

**2/18/08 Objections, Recommendations, and Comments (ORC) Report Response; and  
Non-ORC Report Related Changes Since Transmittal**

**OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT  
FOR  
COLLIER COUNTY  
PROPOSED COMPREHENSIVE PLAN AMENDMENT (DCA No. 08-PEFE)**

CONSISTENCY WITH CHAPTER 163, PART II, F.S., AND RULE 9J-5, F.A.C.

**Introduction:** Collier County has proposed comprehensive plan amendments for the purpose of satisfying the statutory requirements to adopt a Public School Facilities Element, as set forth under Section 163.3177(12), F.S. Based on the requirements set forth in Chapter 163, F.S., and Rule 9J-5, F.A.C., the Department has the following **objections** and **comments** to the amendment. ***The School District/ Collier County response follows each Objection and Recommendation, and each Comment. Unresolved/disputed items between the staffs of the School District and County are also identified, where applicable.***

Ø **PUBLIC SCHOOL FACILITIES ELEMENT (PSFE):**

**Objection 1: Demonstration of Financial Feasibility of Element**

Under the provisions set forth in Objective 1.4 and Policy 1.4.1, Collier County will demonstrate the financial feasibility of the Public School Facilities Element by adopting/ by reference into the Collier County’s comprehensive plan the Collier County School District’s annually updated financially feasible 5-year capital improvements plan. The objective and the policy, as stated, are inconsistent with Rule 9J-5.005(2)(g), F.A.C., regarding adoption of documents into the comprehensive plan by reference, because they do not identify the document by title, volume and date, and do not include language stating: “...documents adopted by reference are as they existed on a date certain. Documents adopted by reference that are revised subsequent to plan adoption will need to have their reference undated within the plan through the amendment process.”

[Section 163.3164(32), 163.3177(3), 163.3177(12), 163.3180(13)(b)2, 163.1380(13)(d), F.S.; Rule 9J-5.005(2)(g), 9J-5.025(2)(i), & (j), 9J-5.025(3)(b)2 & 3, 9J-5.025(3)(c)2, F.A.C.]

**Recommendation:** Revise Objective 1.4 and Policy 1.4.1 to address the issue raised above in order to comply with Rule 9J-5.005(2)(g), F.A.C., regarding adoption of documents into the comprehensive plan by reference. The policy should indicate the date, title, author and volume of the document being referenced, and where possible the applicable pages.

***Response to Objection 1:*** Both Objective 1.4 and Policy 1.4.1 of the Public School Facilities Element have been revised to specifically reference the School District’s Five-Year Capital Improvement Plan through Policy 4.2 of the Capital Improvement Element, as

identified below. In addition, to the above recommendation, other instances where references to the School District's Five-Year Capital Improvement Plan have been revised include: CIE Policies 4.2 and 5.4 (formerly 1.4.2 and 1.5.4); CIE Pages 28-29, Programs to Ensure Implementation, 5) Update of Capital Improvement Element; ILA Sections 13.5 and 13.8; and Appendix D.

### **(Public School Facilities Element)**

#### **OBJECTIVE 1.4:**

The County shall adopt by reference into its Capital Improvement Element (CIE), the School District's annually updated financially feasible Five-Year Capital Improvement Plan, as identified in Policy 4.2 in the CIE of this Comprehensive Plan, specifically the "Summary of Capital Improvements Program" and "Summary of Estimated Revenue" Tables. These District's Five-Year Capital Improvement Plan tables identifies the financially feasible school facility capacity projects necessary to address existing deficiencies and future needs based upon achieving and maintaining the adopted LOS standard for schools.

#### **Policy 1.4.1:**

No later than December 1<sup>st</sup> of each year, the County shall adopt by reference the School District's annually updated and financially feasible Five-Year Capital Improvement Plan, specifically the "Summary of Capital Improvements Program" and "Summary of Estimated Revenue" Tables as identified in Policy 4.2 in the CIE of this Comprehensive Plan, and as formally adopted by the School Board between July 1 and October 1 each year, as part of the CIE.

### **(Collier County Capital Improvement Element)**

#### **Policy 4.2:**

Beginning with an effective date of No later than December 1<sup>st</sup>, 2008 of each year, the County shall adopt, by reference, into its Capital Improvement Element, the School District's annually updated financially feasible Five-Year Capital Improvement Plan, formally adopted by the School Board between July 1 and October 1 each year, and beginning with the District School Board of Collier County Capital Improvement Plan FY 09-28 specifically the "Summary of Capital Improvements Program" and "Summary of Estimated Revenue" Tables. These tables School District's Five-Year Capital Improvement Plan shall identify the financially feasible school facility capacity projects necessary to address existing deficiencies and future needs based upon achieving and maintaining the adopted LOS standard for schools. Annual updates and revisions to the School District's Five-Year Capital Improvement Plan, adopted by the School Board between July 1 and October 1 each year, shall update the above Capital Improvement Plan reference.

**Policy 5.4:**

The concurrency requirement of the Public School Facilities Level of Service Standards of this Growth Management Plan will be achieved or maintained if any one of the following standards of the Concurrency Management System is met:

- C. The necessary facilities and services are found in the first, second, or third year of the School District of Collier County's "Summary of Capital Improvement Plan" Table and the "Summary of Estimated Revenue" Table from the financially feasible Five-Year Capital Improvement Plan, as identified in Policy 4.2, and as formally adopted by the School Board between July 1 and October 1 each year, and as adopted by reference each year by December 1<sup>st</sup>, at the time a final site development plan, final plat or building permit is issued functional equivalent is approved; or

**(CIE Pages 28-29, 5. Update of Capital Improvement Element – 1<sup>st</sup> paragraph and G, formerly No. 7)**

**PROGRAMS TO ENSURE IMPLEMENTATION**

Through continued implementation of adopted land development regulations the following programs have been implemented to ensure that the goals, objectives and policies established in the Capital Improvement Element will be achieved or exceeded.

**1. Development Order Review**

As part of the review of all applications for final site development plans, final plats, and (except for public school facilities) building permits, the County will determine whether or not there will be sufficient capacity of public facilities, as described in Policy 1.1 above, to meet the standards for levels of service for the existing population and for the proposed development in accordance with the requirements of the Concurrency Management System. As part of the review for all development orders other than final site development plans, final plats, and (except for public school facilities), building permits, for those having negative impacts on public facilities the County will determine whether or not sufficient capacity of public facilities are planned for construction concurrent with the impacts on levels of service that will be created by the proposed development during the next five fiscal years.

**5. Update of Capital Improvement Element**

- G. The incorporation, by reference, of the annual update to the School District of Collier County's "Summary of Capital Improvement Plan" Table and "the "Summary of Estimated Revenue" Table from the School District's financially feasible Five-Year Capital Plan, formally adopted by the School Board between July 1 and October 1 each year; and

**(Interlocal Agreement Sections 13.5 and 13.8; and Appendix D)**

**13.5 School District's Five-Year Capital Improvement Plan (CIP)** The School District's Five-Year Capital Improvement Plan, formally adopted by the School Board between July 1 and October 1, shall be used by the School District to identify school capacity projects necessary to achieve and maintain the adopted LOSS for CSAs of each school type and to verify its ability to fund the capital improvement projects for the five year planning period, as amended annually.

**b. Timing.**

3. Identify the projected enrollment, capacity and utilization percentage of all schools. The School District, in coordination with Local Governments, shall annually update the Concurrency Service Area Boundaries, as necessary, and the ~~"Summary of Capital Improvement Plan" and "Summary of Estimated Revenue" tables when updating~~ the School District's Five-Year Capital Improvement Plan.

**13.8 Required Comprehensive Plan Amendments.** The County and the Cities agree to adopt the following Comprehensive Plan amendments ~~no later than March 1, 2008~~. Each jurisdiction's amendments shall be consistent with this Agreement, and those adopted by the other jurisdictions as required by Section 163.3180, F.S.

