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RESOLUTION NO. 2011-07

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, DENYING THE OPTIONAL AMENDMENTS RECOMMENDED BY THE MIAMI-DADE COUNTY SCHOOL BOARD FOR ADOPTION AS THE FIRST SUPPLEMENTARY AGREEMENT TO THE ADOPTED "AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING IN MIAMI-DADE COUNTY"; PROVIDING FOR THE AUTHORIZATION OF THE VILLAGE MANAGER TO DENIED THE OPTIONAL AMENDMENTS TO THE AMENDED AND RESTATED INTERLOCAL AGREEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Palmetto Bay (hereinafter "the Village"), Miami-Dade County, and the Miami-Dade County School Board recognize their mutual obligation and responsibility for the education, nurturing and general well-being of the children within the Village; and,

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

WHEREAS, Section 163.3177(6)(h)2, Florida Statutes requires each county, all the non-exempt municipalities within that county, and the district school board to establish, by interlocal or other formal agreement executed by all affected entities, joint processes for comprehensive land use and school facilities planning programs; and,

WHEREAS, on February 4th, 2008, the Village adopted the "Amended and Restated Interlocal Agreement for Public Facility Planning" (hereinafter "the Agreement"), establishing joint processes for comprehensive land use and school facilities planning programs, and authorizes the Village Manager to inter into this Interlocal Agreement for the Village; and,

WHEREAS, Section 17 of the Agreement provides that the School Board may enter into a Supplementary Agreement with individual municipalities to address individual circumstances.

WHEREAS, Section 18 of the Agreement provides that should the School Board enter into an agreement with another municipality or County, separate or otherwise, which provides more beneficial terms those agreed to herein, the School Board shall offer the same terms to all other parties to this Interlocal Agreement; and,

WHEREAS, public notice was provided in accordance with the law; and,

WHEREAS, the Village Council finds that entering into this Interlocal Agreement is in the best interest and welfare of the residents of the Village.

1 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**
2 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**
3

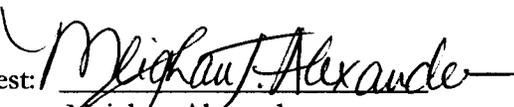
4 **Section 1.** Recitals. The above recitals are true and correct and are incorporated herein
5 by this reference
6

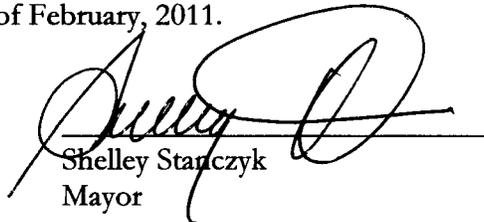
7 **Section 2.** Interlocal Agreement. The Village Council hereby denies the Miami-Dade
8 County School Board recommended "Optional Amendments" to the adopted "Amended
9 and Restated Interlocal Agreement for Public School Facility Planning in Miami-Dade
10 County" in substantially the form attached hereto as Attachment "1".
11

12 **Section 3.** Village Manager Authorization. The Village Manager is authorized to
13 implement the Village Council's denial of the Miami-Dade County School Board
14 recommended "Optional Amendments" to the adopted "Amended and Restated Interlocal
15 Agreement for Public School Facility Planning in Miami-Dade County," in substantially the
16 form attached hereto as Attachment "1".
17

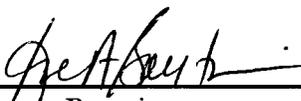
18 **Section 4.** Effective Date. This Resolution shall take effect immediately upon approval.

19 **PASSED and ADOPTED** this 7th day of February, 2011.

20
21 Attest: 
22 Meighan Alexander
23 Village Clerk
24


Shelley Stanczyk
Mayor

25 APPROVED AS TO FORM:
26

27
28 
29 _____
30 Eve A. Boutsis,
31 Village Attorney
32

33 **FINAL VOTE AT ADOPTION:**

34
35 Council Member Patrick Fiore YES
36
37 Council Member Howard Tendrich YES
38
39 Council Member Joan Lindsay YES
40
41 Vice-Mayor Brain W. Pariser YES
42
43 Mayor Shelley Stanczyk YES

Response Form For Optional Amendments Presented for Consideration for Adoption as First Supplementary Agreement

(Please check the appropriate box(es) for the option(s) selected)

1 Section 9.2 (a) Capacity Methodology and Formula for Availability

Add to end of section the requirement to assess effects of geographic areas within one year

2 Section 9.2 (b) Level of Service Standard

- Add after paragraph 4 that MDCPS is to Submit Annual Reports by 9/30; and also revise the next paragraph to read that Amendments to LOS standards must follow the amendment provision of the Agreement

3 Section 9.2 (c) Concurrency Service Areas

Amend third paragraph to require that amendments to CSA are to be accomplished in accordance with amendment provision of the Agreement

4 Section 9.2 (d) Student Generation Multipliers

Amend first paragraph which amends process for developing Student Generation Multipliers and removes requirement of adoption into CDMP

5 Section 9.2 (f) Proportionate Share Mitigation

a) Amend paragraph before listing of options to reiterate that proportionate share mitigation must be approved by the School Board

b) Add Charter Schools as mitigation option No. 6, subject to conditions set forth therein

c) Add process to follow in the event there is lack of agreement on option to be used for mitigation and local governments accepting mitigation if the form of money

6 Section 9.3 Updates to Public School Concurrency

Amend paragraph two and events 1, 3 and 4, for amending the District Facilities Work Program. Also add to end of section language that explains the actions to be taken when the School Board closes an existing school, or delete, modify, or delay a school facility project planned in the first three years of the Work Plan

7 Section 22 Taking and Vested Rights

Add new section that reinforces the fact that nothing in the ILA shall be construed or applied to effect a permanent or temporary taking of private property in violation of the U.S. Constitution or Florida Constitution.

