting to take place each year no later than April 30 or October 31, consistent with Section 9 of the Interlocal Agreement for Public School Facility Planning.

PSFE-2E The Village through the implementation of the concurrency management system and Miami-Dade County Public School Facilities Work Program for educational facilities, shall ensure that existing deficiencies are addressed and the capacity of schools is sufficient to support residential development at the adopted level of service (LOS) standards throughout the planning period in the 5-year schedule of capital improvements.

PSFE-2F ~~The Miami-Dade County Public Schools Facilities Work Program will be evaluated on an annual basis to ensure that the level of service standards will continue to be achieved and maintained throughout the planning period~~. Pursuant to Chapter 163, Florida Statutes, the Miami-Dade County Public Schools 5-Year District Facilities Work Program, developed by Miami-Dade Public Schools and adopted by the Miami-Dade County School Board on September 5, 2007, is incorporated by reference into the Village's Capital Improvement Plan, as applicable. The Village shall coordinate with Miami-Dade County Public Schools to annually update its Facilities Wok Program and/or concurrency service area maps to include existing and anticipated facilities for both the 5-year and long-term

planning periods, and to ensure that the adopted level of service standard will continue to be achieved and maintained. The Village, through its annual updates of the 5-year Capital Improvements Element and Program, will incorporate by reference the latest adopted Miami-Dade County Public Schools Facilities Work Program for educational facilities. The Village, Miami-Dade County Public School, and other local governments will coordinate their planning efforts prior to and during the Village's Comprehensive Land Use Plan amendment process, and during updates to the Miami-Dade County Public Schools Facilities Work Program. The Miami-Dade County Public Schools Facilities Work Program will be evaluated on an annual basis to ensure that the level of service standards will continue to be achieved and maintained throughout the planning period.

Objective PSFE-3

Obtain suitable sites for the development and expansion of public education facilities.

Policies

PSFE-3A. In the selection of sites for future educational facility development, the Village encourages the Miami-Dade County Public Schools to consider whether a school is in close proximity to residential areas and is in that a location that would provide a logical focal point for community activities.

PSFE-3B. Where possible, the Miami-Dade County Public Schools should seek sites which are adjacent to existing or planned public recreation areas, community centers, libraries, or other compatible civic uses for the purpose of encouraging joint use facilities or the creation of logical focal points for community activity.

PSFE-3C. The Village acknowledges and concurs that, when selecting a site, the Miami-Dade County Public Schools will consider if the site meets the minimum size criteria as recommended by the State Department of Education or as determined to be necessary for an effective educational environment.

PSFE-3D. When considering a site for possible use as an educational facility, the Miami-Dade County Public Schools should review the adequacy and proximity of other public facilities and services necessary to the site such as roadway access, transportation, fire flow and portable water, sanitary sewers, drainage, solid waste, police and fire services, and means by

which to assure safe access to schools, including sidewalks, bicycle paths, turn lanes, and signalization.

PSFE-3E. When considering a site for possible use as an educational facility the Miami Dade County Public Schools should consider whether the present and projected surrounding land uses are compatible with the operation of an educational facility.

PSFE-3F. The Village will continue to cooperate with Miami-Dade County Public Schools and adjacent local governments in utilizing Miami-Dade County Public Schools as emergency shelters during county emergencies.

Objective PSFE-4

Miami-Dade County Public Schools will continue to enhance effectiveness of the learning environment.

Policies

PSFE-4A. Miami-Dade County Public Schools is encouraged to continue the design and construction of educational facilities which create the perception of feeling welcome, secure and positive about the students' school environment and experiences.

PSFE-4B. The Miami-Dade County Public Schools is encouraged to continue to design and construct facilities which better provide student access to technology designed to improve learning, such as updated media centers and science laboratories.

PSFE-4C. The Miami-Dade County Public Schools is encouraged to continue to improve existing educational facilities, in so far as funding is available, through renovation and expansion to better accommodate increasing enrollment, new educational programs and other activities, both curricular and extra-curricular.

Objective PSFE -5

The School Board, the Village, and other appropriate jurisdictions shall establish and implement mechanisms for on-going coordination and communication to ensure the adequate provision of public educational facilities.

Policies

PSFE- 5A The Village shall coordinate and cooperate with the Miami-Dade County Public Schools, the State, County, municipalities, and other appropriate agencies to develop or modify rules and regulations in order to simplify

and expedite proposed new educational facility developments and renovations.