(a) **Development, Adoption and Amendment of the Capital Improvements Element (CIE)**. An annual update or any amendment to the School District's Five-Year Capital Improvement Plan shall be transmitted to the Local Governments for review and comment no less than 60 days prior to adoption by the School Board. The County and the Cities shall adopt by reference the School District's annually updated financially feasible Capital Improvement Plan, formally adopted by the School Board between July 1 and October 1 each year, ~~specifically the "Summary of Capital Improvement Program" and the "Summary of Estimated Revenue" Tables from the School District's Five-Year Capital Improvement Plan~~ into the Capital Improvement Element of their respective Comprehensive Plans. ~~The annual update to the "Summary of Capital Improvements Program" and "Summary of Estimated Revenue" Tables from the School District's annually adopted financially feasible Five Year Capital Improvement Plan, provided such adoption does not affect the Local Governments' ability to maintain a financially feasible CIE for the current five-year planning period. The amended Tables annual update to the School District's Capital Improvement Plan shall be adopted by reference each year by the Local Governments. This shall occur in the Local Government's next available comprehensive plan amendment cycle, but no later than December 1<sup>st</sup> of each year. This will ensure that the CIE uniformly sets forth a financially feasible public school capital facilities plan, consistent with the adopted LOSS for public schools.~~

1. ~~Corrections or modifications to the School District's Five-Year Capital Improvement Plan "Summary of Capital Improvement Plan" Table or the "Summary of Estimated Revenue" Table which are consistent with the School District's Five-Year Capital Improvement Plan concerning costs, revenue~~

sources, or acceptance of facilities pursuant to dedications, may be accomplished by ordinance, and shall not be deemed an amendment to the comprehensive plan. A copy of the ordinance shall be transmitted to the State of Florida Department of Community Affairs.

2. ~~The County and the Cities, b~~By adopting by reference into their respective Capital Improvement Elements of their Comprehensive Plans the School District's annually updated financially feasible Capital Improvement Plan, as formally adopted by the School Board between July 1 and October 1 each year, specifically the "Summary of Capital Improvement Program" and the "Summary of Estimated Revenue" Tables into the Capital Improvements Element of their Local Government's respective Comprehensive Plans, the County and cities shall have neither the obligation nor the responsibility for funding the School District's Five-Year Capital Improvement Plan.

#### (Appendix D)

December 1 ~~The County and the Cities shall adopt, by reference, into their respective Capital Improvement Elements of their Comprehensive Plans the School District's annually updated~~ adopted financially feasible Capital Improvement Plan, ~~specifically the "Summary of Capital Improvements Program" and "Summary of Estimated Revenue" Tables formally adopted by the School Board between July 1 and October 1 each year, into the Capital Improvement Element of their respective Comprehensive Plans.~~

#### **Objection 2: School Concurrency Service Areas**

The data and analysis supporting the element show that CSAs E13, E14, E15, M6, M7, M8, H6, H7 and H8 are designated Conservation or Wildlife Refuge Area (State and National Preserves) with no existing or future school sites. The data and analysis include a statement that residential development subject to concurrency is not planned within these CSAs. However, no data and analysis have been provided to indicate the existing and projected number of students in these areas attending Collier County schools and that they have been included in the planning for school capacity. In addition, no policy has been included in the element to address how the County is planning to serve the students living there.

[Section 163.3177(3)(a), 163.3177(12)(c), 163.3177(12)(f), 163.3177(12)(g)3, 163.3177(12)(h), F.S.; Rule 9J-5.005(2), 9J-5.015(1), 9J-5.015(2), 9J-5.016(1), 9J-5.016(2), 9J-5.025(2), 9J-5.025(3)7, 8, & 10, F.A.C.]

**Recommendation:** Provide data and analysis to show the existing and projected number of students living in CSAs E13, E14, E15, M6, M7, M8, H6, H7 and H8, and include a policy in the Public School Facilities Element to address how the County plans to serve

those students. In addition, revise Policy 1.2.3(C) to include a provision stating that requests for development orders for new development consistent with the future land use designations and existing residential zoning densities shall be evaluated for concurrency based on the adjacent currency service areas.

**Response to Objection 2:**

1. *Tables 23-1 through 23-20 of the Public School Facilities Element Data and Analysis have been updated to identify CSAs E13, E14, E15, M6, M7, M8, H6, H7 and H8 as primarily consisting of conservation and preserved lands. CSAs E14, E15, M7, M8, H7 and H8 may experience limited new residential development. CSAs E13, M6, and H6 may experience significant residential growth, as lands located within these CSAs have been designated as a Rural Lands Stewardship Area Overlay by Collier County. New residential development located within the Rural Land Stewardship Area Overlay is subject to review and approval by the Collier County Board of County Commissioners. These CSAs are grouped H6/M6/E13 Panther-Preserve, H7/M7/E14 S Golden Gate Est., and H8/M8/E15 E. Conservation Area within the CSA tables. The text notes within those three tables have been revised to indicate to which adjacent CSAs students are attending school. The notes read:*

*The students residing in H6/M6/E13 E. Conservation Area attend schools located in adjacent CSAs. These students (both existing and projected) have been included in the projections for the schools they attend. Any proposed residential development within this CSA that would be subject to school concurrency will be reviewed using adjacent CSAs. These include E9, E10, E12, M3, M5, H3, and H5.*

*The students residing in H7/M7/E14 S Golden Gate Est. attend schools located in adjacent CSAs. These students (both existing and projected) have been included in the projections for the schools they attend. Any proposed residential development within this CSA that would be subject to school concurrency will be reviewed using adjacent CSAs. These include E1, E2, E3, E9, M1, M2, M3, H1, H2, and H3.*

*The students residing in H8/M8/E15 Panther Preserve attend schools located in adjacent CSAs. These students (both existing and projected) have been included in the projections for the schools they attend. Any proposed residential development within this CSA that would be subject to school concurrency will be reviewed using adjacent CSAs. These include E1, E12, M1, M5, H1, and H5.*

2. *A discussion of the “conservation” CSAs has been added to the Public School Facilities Element Data and Analysis on page 33 and as noted below.*

*Of the identified CSAs - three elementary, three middle, and three high school CSAs, all are comprised primarily of conservation or preserved lands. These include Big Cypress National Preserve and the Fakahatchee Strand State Forest (E15, M8, H8), Collier-Seminole State Park and Golden Gate Estates South [Picayune Strand State Forest] (E14, M7, and H7), and the Florida Panther Preserve [National Wildlife Refuge] (E13, M6, and H6). There are no schools planned for these CSAs at this*

*time, and for nearly all of the above listed conservation areas, school facilities are not permitted uses and will likely not be allowed to be constructed.*

*Presently, there are a small number of residences within each of these CSAs, and the County has the authority to approve new residential development within CSAs E13, M6, and H6 which have been designated as a Rural Lands Stewardship Area Overlay. Students living in one of these three CSAs (three each, by school type) are likely to attend a school in an adjacent CSA. These students are accounted for as such within Table 23 and the analysis of levels of service below [page 41 of the Data and Analysis Report]. In the event of new residential construction, or redevelopment resulting in an increase in residential units in these CSAs, contiguous CSAs will be reviewed for capacity. If the affected CSA does not contain a particular school type (elementary, middle, high), the adjacent CSAs will be evaluated for available capacity.*

Words underlined are added, words ~~struck through~~ are deleted – Transmittal

Words double underlined are added, words double ~~struck through~~ are deleted – Adoption

Row of asterisks denotes break in text

Blue text was added by adoption of Ordinance 2008-4, now in effect

3. Existing and projected student population within CSAs E13, E14, E15, M6, M7, M8, H6, H7 and H8 are identified in the table below.