No optional amendments will be selected for adoption

Submitted by: _____



(Print and sign name of authorized official)

Date: _____

2-11-11

Name of Municipality: _____

Village of Palmetto Bay

ATTACHMENT 1

1. If added, the following would be placed at the end of Section 9.2 (a) Assess Effects of Geographic Area

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

"Where the Geographic Areas result in an application being found not to meet concurrency, the staffs shall evaluate whether the following factors exist:

1. The concurrency service area serving the development is bisected by the Geographic Area boundary line;
2. The adjacent concurrency service area, across the Geographic Area boundary line, has the capacity to absorb all of the impacts of the development;
3. The shifting does not result in the adjacent concurrency service area exceeding 95% of its capacity; and
4. The travel distance to the adjacent concurrency service area school is no greater than the travel distance to any adjacent concurrency service area located on the same side of the Geographic Area boundary line as the development.

If all of these factors exist, then proportionate share mitigation shall not be required, and the shifting of impacts across the Geographic Area boundary line shall be automatically allowed."

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

2. If added, the following would be placed after paragraph 4 of 9.2 (b) – Level of Service Standard

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

Potential amendments to these LOS Standards shall be considered at least annually at the Staff Working Group meeting to take place no later than April 30 (for the County's first comprehensive plan amendment cycle) or October 31 (for the County's second comprehensive plan amendment cycle) of each year. ~~If there is a consensus to amend any LOS Standard, it~~An amendment to the LOS standard shall be accomplished by the execution of an amendment to this Amended and Restated Agreement by all parties and the adoption of amendments to the County's and each City's comprehensive plan. The amended LOS Standard shall not be effective until all plan amendments are effective and the amendment to this Amended and Restated Agreement is fully executed. ~~only in accordance with the amendment provisions of this Agreement.~~ No LOS Standard shall be amended without a showing that the amended LOS Standard is financially feasible and can be achieved and maintained over the five years of the District Facilities Work Program.

3. If added, the following would amend the third paragraph of 9.2 (c) – Concurrency Service Areas

Potential amendments to the concurrency service areas, other than periodic adjustments to student attendance boundaries, or to redefine the concurrency service area as a different type of boundary or area shall be considered annually at the Staff Working Group meeting to take place each year no later than April 30 ~~or October 31, for the County's first comprehensive plan amendment cycle~~ or October 31 (for the County's second comprehensive plan amendment cycle), and shall take into account the issue of maximization of capacity. Other considerations for amending the concurrency service areas may include safe access (including factors such as the presence of sidewalks, bicycle paths, turn lanes and signalization, general walkability), diversity, and geographic or manmade constraints to travel. ~~If there is a consensus to change the concurrency service area to a different type of service area or~~An amendment to the type or geographic configuration, of concurrency service areas shall be accomplished by the execution of an amendment to this Amended and Restated Agreement. The changed concurrency service area shall not be effective until the amendment to this Amended and Restated Agreement is fully executed and related amendments to the County and Cities' comprehensive plans are adopted only in accordance with the amendment provision of this Agreement.

4. If added, the following would amend the first paragraph of 9.2 (d) – Student Generation Multipliers

~~The~~Future student generation rates shall be ~~determined~~developed by the County with the School Board in a joint, collaborative process, in accordance with professionally accepted methodologies, and shall be ~~updated~~reviewed at least every three (3) years ~~inasmuch as possible, and shall be adopted into~~

the County's and Cities' comprehensive plans. The school enrollment projections will be included in the tentative district educational facilities plan provided to the County and Cities each year as specified in Subsection 3.1 of this Amended and Restated Agreement, and updated as necessary. The initial professionally accepted methodology shall take student addresses by school type (elementary, middle and senior) as provided by School Board staff, and geocode each address to the property appraiser files to identify the type of unit, with the goal of obtaining an accurate student generation multiplier rate by Minor Statistical Areas (MSAs) based on a 100% sampling. The methodology and calculations thereunder shall be updated as necessary.

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

Total Number of Students Generated =

Number of Residential Units Generated By Development Proposal X

Student Generation Multiplier

5. If added, the following would amend 9.2 (f) Proportionate Share Mitigation

Amend paragraph before the listing of options

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

(Add Option No. 6)

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

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

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

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

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

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

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

~~Proportionate share mitigation must be acceptable to the School Board. Mitigation shall be directed to projects in the first three (3) years of the District Facilities Work Program that the School Board agrees will satisfy the demand created by that development approval.~~

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

6. If added, the following would amend 9.3 – Updates to Public School Concurrency

Add after first Paragraph

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

1. The modification, delay or deletion of a project is required in order to meet the School Board's constitutional obligation to provide a ~~county~~district-wide uniform system of free public schools or to meet other legal obligations imposed by state or federal law; or
3. The project schedule or scope has been modified to address local government concerns, and the modification does not cause the adopted LOS standard to be exceeded in the Concurrency Service Area from which the originally planned project is modified,

delayed or deleted; and in addition to any of the foregoing three events,

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

Add after last paragraph:

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

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

7. If added, there would be a New Section 22. Takings and Vested Rights

Section 22. Takings and Vested Rights

Nothing in this Agreement shall be construed or applied to effect a permanent or temporary taking of private property or the abrogation of vested rights in violation of the United States Constitution or the Florida Constitution, to result in a violation of law, to require the payment of compensation by the School

Board, the County or any municipality for impacts on private property, or to modify or eliminate any remedy available to prevent or rectify a taking, deprivation of vested rights, or violation of law.