PSFE- 5B The location of future educational facilities should occur where capacity of other public facilities and services is available to accommodate the infrastructure needs of the educational facility.

PSFE- 5C The Miami-Dade County Public Schools should coordinate school capital improvement plans with the planned capital improvement projects of the Village, other municipalities, and the County.

PSFE- 5D The Village shall cooperate with the Miami-Dade County Public Schools in their efforts to ensure that they are not obligated to pay for off-site infrastructure in excess of their fair share of the costs.

PSFE- 5E The Village shall work with the County and Miami-Dade Public Schools to periodically review the Educational Facilities Impact Fee Ordinance to strive to ensure that the full eligible capital costs associated with the development of public school capacity (new schools and expansion of existing ones) are identified when updating the impact fee structure. Pursuant to the terms of the state mandated Interlocal Agreement, the County and School Board shall annually review the Ordinance, its formula, the Educational Facilities Impact Fee methodology and technical report, in order to make recommendations for revisions to the Board of County Commissioners.

PSFE- 5F The Village and the Miami-Dade County Public Schools will annually review the Public School Facilities Element and the Village will make amendments, if necessary.

PSFE- 5G The Village shall seek to coordinate with the Miami-Dade County Public Schools in formalizing criteria for appropriate sharing of responsibility for required off-site facility improvements attributable to construction of new public schools or expansion of existing ones. The criteria should be prepared prior to the next full review of the School Impact Fee Ordinance.

PSFE- 5H The Village shall coordinate with the Miami-Dade County Public Schools and local governments to eliminate infrastructure deficiencies surrounding existing school sites.

PSFE- 5I The Village and the Miami-Dade County Public Schools shall coordinate efforts to ensure the availability of adequate sites for the required educational facilities

PSFE- 5J The Village and the Miami-Dade County Public Schools shall coordinate the appropriate roles and responsibilities of affected governmental

jurisdictions in ensuring the timely, orderly and efficient provision of adequate educational facilities.

PSFE- 5K The Village will account for the infrastructure needs of new, planned or expanded educational facilities when formulating and implementing its own capital improvement plans.

Objective PSFE -6

Miami-Dade County Public Schools, in conjunction with the Village and other appropriate agencies, will strive to improve security and safety for students and staff.

Policies

PSFE- 6A Continue to cooperate with the Miami-Dade County Public Schools to develop and/or implement programs and policies designed to reduce the incidence of violence, weapons and vandalism on school campuses. Encourage the design of facilities, which do not encourage criminal behavior and provide clear sight lines from the street.

PSFE- 6B Continue to cooperate with the Miami-Dade County Public Schools to develop and/or implement programs and policies designed to reduce the number of incidents related to hazardous conditions as reported by the Environmental Protection Agency (EPA), the fire marshal, the State Department of Education (DOE), and other appropriate sources.

PSFE- 6C Continue to cooperate with the Miami-Dade County Public Schools to provide for the availability of alternative programs for at-risk students at appropriate public educational facilities.

PSFE- 6D Coordinate with the Miami-Dade County Public Schools and the County to provide for pedestrian and traffic safety in the area of schools, and signalization for educational facilities.

Education Element Map Series:

Consistent with Section 163.3177(12)(g), Florida Statutes, a map showing existing and future conditions is included in the element. Figure 1D has been included in this Element which indicates the location of existing and proposed schools and ancillary facilities over the 5 year planning period. The map was prepared by Miami Dade County and is included, along with maps for existing and proposed public schools in four areas of the County that are generally equivalent to the proposed Educational Impact Fee Benefit Districts in the County's Education Element. The entire map series prepared by Miami

Dade County as part of its support data, inventory and analysis dated October 30, 2007 are hereby adopted by reference.

EXHIBIT "B"

INTERGOVERNMENTAL COORDINATION

GOAL 1 **TO MAINTAIN OR ESTABLISH PROCESSES TO ASSURE COORDINATION WITH OTHER GOVERNMENTAL ENTITIES WHERE NECESSARY TO IMPLEMENT THIS PLAN.**

Objective 1.1 **Coordination with the County Plan and School Board** **9J-5.015(3) (b) 1**

Achieve consistency between the Village plan and both the Metro-Dade County Comprehensive Plan and the City of Miami Comprehensive Plan (and amendments thereto); achieve coordination with the plans of the Dade County School Board. See policies throughout this element for measurability.