CSA	2009	1-Apr-09	March 31, 2008	Students 06/07				Students 07/08				Estimated 5 Yr Projection Estimate 2012			
				Elementary	Middle	High	Total	Elementary	Middle	High	Total	Elementary	Middle	High	Total
E-13, M-6, H-6	386	14	14	3	0	0	3	3	0	0	3	2	1	0	3
E-13, M-6, H-6	386.1	5	7	1	1	0	2	3	1	1	5	2	2	1	5
E-13, M-6, H-6	386.2	-	-	0	0	0	0	0	0	0	0	0	0	0	0
E-13, M-6, H-6	386.3	-	-	0	0	0	0	0	0	0	0	0	0	0	0
E-13, M-6, H-6	386.4	1	1	0	0	0	0	0	0	0	0	0	0	0	0
<b>*Total E-13, M-6, H-6</b>		<b>20</b>	<b>22</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>5</b>	<b>6</b>	<b>1</b>	<b>1</b>	<b>8</b>	<b>4</b>	<b>3</b>	<b>1</b>	<b>8</b>
E-14, M-7, H-7	353	2	0	0	0	0	0	0	0	0	0	0	0	0	0
E-14, M-7, H-7	353.1	200	491	4	1	4	9	0	1	2	3	2	4	2	8
E-14, M-7, H-7	354	123	243	2	0	0	2	0	1	1	2	2	1	1	4
<b>**E-14, M-7, H-7</b>		<b>410</b>	<b>742</b>	<b>6</b>	<b>1</b>	<b>10</b>	<b>17</b>	<b>0</b>	<b>2</b>	<b>3</b>	<b>12</b>	<b>4</b>	<b>5</b>	<b>3</b>	<b>12</b>
E-15, M-8, H-8	347	69	69	1	1	2	4	2	1	4	7	2	1	4	7
E-15, M-8, H-8	348	41	43	0	0	2	2	0	1	2	3	0	1	2	3
E-15, M-8, H-8	352	137	152	23	14	15	52	16	11	14	41	15	10	16	41
E-15, M-8, H-8	378	9	15	0	0	0	0	0	0	0	0	0	0	0	0
E-15, M-8, H-8	378.1	4	4	0	0	0	0	0	0	0	0	0	0	0	0
<b>**E-15, M-8, H-8</b>		<b>260</b>	<b>283</b>	<b>24</b>	<b>15</b>	<b>19</b>	<b>58</b>	<b>18</b>	<b>13</b>	<b>20</b>	<b>51</b>	<b>17</b>	<b>12</b>	<b>22</b>	<b>51</b>
Total Number of Students:							60				70				71

\*Note 1: Portions of E-13 (M6, H6) are within the Rural Lands Stewardship Area, Collier County Future Land Use Designation. At this time no development has been approved. Currently, there is an application submitted for review, but has not been approved. The application is for a development of a new town to be known as the Big Cypress Stewardship Receiving Area (SRA). The developer's application submitted January 31, 2008 includes a Phased Schedule should the application be approved by the Collier County Board of County Commissioners. The total number of residential dwelling units proposed in the Big Cypress SRA is 8,968 dwelling units. The 1st Phase includes a total of 3,094 dwelling units and is proposed to commence construction in the year 2012 and be completed by 2016. The remaining units are proposed be completed between 2017 and 2023. Therefore, it is anticipated that if the development is approved and commences construction in 2012, students will not be generated by this development until after the five year planning period. As part of the approval process for development within this land use designation, provision of schools will be a condition of approval. Until such time as the CSA or attendance boundary needs to be adjusted due to this potential development's impact, students in this area shall be served in schools located in adjacent CSAs.

**\*\* Note 2:** Student populations located in CSA's E-14, E15, M7, M8, H7, and H8 have remained relatively stable or experienced slight declines. Therefore, student growth is not anticipated in this area within the next 5 years. Students residing in these CSAs are served in schools in adjacent CSAs.

4. Policy 1.2.3 (C).2 has been revised as noted below.

**Policy 1.2.3:**

The County, through its land development regulations, and in conjunction with the School District, shall establish a school concurrency review process for all residential development projects that are not exempt under Policy 1.2.2. of this Element. The following are the minimum review process requirements for all non-exempt residential development ~~are as follows:~~

- A. Submittal of ~~A~~ a residential development application including a School Impact Analysis (SIA) ~~is submitted~~ to the County for sufficiency review.
- B. Determination of completeness, by ~~T~~the County, ~~determines if the application is complete for processing, and~~ If deemed complete, the County shall transmit the ~~complete~~ application, including the SIA, to the School District for review.
- C. Review of ~~The School District reviews~~ the application, by the School District, for available capacity, and issuances of a School Capacity Availability Determination Letter (SCADL) within 20 days after receipt of a complete application from the County, ~~to the County stating~~

The School District shall identify the following in the SCADL:

- 1. ~~If Available capacity is available within the affected CSA, the School District shall issue a SCADL verifying available capacity.~~
- 2. If capacity is not available within the affected CSA, the available capacity within one or more of the adjacent CSAs ~~are reviewed for available capacity. (If the affected CSA does not contain a particular school type (elementary, middle, high), the adjacent CSAs shall be evaluated for available capacity.)~~
- 2. ~~If capacity is available in the adjacent CSAs, the School District shall issue a SCADL verifying available capacity in the adjacent CSAs.~~

If capacity is not available in the adjacent CSAs, the School District shall ~~issue a SCADL~~ indicating that the development is not in compliance with the adopted LOSS and offer the applicant the opportunity to negotiate a mitigation plan within a 90 day period.

### **Objection 3: Existing and Future Conditions Map and Map Series**

The Public School Facilities Element is not consistent with Section 163.3177(12)(h), F.S., and Rule 9J-5.025(4)(a) and (4)(b), F.A.C., because the Element does not include a map or maps depicting the existing location of public school facilities by type and the existing location of ancillary plants, as well as a future conditions map or maps which depict the planned general location of public school facilities, by year for the 5-year planning period and for the end of the long term planning period.

[Section 163.3177(2), 163.3177(8), 163.3177(10)(e), & 163.3177(12)(h), F.S.; and Rule 9J-5.005(1)(c)(5), 9J-5.005(2)(a), 9J-5-025(4)(a) & (4)(b), F.A.C.]

**Recommendation:** Revise the Public School Facilities Element to include map or map series depicting existing location of public school facilities by facility type and existing location of ancillary plants; as well as a future conditions map or map series which depict the planned general location of public school facilities, by year for the five year planning period and for the end of the long term planning period

**Response to Objection 3:** *The Public School Facilities Element has been revised to include both the map depicting the existing location of public school facilities by facility type and ancillary plants, and the future schools and ancillary facilities map, and Policy 1.4.2 has been revised to expressly adopt the map series. The Existing Schools and Ancillary Facilities Map is Figure 3 within the Data and Analysis, and the Future Schools and Ancillary Facilities Map is Figure 7. The schools on each map are listed by school type and for future schools, the anticipated date of opening. Figure 7 indicates the general location of anticipated ancillary facilities; specific locations have not yet been determined. Additional analysis of the ancillary facilities has been provided within the Public School Facilities Element Data and Analysis on page 26. Both figures show the planned general location of public school facilities, by year, for the five year planning period and for the end of the long term planning period.*

#### **Policy 1.4.2:**

The County, in conjunction with the School District, shall annually review the Public School Facilities Element and maintain a public school facilities map series, which are coordinated consistent with the County Future Land Use Map and Map Series, including the planned general location of schools and ancillary facilities for the five year planning period and the long range planning period. This Map Series shall is adopted as part of this Element, and includes:

- A. A One or more map or maps which identify the location of existing public school facilities by type, and the location of existing ancillary plants.
- B. A One or more map or maps which identify the general location and type of public school facilities and ancillary plants anticipated over the five-year planning period and for the long-range planning period.

Words underlined are added, words ~~struck through~~ are deleted – Transmittal

Words double underlined are added, words double ~~struck through~~ are deleted – Adoption

Row of asterisks denotes break in text

Blue text was added by adoption of Ordinance 2008-4, now in effect

**Objection 4: DRI Exemption from Concurrency**

Policy 1.2.2(F) of the Public School Facilities Element and Section 14.6 of the Interlocal Agreement allows a concurrency exemption for a Development of Regional Impact (DRI). The policy states as follows:

Development that has been authorized as a Development of Regional Impact pursuant to Chapter 380, F.S., as of March 1, 2008, notwithstanding any subsequent abandonment of prior development of regional impact status.

The effective date of March 1, 2008 is inconsistent with Section 39 of Chapter 2005-290, Laws of Florida (SB 360), which entitles an exemption of any DRI for which a development order has been issued prior to July 1, 2005 (the effective date of the act) or for which a development of regional impact application has been submitted prior to May 1, 2005. Additionally, the phrase “not withstanding any subsequent abandonment of prior development of regional impact status” in the policy, to exempt projects in abandoned DRIs from meeting school concurrency requirements, makes the policy inconsistent with Section 380.06(26), F.S., which among other things, requires the developer of an abandoned DRI to adequately mitigate for impacts of the development; and the provisions of Rule 9J-2.0251(3), F.A.C., which precludes abandoned DRIs from enjoying the rights and privileges accorded DRIs.

[Section 39 of Chapter 2005-290, Laws of Florida (SB 360), Section 163.3177(12)(c), F.S.; Rule 9J-2.0251(3), F.A.C ; Rule 9J-5.025(3)(b) & (c), F.A.C.]

**Recommendation:** Revise Policy 1.2.2(F) to establish July 1, 2005 as the effective date of the exemption for DRIs from school concurrency requirements. In addition, revise the policy to delete the phrase “not withstanding any subsequent abandonment of prior development of regional impact status.”

**Response to Objection 4:** *Policy 1.2.2 (F) has been modified to correct the effective date of the exemption for DRIs. The phrase “notwithstanding any subsequent abandonment of prior development of regional impact status” has also been deleted from the Policy. The Interlocal Agreement has also been updated to reflect these changes.*

**(Public School Facilities Element)**

**Policy 1.2.2:**

The County shall consider the following residential uses exempt from the requirements of school concurrency:

F. Development that has been authorized as a Development of Regional Impact pursuant to Chapter 380, F.S., as of July 1, 2005 ~~March 1, 2008, notwithstanding any subsequent abandonment of prior development of regional impact status.~~

**(Interlocal Agreement)**

14.1 **General Provisions.** The County, the Cities and the School District shall ensure that the LOSS established for each school type is achieved and maintained.

(c) The following residential uses shall be considered exempt from the requirements of school concurrency:

6. Development that has been authorized as a Development of Regional Impact pursuant to Chapter 380, F.S., as of July 1, 2005 ~~March 1, 2008,~~ notwithstanding any subsequent abandonment of prior development of regional impact status.

Ø **CAPITAL IMPROVEMENT ELEMENT**

**Objection 5: Financial Feasibility**

Capital Improvements Element Policy 1.4.2 states that the County will adopt the Collier County School District's financially feasible plan beginning with effective date December 1, 2008. This is inconsistent with Section 163.380(13)(d), F.S., which requires that a comprehensive plan amendment seeking to impose school concurrency shall contain appropriate amendments to the capital improvements element (CIE) that shall set forth a financially feasible public school facilities program, in coordination with the school board, that demonstrates that the adopted level of service standards will be achieved and maintained. Additionally, the policy is internally inconsistent with Section 13.10 of the School Concurrency Interlocal Agreement (ILA) which sets March 1, 2008 as the commencement date for the School Concurrency Program. The possibility of the element becoming effective on March 1, 2008 is unlikely.

[Section 163.3164(32), 163.3177(3), 163.3177(12), 163.3180(13)(b)2, 163.1380(13)(d), F.S.; Rule 9J-5.016(3)(b)1, 3, 4, & 5, 9J-5.016(3)(c)1, 9J-5.016(4), F.A.C.]

**Recommendation:** Revise the CIE Policy 1.4.2, and Section 13.10 of the ILA to establish the effective date for the adoption of the Collier County School District's financially feasible plan as the effective date for the Public School Facilities Element, to ensure consistency with Section 163.380(13)(d), F.S., regarding financial feasibility of the County's public school facilities program.

***Response to Objection 5:*** *CIE Policy 4.2 and Section 13.10 of the ILA have been revised to establish an effective date of December 1, 2008 for the adoption of the School District's financially feasible Five-Year Capital Improvement Plan and the Public Facilities Element. [The proposed changes are noted below.]*

**(Collier County Capital Improvement Element)**

**Policy 4.2:**

Beginning with an effective date of No later than December 1<sup>st</sup>, ~~2008~~ of each year, the County shall adopt, by reference, into its Capital Improvement Element, the School District's annually-updated financially feasible Five-Year Capital Improvement Plan, formally adopted by the School Board between July 1 and October 1 each year, and beginning with the District School Board of Collier County Capital Improvement Plan FY 09-28 specifically the "Summary of Capital Improvements Program" and "Summary of Estimated Revenue" Tables. These ~~tables~~ School District's Five-Year Capital Improvement Plan shall identify the financially feasible school facility capacity projects necessary to address existing deficiencies and future needs based upon achieving and maintaining the adopted LOS standard for schools. Annual updates and revisions to the School District's Five-Year Capital Improvement Plan, adopted by the School Board between July 1 and October 1 each year, shall update the above Capital Improvement Plan reference.

**(Interlocal Agreement)**

**13.10 Commencement of School Concurrency.** Unless delayed by mediation or a lawful challenge, the School Concurrency Program described in this Agreement shall ~~commence on or before March 1, 2008~~ become effective upon the adoption of both the Public School Facilities Element, and the School District's financially feasible Five-Year Capital Improvement Plan, as formally adopted by the School Board between July 1 and October 1 each year, by reference, into the Local Governments' comprehensive plans.

**Objection 6: School Concurrency Requirements**

Policy 1.5.4 provides as follows:

The concurrency requirement of the Public School Facilities Level of Service Standards of this Growth Management Plan will be achieved or maintained if any one of the following standards of the Concurrency Management System is met:

- A. The necessary facilities and services are in place at the time a final site development plan, final plat or building permit is issued; or
- B. The necessary facilities and services are under construction or the contract for such facilities and services has been let at the time a final site development plan, final plat or functional equivalent; or
- D. The necessary facilities and services are found in the first, second, or third year of the School District of Collier County's "Summary of Capital Improvement Plan" Table and the "Summary of Estimated Revenue" Table from the financially feasible Five-Year Capital Improvement Plan, adopted by reference

each year by December 1<sup>st</sup>, at the time a final site development plan, final plat or building permit is issued; or

- E. The necessary facilities and services are the subject of a binding commitment with the developer to contribute proportionate share funding as provided for in Policy 1.2.4 of the Public School Facilities Element, if applicable, or to construct the needed facilities.

Paragraphs A and C of Policy 1.5.4, as stated, are inconsistent with Section 163.3180(13)(e), F.S., which states in part that school concurrency shall be met “where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent.” An issuance of a building permit is not a test of school concurrency, under the law.

[Section 163.3177(2), 163.3177(9)(b), 163.3180(13)(e), 163.3187(2), F.S., Rule 9J-5.005(5), F.A.C.]

**Recommendation:** Revise Paragraphs A and C of Policy 1.5.4 to delete the language “or building permit is issued” to ensure consistency with Section 163.3180(13)(e), F.S.

**Response to Objection 6:** *As requested, paragraphs A and C of Policy 5.4 of the CIE have been revised as follows:*

**Policy 5.4:**

The concurrency requirement of the Public School Facilities Level of Service Standards of this Growth Management Plan will be achieved or maintained if any one of the following standards of the Concurrency Management System is met:

- A. The necessary facilities and services are in place at the time a final site development plan, final plat or ~~building permit~~ functional equivalent ~~is issued~~ approved; or
- C. The necessary facilities and services are found in the first, second, or third year of the School District of Collier County’s ~~“Summary of Capital Improvement Plan” Table and the “Summary of Estimated Revenue” Table from the~~ financially feasible Five-Year Capital Improvement Plan, as identified in Policy 4.2, and as formally adopted by the School Board between July 1 and October 1 of each year, and as adopted by reference each year by December 1<sup>st</sup>, at the time a final site development plan, final plat or ~~building permit~~ functional equivalent is ~~approved~~ issued; or

Ø **PUBLIC SCHOOL FACILITIES ELEMENT DATA AND ANALYSIS**

**Objection 7: Public School Facilities Element Data and Analysis Requirements**

The proposed Public School Facilities Element is supported by appropriate and relevant data and analysis required under Section 163.3177(12)(c), F.S., and Rule 9J-5.025, F.A.C. However, the following required data and analysis are not included:

1. Analysis of anticipated educational and ancillary plants with land area requirements.
2. Existing enrollment based on the best available data, and the Department of Education Capital Outlay Full Time Equivalent (COFTE) student projections.
3. Surplus capacity based on site requirements contained within the Department of Education design criteria.