Policy 1.1.1

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Policy 1.1.5

Implement activities associated with the Amended and Restated Interlocal Agreement for Public School Facility Planning in Miami-Dade County, including, but not limited to coordinating City, County and School Board plans based upon consistent projections of the amount, type and distribution of population growth and student enrollment; participating in decision-making through floating membership on the School Board's School Site Planning and Construction Committee regarding potential sites for new schools and proposals for significant renovation, the location of relocatables or additions to existing buildings, and potential closure of existing schools; and collaborating to identify options aimed to provide the capacity to accommodate anticipated student enrollment demand associated with increases in residential development potential.

Policy 1.1.6

The Village shall coordinate with the Miami-Dade County Public Schools and other parties to the adopted Amended and Rested Interlocal Agreement for Public School Facility Planning to establish Level of Service Standards (including Interim LOS standards) for public school facilities and any amendments affecting public school concurrency.

EXHIBIT "C"

CAPITAL IMPROVEMENTS ELEMENT[1]

GOAL 1 **TO UNDERTAKE CAPITAL IMPROVEMENTS NECESSARY TO PROVIDE ADEQUATE INFRASTRUCTURE AND A HIGH QUALITY OF LIFE, WITHIN SOUND FISCAL PRACTICES**

Objective 1.1 **The Annual Capital Improvement Program Process** **9J-5.016(3) (6) 1**

Achieve annual Village Council use of this Element as the framework to monitor public facility needs as a basis for annual capital budget and five-year program preparation.

Policy 1.1.6

The Village shall coordinate new residential development with the future availability of public school facilities consistent with the adopted level of service standards for public school concurrency, to ensure the inclusion of those projects necessary to address existing deficiencies in the 5-year schedule of capital improvements, and meet future needs based upon achieving and maintaining the adopted level of service standards throughout the planning period.

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Objective 1.2 **Level of Services and Land Decisions** **9J-5.016 (3) (b) 3**

Achieve coordinated Village use of the Future Land Use Plan, financial analyses in this Element and Level of Service standards in both reviewing development applications and preparing the annual schedule of capital improvements

Policy 1.2.1

The following peak hour Level of Service standards shall be maintained:

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Public School Facilities:

[1] Changes made in response to the Department of Community Affairs (DCA) Objections, Reccomendations, and Comments Report (ORC) are shown as follows: additions are double underlined and deletions are ~~double strike through~~.

Upon public school concurrency becoming effective, the adopted Level of Service (LOS) standard for all Miami-Dade County public school facilities is 100% utilization of Florida Inventory of School Houses (FISH) Capacity (With Relocatable Classrooms). This LOS standard, except for Magnet Schools, shall be applicable in each public school concurrency service area (CSA), defined as the public school attendance boundary established by the Miami-Dade County Public Schools. The adopted LOS standard for Magnet Schools is 100% of FISH (With Relocatable Classrooms), which shall be calculated on a districtwide basis. Level of service standards for public school facilities apply to those traditional educational facilities, owned and operated by the Miami-Dade County Public Schools, that are required to serve the residential development within their established Concurrency Service Area. Level of service standards do not apply to charter schools. However, the capacity of both charter and magnet schools will be credited against the impact of development.

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Objective 1.4 **Concurrency** 9J-5.016(3) (b) 4

Assure the provision of public facilities concurrent with the impacts of development through a concurrency management system to be included in the 1994 land development code.

Policy 1.4.1 9J-5.016 (3) (c) 6

By the date required by state statute or sooner, the Village shall enact and enforce as part of the land development code a concurrency management system which meets the requirements of 9J-5.0055. The concurrency management system shall specify that no development permit shall be issued unless the public facilities necessitated by a development (in order to meet level of service standards specified in the Comprehensive Plan~~Traffic Circulation, Recreation and Open Space, and Infrastructure Policies~~) will be in place concurrent with the impacts of the development or the permit is conditional to assure that they will be in place. The requirement that no development permit shall be issued unless public facilities necessitated by the project are in place concurrent with the impacts of development shall be effective immediately and shall be interpreted pursuant to the following:

1. *Measuring Conformance with the Level-of-Service for water, sewer, solid waste, drainage, traffic, and recreation facilities.*

Public facility capacity availability shall be determined by a set of formulas that reflect the following:

Adding together:

- The total design capacity of existing facilities; plus

- The total design capacity of any new facilities that will become available concurrent with the impact of the development. The capacity of new facilities may be counted only if one or more of the following can be demonstrated:

  (A) For water, sewer, solid waste and drainage:

  (1) The necessity facilities are in place and available at the time a certificate of occupancy is issued, or

  (2) Such approval is issued subject to the condition that is necessary facilities will be in place and available when the impacts of development occur, or

  (3) The new facilities are guaranteed in an enforceable development agreement to be in place when the impacts of development occur. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, Florida Statutes, or an agreement or development order pursuant to Chapter 380, Florida Statutes (the Development of Regional Impact authorization).