[Section 163.3177(3)(a), 163.3177(12)(c), 163.3177(12)(h), F.S.; Rule 9J-5.005(2), 9J-5.015((1), 9J-5.015(2), 9J-5.016(1), 9J-5.016(2), 9J-5.025(2), F.A.C]

**Recommendation:** Base the Public School Facilities Element on required data and analysis as specified above. Submit the data and analysis with the adopted Public School Facilities Element for the Department’s compliance review.

**Response to Objection 7:** *The data and analysis specified above can be found in the following locations:*

- *Analysis of anticipated educational and ancillary plants is located on page 26 of the Public School Facilities Element Data and Analysis Report. Figure 7 displays the approximate locations of these planned facilities, as exact locations have not yet been determined. The School District of Collier County does not have specific land area requirements for educational and ancillary plants. Land area requirements for facilities can vary greatly depending on site specific circumstances. These circumstance include, but are not limited to: school location (urban or rural), on-site drainage requirements, co-location opportunities (multiple schools sharing the same site), shared use of facilities (sports fields or parking areas), proposed school capacity, and physical design (single story vs. multiple story). It should be noted that the State Requirements for Educational Facilities does not identify, recommend, or require specific land areas for educational and ancillary plants.*
- *Existing enrollment based on the Department of Education Capital Outlay Full Time Equivalent (COFTE) student projections, and the best available data, can be found on pages 23 and 25 respectively, of the Public School Facilities Data and Analysis Report.*

- *The identified requirement for surplus capacity based on site requirements contained within the Department of Education design criteria, as referenced in F.A.C. 9J-5.005 (2)(a), are no longer contained within Section 235.185, F.S., in which language within Section 235 was moved into Section 1013 relative to public schools did not include maintaining the requirement for identifying surplus capacity based on site requirements. As the requirement is no longer contained within F.S (whether in 235 or 1013), it should therefore no longer be required within F.A.C. 9J-5.005 (2)(a).*

## Comments

### 1. CAPITAL IMPROVEMENTS ELEMENT

- Ø **The Collier County School District has requested that Policy 1.2.8 and Page CIE-16 be revised as follows: The necessary revision is shown in an underline format:**

**Policy 1.2.8:** If, for any reason, the County cannot provide revenue sources identified as needed funding for specific projects within the County's adopted Schedule of Capital Improvements, the Growth Management Plan shall be amended based on one or more of the following actions:

**Response:** *Policy 2.8 (formerly Policy 1.2.8) has been revised, consistent with the School District's comment.*

**Policy 2.8:**

If, for any reason, the County cannot provide revenue sources identified as needed funding for specific projects within the County's adopted Schedule of Capital Improvements, the Growth Management Plan shall be amended based on one or more of the following actions:

**Page CIE-16:** All Public Facilities provided by the County shall be consistent with the County's Capital Improvement Element, pursuant to Section 163.3177 (3)(b)1., Florida Statutes.

**Response:** *Chapter 1013, F.S. [and 163] requires local governments and the school district to coordinate public facilities planning to ensure the school district's and local governments' capital plans are consistent. Further, Section 163.3177 (3)(b)1, F.S. states, "All public facilities shall be consistent with the capital improvements element." The School District's proposed text changes the intent of the statutory provision. Therefore, the County has not made the District's requested change to page 16 of the Collier County Capital Improvement Element.*

**Page CIE-16:**

**All public facilities shall be consistent with the County's Capital Improvement Element, pursuant to Section 163.3177 (3)(b)1, Florida Statutes.**

### 2. PUBLIC SCHOOLS CONCURRENCY INTERLOCAL AGREEMENT

- Ø **Section 4.2 School Enrollment Projections:** "The School District shall utilize the Florida Department of Education (FDOE) five-year countywide student enrollment

projections. The School District may request that FDOE projections be adjusted to reflect actual enrollment and development trends not anticipated by the FDOE projections using the CHORT Projections Waiver available on the FDOE website....” According to FDOE’s staff, the cohort projection waiver is no longer available and recommends that the official estimates of student enrollment prepared pursuant to Section 216.136, F.S., should be used in the development of the School District’s 5-year facilities work plan.

**Response:** Section 4.2 of the Interlocal Agreement has been modified to remove the reference to the cohort projection waiver and provide consistency with the requirements of Section 216.136, F.S.

**4.23-2 Student Enrollment Projections.** The ~~School District School Board~~ shall utilize the Florida Department of Education (FDOE) five-year county-wide student enrollment projections. The ~~School Board District~~ may request that the FDOE projections be adjusted to reflect actual enrollment and development trends not anticipated by the FDOE projections as a base for determining future student enrollment for each school, using the COHORT Projections Waiver available on the FDOE website. In formulating such a request, ~~the School Board District will~~ shall coordinate, and reach agreement, with ~~the Local Governments County~~ regarding on any adjustment(s) made to the five-year county-wide FDOE student enrollment projections resulting from the use of development data, as required by Section 1013.35 (2)(a)1., F.S. future population projections and growth. ~~The F~~ Five-year population and student enrollment projections shall be revised annually to ensure that new residential development and redevelopment information provided by the ~~County~~ Local Governments are reflected in the updated projections. The student enrollment projections by school will be included in the annually updated School District’s Capital Improvement Plan provided to the Local Governments each year as specified in Subsection 5.1 of this Agreement.

- Ø **Section 13.9 School Concurrency Regulations:** Section 13.10 identifies the commencement date for the school concurrency program as on or before March 1, 2008. But Section 13.9 requires the adoption of school concurrency provisions into the local government’s land development regulations within one year of the effective date of the PSFE. Pursuant to Section 163.3194(1)(b), F.S., school concurrency will go into effect upon the effective date of the Public School Facilities Element. If Collier County requires the land development regulations to be revised to incorporate school concurrency into the concurrency management system, then the Department recommends that this should be done in conjunction with the development and adoption of the Public School Facilities Element. Regardless, school concurrency must be implemented upon the effective date of the Public School Facilities Element.

**Response:** The Interlocal Agreement has been revised to establish an effective date for the adoption of the School District’s financially feasible Five-Year Capital Improvement plan and an effective date for the Public School Facilities Element. Refer to the Response under DCA Objection 5; ILA Section 13.10 and CIE Policy 4.2 have been revised to establish an effective date for the District’s CIP and PSFE.

- Ø **Section 13.5 School District’s Five-Year Capital Improvements Plan:** Section 13.5(c) requires the School District to transmit a proposed annually updated and financially feasible 5-year schedule of capital improvements plan to the local governments no later than April 1<sup>st</sup> of each year. According to FDOE’s staff, the April 1<sup>st</sup> deadline is not possible, because the School District must use the student enrollment data published in July by the Florida Legislature’s Office of Economic and Demographic Research, as well as the State appropriations data that are published in May or June each year. Revise this section of the agreement to afford the School District sufficient timeframe to complete the annual updates, or include an option to submit a draft update.

**Response:** *It is the desire of all parties to the Interlocal Agreement to begin discussing the capital needs of the School District as early in the year as possible. Using the best estimates available at the time, the School District will provide a “draft” copy of the Five-Year Capital Improvements Plan. When formal estimates have been published, the “draft” document will be updated, become “proposed” and transmitted to the local governments no later than August 1<sup>st</sup> of each year. The local governments will then have an additional opportunity to review and comment on the School District’s Five-Year Capital Improvements Plan prior to its adoption, no later than October 1<sup>st</sup> of each year. [ILA Section 13.5 and Appendix D have been revised, as noted below.]*

**13.5 School District’s Five-Year Capital Improvement Plan.** The School District’s Five-Year Capital Improvement Plan, formally adopted by the School Board between July 1 and October 1 each year, shall be used by the School District to identify school capacity projects necessary to achieve and maintain the adopted LOSS for CSAs of each school type and to verify its ability to fund the capital improvement projects for the five year planning period, as amended annually.

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**(c) Transmittal.** The School District shall transmit to the Local Governments and the SWG copies of the ~~proposed draft~~ annually updated and financially feasible Five-Year Capital Improvement Plan for review and comment. ~~Transmittal of the proposed draft annually updated and financially feasible Five-Year Capital Improvement Plan to the SWG shall occur~~ at least two weeks prior to the School District’s annual workshop on its ~~draft Five-Year Capital Improvement Program~~, but no later than ~~April~~ August 1st of each year. The transmittal of the final draft of the proposed annually updated and financially feasible Five-Year Capital Improvement Plan to Local Governments shall occur ~~on or before August 1st~~ at least sixty (60) days prior to its adoption by the School Board of each year, commencing after the effective date of this Agreement.

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Words underlined are added, words ~~struck through~~ are deleted – Transmittal  
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 Row of asterisks denotes break in text  
 Blue text was added by adoption of Ordinance 2008-4, now in effect

## APPENDIX "D"

### Suggested Calendar of Key Annual Events

- January – ~~March~~ June The SWG shall meet to discuss and participate in the annual update of the School District's Five-Year Capital Improvement Plan and Tentative Educational Facilities Plan.
- March The SWG shall be notified of the date of the School Board Workshop on the draft financially feasible Five-Year Capital Improvements Program and Tentative Educational Facilities Plan.
- April 4 or May Prior to the scheduled School Board Workshop, School District's transmittal of the ~~draft financially feasible~~ Five-Year Capital Improvement Plan and the Tentative Educational Facilities Plan due to the SWG, ~~or not less than 30 days prior to the scheduled School Board Workshop.~~
- April or May ~~Local governments' comments, if any, on the School District's draft financially feasible Five Year Capital Improvement Plan and Tentative Educational Facilities Plan are due to School District staff no less than two weeks prior to the scheduled School Board Workshop.~~
- School Board Workshop to discuss the draft financially feasible Five-Year Capital Improvement Plan and Tentative Educational Facilities Plan.
- The School District staff, with the assistance of Collier County staff, will give an informational presentation of the School District's draft Capital Improvement Plan to the Collier County Planning Commission and the Collier County Board of County Commissioners.
- July – September School District shall update and adopt the financially feasible Five-Year Capital Improvement Plan, effective on October 1.
- August 1 School District's transmittal of the final draft financially feasible Five-Year Capital Improvement Plan and the Tentative Educational Facilities Plan to County and Cities for review and comment, prior to its adoption by the School Board.
- September 1 The County and Cities shall provide the School District the report on annual growth and development trends, and the allocation of residential units by type and planning sector.

- ~~September 1~~ ~~The County and Cities will provide to the School District the allocation of residential units by type and planning sector.~~
- ~~September 30~~ ~~School District shall update and adopt the financially feasible Five-Year Capital Improvement Plan, effective on October 1.~~
- October Collier County staff, with the assistance of School District staff, will give an informational presentation of the County's Annual Update and Inventory Report to the District School Board of Collier County.
- November 1 The School District shall submit to the County and Cities the final Tentative Educational Facilities Plan and ~~adopted~~ financially feasible Five-Year Capital Improvement Plan, formally adopted by the School Board between July 1 and October 1 each year.
- December 1 The County and the Cities shall adopt, by reference, ~~into their respective Capital Improvement Elements of their Comprehensive Plans~~ the School District's annually updated ~~adopted~~ financially feasible Capital Improvement Plan, specifically the "Summary of Capital Improvements Program" and "Summary of Estimated Revenue" Tables formally adopted by the School Board between July 1 and October 1 each year, into the Capital Improvement Element of their respective Comprehensive Plans.

Ø **Section 13.3(c)1 Adopted Level of Service Standards (LOSS):** Section 13.3(c)1 requires the adopted LOSS for public schools to be achieved and maintained for each year of the five year planning period. The County should be mindful that Section 163.3164(32), F.S., requires a demonstration that public school adopted LOSS will be achieved and maintained by the end of the five year planning period.

***Response:** Section 13.3(c)1 has been revised to require demonstration that the public school facilities adopted LOSS will be achieved and maintained by the end of the five-year planning period in accordance with Section 163.3164 (32), F.S.*

**13.3 Concurrency Service Area (CSA) Boundaries.** The Parties hereby agree that the LOSS for each school type shall be measured and applied using geographic areas known as Concurrency Service Areas (CSAs).

(c) Any Party may propose a change to the CSA boundaries. Prior to adopting any change, the School District must verify that as a result of the change:

1. The adopted LOSS will be achieved and maintained ~~for each year~~ by the end of the five-year planning period; and

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## CONSISTENCY WITH STATE COMPREHENSIVE PLAN

The proposed comprehensive plan amendment does not adequately further the State Comprehensive Plan, Chapter 187, F.S., regarding:

### (15) Land Use

Policies 5 & 6: Establish comprehensive impact review procedures to evaluate the effects of significant development activities within local government jurisdictions. (Objections 1, 2, 3, 4, 5, 6 & 7)

Policy 7: provide educational programs to meet state, regional and local planning and growth management needs. (Objections 1, 2, 3, 4, 5, 6 & 7)

### (16) Urban and Downtown Revitalization

Policy 8: Promoting processes for the state, general purpose local governments, school boards, and community colleges to coordinate and cooperate regarding educational facilities in urban areas, including planning functions, the development of joint facilities, and the reuse of existing buildings. (Objections 1, 2, 3, 4, 5, 6 & 7)

### (17) Public Facilities

Policy 1: Provide incentives for developing land in a way that maximizes the uses of existing public facilities. (Objections 1, 2, 3, 4, 5, 6 & 7)

Policy 6: Identify and implement innovative but fiscally sound and cost-effective techniques for financing public facilities. (Objections 4, 5 & 6)

**Recommendation:** Revise the proposed amendment to be consistent with the above goals and policies of the State Comprehensive Plan, as recommended in this report.

**Response:** *With the modifications contained herein, we are confident the objections have been adequately addressed within the Comprehensive Plan elements and the Interlocal Agreement. Consequently, the amendments to the Comprehensive Plan are consistent with Chapter 187, F.S.*

**Non-ORC Report Related Changes Since Transmittal**

Ø **INTERGOVERNMENTAL COORDINATION ELEMENT**

**Policy 2.6:** Revise to reflect December as the effective date for the Interlocal Agreement, consistent with the DCA’s suggested changes under Objection 5.

The County shall continue to coordinate with The District School Board of Collier County for collaborative planning and decision making on population projections, the public school site selection for new public educational plants and ancillary ~~plants~~ facilities, and the provision of infrastructure, particularly roads, and the location and extension of public facilities subject to concurrency, to support existing and proposed public educational plants in accordance with the general Interlocal Agreement, adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of ~~March~~ December 2008, and the School Board Review (SBR) Interlocal Agreement two Interlocal Agreements adopted in accordance with Sections 163.3177(6)(h) and 163.31777, Florida Statutes, on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners.

Ø **INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING AND SCHOOL CONCURRENCY**

- 1. **Section 12.3 b. – Expiration of the SBR Interlocal Agreement Between the County and the School District:** Proposed changes are to ensure compliance with locational criteria in State law and to provide for evaluation of infrastructure impacts in the event the SBR ILA expires in May 2009.