  (B) For recreation:

  (1) Paragraphs (1)-(3) under (A) above except that construction may begin up to one year after issuance of a certificate of occupancy.

  (2) The new facilities are the subject of a binding executed contract for the construction of facilities to be completed within one year of the time the certificate of occupancy is issued, or

  (3) A development agreement as outlined in (4) above but requiring construction to begin within one year of certificate of occupancy issuance.

  (C) For traffic:

  (1) Paragraphs (A) (1) through (4) or (B) (2) above except that construction can begin up to three years after the approval date.

(2) No modification of public facility level-of-service standards established by this plan shall be made except by a duly enacted amendment to this plan.

2. Measuring Conformance with the Level of Service for Public School Facilities:

(A) Necessary public school facilities must be in place or under actual construction within three years after issuance of final subdivision or site plan approval, or the functional equivalent.

(B) In the event the adopted Level of Service standard of the Miami-Dade County Public Schools established Concurrency Service Area cannot be met as a result of a proposed development's impact, the development may proceed provided at least one of the following conditions is met:

1. The development's impact can be shifted to one or more contiguous CSAs that have available capacity and is located, either in whole or in part, within the same Geographic Areas (Northwest, Northeast, Southwest, Southeast, see Figure 1A through 1D) as the proposed development; or

2. The developments' impact is mitigated, proportionate to the demand for public schools it created, through a combination of one or more appropriate proportionate share mitigation options, as defined in Section 163.3180(13)(e)1, Florida Statutes. The intent of these options is to provide for the mitigation of residential development impacts on public school facilities, guaranteed by a legal binding agreement, through mechanisms that include, one or more of the following:

    a. Contribution of land;

    b. The construction, expansion, or payment for land acquisition or construction of a permanent public school facility; or

    c. The creation of a mitigation bank based on the construction of a permanent public school facility in exchange for the right to sell capacity credits.

The legally binding proportionate share mitigation agreement is subject to the approval of Miami Dade County School Board and the Village and must be identified in the Miami-Dade County Public School Facilities Work Program.

3. The development's impacts are phased to occur when sufficient capacity will be available.

Objective 1.5 **Funding Capital Improvements** 9J-5.016 (3) (b) 5

The land development code concurrency management system shall reflect both the existing approved Development of Regional Impact development orders; this system shall operate in concert with the capital improvement program, recreation impact fee and drainage utility to assure the funding and provision of needed capital improvements. See policies for measurability.

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Policy 1.5.4
The capital improvements associated with the construction of educational facilities are ~~not addressed in the Village's Capital Improvements Plan, but rather are~~ the responsibility of the Miami-Dade County Public Schools. To address financial feasibility associated with public school concurrency, the Miami-Dade County Public School Facilities Work Program for educational facilities will be incorporated by reference into the Capital Improvements Element.

Policy 1.5.5
The Village shall coordinate with the Miami-Dade County Public Schools, to annually update its Facilities Work Program to include existing and anticipated facilities for both the 5-year and long-term planning periods, and to ensure that the adopted level of service standard, including interim standards, will continue to be achieved and maintained. Miami-Dade County, through its annual update to the Capital Improvements Schedule, will incorporate by reference the latest adopted Miami-Dade County Public Schools Facilities Work Program for educational facilities. Miami-Dade County and the Miami-Dade County Public Schools will coordinate their planning efforts prior to and during the Miami-Dade County Comprehensive Development Master Plan Amendment process and during updates to the Miami-Dade County Public Schools Facilities Work Program.

Policy 1.5.6

Those capital improvements for educational facilities, as listed in the Miami-Dade County Public Schools Facilities Work Program dated September 2007 and adopted by the Miami-Dade School Board, are incorporated by reference into the Capital Improvements Element.