(Presently, educational facilities are allowed in **most** Future Land Use Designations, subject to compliance with the SBR ILA, which addresses infrastructure impacts, environmental impacts, compatibility, etc. In the event the SBR expires, the County will initiate Growth Management Plan amendments to establish new locational criteria for school facilities siting, proximate to urban residential areas to the extent possible, and provide for the coordination of existing and planned school facilities with the plans for supporting infrastructure, consistent with Chapter 163, F.S. and Rule 9J-5, F.A.C.)

**12.3 Alternative Review Process.** A Local Government and the School District may agree and establish an alternative process for reviewing a proposed educational facility, the site plan, and offsite impacts, pursuant to a separate interlocal agreement in accordance with Section 1013.33 (13) and (14) F.S.

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**b. Expiration of the SBR Interlocal Agreement Between the County and the School District.**

The County and the School District agree that prior to the expiration of the SBR Interlocal Agreement, they will negotiate in good faith and use their best efforts to develop another SBR Interlocal Agreement, to be entered into pursuant to Section 1013.33 (14) F.S. ~~Alternatively, if (i) the County and the School District are unable to agree on another SBR Interlocal Agreement, (ii) and the SBR Interlocal Agreement expires, then and (iii)~~ (1) the County will initiate Growth Management Plan amendments, to the Future Land Use Element and map series, Immokalee Area Master Plan and Golden Gate Area Master Plan, to modify the locational criteria for school facilities to encourage the siting of these facilities proximate to urban residential areas to the extent possible, and to provide for the coordination of existing and planned school facilities with the plans for supporting infrastructure, pursuant to Chapter 163, F.S. and Rule 9J-5, F.A.C.; and (2) should the County and the School District disagree over the review of a school site plan, then the County and the School District hereby agree that the School District shall file an action in the Circuit Court of Collier County seeking a declaratory judgment to resolve the dispute.

2. **Section 13.7 – Specific Responsibilities of the County and Cities:** Revise Section to include reference to the Public School Facilities Element; text inadvertently omitted at Transmittal.

**13.7 Specific Responsibilities of the County and Cities.** When the Comprehensive Plan amendments adopted in accordance with this Agreement become effective, the Local Governments shall:

- (a) Adopt the required school concurrency provisions into their Land Development Regulations (LDR) consistent with the time frame established by law, the requirements of this Agreement, and the Local Governments' comprehensive plans, unless electing to be bound by the provisions established by the County. (This Interlocal Agreement for Public School Facility Planning and School Concurrency, and the Public School Facilities Elements of the Local Government's comprehensive plans shall provide the process necessary to determine available school capacity for all residential projects that are not exempt under Section 14.1(c), until such time as land development regulations (LDRs) are adopted.)

3. **Appendix A – CSA Maps:** Revise maps to remove all future school sites from the CSA maps, as this is not a statutory requirement. Additionally, removal of the future sites from these maps eliminates the need to place a map note requiring all future sites/facilities comply with the SBR ILA, or Land Development Code.

Ø **CAPITAL IMPROVEMENT ELEMENT**

**5. Update of Capital Improvement Element:** Revise Section to include text inadvertently omitted at Transmittal, as noted in shaded text below.

**Update of Capital Improvement Element**

The monitoring of, and adjustment to, this Capital Improvement Element is an ongoing process necessitated by changing conditions. Beginning no later than December of each year, the element will be updated in conjunction with the County's budget process and the release of the official BEBR population estimates and projections. For public school facilities, the Element will be updated in conjunction with the County's participation, review and subsequent adoption, by reference, of the School District's financially feasible and annually adopted Five-Year Capital Improvement Plan, adopted by the School Board between July 1 and October 1 each year. The update will include:

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Ø **PUBLIC SCHOOL FACILITIES ELEMENT**

1. **Policy 1.2.2:** Revise Policy to delete March 1, 2008 “effective date” for school concurrency and replace with general text, as it is unknown when the School Concurrency Program will become effective.

**Policy 1.2.2:**

The County shall consider the following residential uses exempt from the requirements of school concurrency:

A. Single family and mobile home lots of record, existing as of ~~March 1, 2008~~ the effective date of school concurrency.

B. Any new residential development that has a final plat or site plan approval or the functional equivalent of a site specific development order as of ~~March 1, 2008~~ the effective date of school concurrency.

2. **Map Series – Future Schools and Ancillary Facilities Map and Existing Schools and Ancillary Facilities Map:** Revise maps to remove “future” mapped sites (sites that now have school facilities) from the Existing Sites for Future Public Educational Plants and Ancillary Plants Map and add to the Existing Public Educational Plants (Schools) and Ancillary Plants (Support Facilities) Map; and generally reorganize maps and add a footnote on the Future Schools and Ancillary Facilities Map – requiring that development of school facilities be subject to land development regulations in the LDC in the event the School Board Review Interlocal Agreement expires.

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## Ø PUBLIC SCHOOL FACILITIES ELEMENT DATA AND ANALYSIS

1. **Figures 3 and 7 – Existing Schools and Ancillary Facilities Map and Future Schools and Ancillary Facilities Map:** Revise maps to remove “future” mapped sites (sites that now have school facilities) from the Existing Sites for Future Public Educational Plants and Ancillary Plants Map and add to the Existing Public Educational Plants (Schools) and Ancillary Plants (Support Facilities) Map; and generally reorganize maps and add footnotes, including a footnote that notes requirement that development of school facilities be subject to land development regulations in the LDC in the event the School Board Review Interlocal Agreement expires.
2. **Figures 8, 9 and 10 – Elementary, Middle and High CSA Maps:** Generally reorganize maps and remove all future school sites, as this is not a statutory requirement. Additionally, removal of the future sites from these maps eliminates the need to place a map note requiring all future sites/facilities comply with the SBR ILA, or Land Development Code in the event the SBR ILA expires.
3. **Figure 11 – Public Facilities with School Co-location Opportunities Map:** Generally reorganize map and add a footnote, requiring that development of school facilities be subject to land development regulations in the LDC in the event the School Board Review Interlocal Agreement expires.

## Ø FUTURE LAND USE ELEMENT

**Policy 5.14:** Revise Policy to include a reference to the maps within the new Public School Facilities Element, reference to the proposed general Interlocal Agreement and implementing land development regulations to be adopted, and, a requirement that development of school facilities, approved under the SBR ILA, be subject to land development regulations in the LDC in the event the School Board Review Interlocal Agreement expires.

### **Policy 5.14:**

Public educational plants and ancillary plants:

- a. Existing public educational plants and ancillary plants: The sites containing existing public educational plants (schools and associated on-site facilities, including sports stadiums, gymnasiums and recreation areas) and ancillary plants (support facilities, including administrative offices, transportation facilities, maintenance yards, and bus barns) are depicted on the Future Land Use Map Series and Public School Facilities Element Map Series. This includes four sites where educational plants have been approved but construction either has not commenced or is not completed. More detailed descriptions or depictions of all of the sites containing these existing educational plants and ancillary plants are contained in the FLUE Support Document. Expansion of these educational plants and ancillary

plants on these existing sites, as well as expansions to the sites themselves, are subject to the provisions outlined in the ~~two general~~ Interlocal Agreements, adopted ~~in accordance with Sections 163.3177(6)(h) and 163.31777, Florida Statutes,~~ on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and subject to the implementing land development regulations to be adopted; and, shall be subject to the School Board Review (SBR) Interlocal Agreement adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and subject to the existing implementing land development regulations, or shall be subject to compliance with the land development regulations in effect at time of site development plan submittal ~~to be adopted.~~

b. Existing sites for future public educational plants: The Collier County School Board has acquired numerous sites for which educational plants are planned for future development; these sites contain no existing educational plants. ~~Most of these~~ These sites are consistent with locational criteria established by the SBR Interlocal Agreement and as contained in the FLUE, GGAMP, or IAMP, as applicable, and are allowed within the existing zoning district on the property. These sites are depicted on the Future Land Use Map Series and Public School Facilities Element Map Series. ~~As consistency is achieved for the remaining sites, via future Growth Management Plan amendments and/or zoning amendments and/or conditional use approvals, these sites will be added to the Future Land Use Map Series.~~ Development of the mapped sites shall be subject to the provisions of the ~~two general~~ Interlocal Agreements adopted ~~in accordance with Sections 163.3177(6)(h) and 163.31777, Florida Statutes,~~ on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and subject to the implementing land development regulations to be adopted; and, shall be subject to the School Board Review (SBR) Interlocal Agreement adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, as amended, and subject to the existing implementing land development regulations, or shall be subject to compliance with the land development regulations in effect at time of site development plan submittal ~~to be adopted.~~

c. Existing sites for future public ancillary plants: The Collier County School Board has acquired sites for which ancillary plants are planned for future development; these sites contain no existing ancillary plants. ~~Most of these~~ These sites are consistent with locational criteria established by the SBR Interlocal Agreement and as contained in the FLUE, GGAMP, or IAMP, as applicable, and are allowed within the existing zoning district on the property. These sites are depicted on the Future Land Use Map Series and Public School Facilities Element Map Series. ~~As consistency is achieved for the remaining sites, via future GMP amendments and/or~~

~~zoning amendments and/or conditional use approvals, these sites will be added to the Future Land Use Map Series.~~ Development of the mapped sites shall be subject to the provisions of the ~~two~~ general Interlocal Agreements adopted ~~in accordance with Sections 163.3177(6)(h) and 163.31777, Florida Statutes,~~ on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and subject to the implementing land development regulations to be adopted; and, shall be subject to the School Board Review (SBR) Interlocal Agreement adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, as amended, and subject to the existing implementing land development regulations, or shall be subject to compliance with the land development regulations in effect at time of site development plan submittal ~~to be adopted.~~

- d. Future sites for public educational plants and ancillary plants: As additional sites for educational plants and ancillary plants are acquired by the Collier County School Board and deemed to be consistent with the FLUE, GGAMP, or IAMP, as applicable, and allowed by existing zoning on the site, these sites will be added to the Future Land Use Map Series and Public School Facilities Element Map Series, as provided for in the ~~two~~ general Interlocal Agreements, ~~adopted in accordance with Sections 163.3177(6)(h) and 163.31777, Florida Statutes,~~ on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and the School Board Review (SBR) Interlocal Agreement adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, as amended. Future development of these sites will be subject to the provisions of the ~~two~~ aforementioned general Interlocal Agreements and SBR Interlocal Agreement, as amended, and subject to the existing implementing land development regulations, or shall be subject to compliance with the land development regulations in effect at time of site development plan submittal ~~to be adopted.~~ Prior to site acquisition, the Collier County School District will provide notification to property owners as follows: 1) for sites located within the Urban Designated Area of the Future Land Use Element of the Growth Management Plan, notices shall be sent to all owners of property within 500 linear feet of the property lines of the site under consideration for acquisition; 2) for sites not located within the Urban Designated Area of the FLUE of the Growth Management Plan, notices shall be sent to all owners of property within 1,000 linear feet of the property lines of the site under consideration for acquisition. At the public hearing to consider the land acquisition, all public commentary received as a result of these notices will be provided to the Collier County School Board.

- e. Zoning district provisions for future educational plants: Except to the extent that such would be in conflict with the Rural Fringe Mixed Use District adopted on June 19, 2002, or the Rural Lands Stewardship Area Overlay adopted on October 22, 2002, all future educational plants shall be allowed in zoning districts as follows:
- (1) Educational plants are prohibited in the Residential Tourist (RT), Golf Course (GC), Conservation (CON), Travel Trailer Recreational Vehicle Campground (TTRVC), Business Park (BP), and Industrial (I) zoning districts.
  - (2) Educational plants are permitted by right in all other zoning districts. However, for a high school facility to be located in any residential zoning district, or Estates (E) zoning district, or residential component of a PUD, a formal compatibility review and determination is required, as set forth in the general Interlocal Agreements, ~~adopted in accordance with Sections 163.3177(6)(h) and 163.31777, Florida Statutes,~~ on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and the School Board Review (SBR) Interlocal Agreement adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners.
- f. Zoning district provisions for future ancillary plants: Except to the extent that such would be in conflict with the Rural Fringe Mixed Use District adopted on June 19, 2002, or the Rural Lands Stewardship Area Overlay adopted on October 22, 2002, all future ancillary plants shall be allowed in zoning districts as follows:
- (1) Ancillary plants are prohibited in the Residential Single Family (RSF-1 through RSF-6), Mobile Home (MH), Travel Trailer Recreational Vehicle Campground (TTRVC), Golf Course (GC), and Conservation (CON) zoning districts.
  - (2) Ancillary plants are permitted by right in the General Commercial (C-4), Heavy Commercial (C-5), and Industrial (I) zoning districts.
  - (3) Ancillary plants are permitted by conditional use approval in all other zoning districts.

**Future Land Use Map Series:** Remove “future” mapped sites (sites that now have school facilities) from the Existing Sites for Future Public Educational Plants and Ancillary Plants Map and add to the Existing Public Educational Plants (Schools) and Ancillary Plants (Support Facilities) Map; and generally reorganize maps and add footnotes, including a footnote that notes requirement that development of school facilities be subject to land development regulations in the LDC in the event the School Board Review Interlocal Agreement expires.

Ø **GOLDEN GATE AREA MASTER PLAN (GGAMP) ELEMENT**

**Policy 1.1.8:** Revise Policy to include reference to the maps within the new Public School Facilities Element, reference to the proposed general Interlocal Agreement and implementing land development regulations to be adopted, and, a requirement that development of school facilities be subject to land development regulations in the LDC in the event the School Board Review Interlocal Agreement expires

**Policy 1.1.8:**

The sites containing existing public educational plants and ancillary plants, and the undeveloped sites owned by the Collier County School Board for future public educational plants and ancillary plants, within the GGAMP area, are depicted on the Future Land Use Map Series in the countywide FLUE and on the Public School Facilities Element Map Series, and referenced in FLUE Policy 5.14 and Intergovernmental Coordination Element Policy 1.2.6. All of these sites are subject to the ~~two general Interlocal Agreements, adopted in accordance with Sections 163.3177 (6) (h) and 163.31777, Florida Statutes,~~ on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and subject to the implementing land development regulations to be adopted; and, shall be subject to the School Board Review (SBR) Interlocal Agreement adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and subject to the existing implementing land development regulations, or shall be subject to compliance with the land development regulations in effect at time of site development plan submittal to be adopted. All future educational plants and ancillary plants shall be allowed in zoning districts as set forth in FLUE Policy 5.14.

Ø **IMMOKALEE AREA MASTER PLAN (IAMP) ELEMENT**

**Policy 1.1.7:** Revise Policy to include reference to the maps within the new Public School Facilities Element, reference to the proposed general Interlocal Agreement and implementing land development regulations to be adopted, and, a requirement that development of school facilities be subject to land development regulations in the LDC in the event the School Board Review Interlocal Agreement expires.

**Policy 1.1.7:**

The sites containing existing public educational plants and ancillary plants, and the undeveloped sites owned by the Collier County School Board for future public educational plants and ancillary plants, within the IAMP area, are depicted on the Future Land Use Map Series in the countywide FLUE and on the Public School

Facilities Element Map Series, and referenced in FLUE, Policy 5.14 and Intergovernmental Coordination Element, Policy 1.2.6. All of these sites are subject to the ~~two general~~ Interlocal Agreements, ~~adopted in accordance with Sections 163.3177(6)(h) and 163.31777, Florida Statutes,~~ on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and as subsequently amended and restated, with an effective date of December 2008, and subject to the implementing land development regulations to be adopted; and, shall be subject to the School Board Review (SBR) Interlocal Agreement adopted on May 15, 2003 by the Collier County School Board and on May 27, 2003 by the Board of County Commissioners, and subject to the existing implementing land development regulations, or shall be subject to compliance with the land development regulations in effect at time of site development plan submittal ~~to be adopted~~. All future educational plants and ancillary plants shall be allowed in zoning districts as set forth in FLUE Policy 5.14.

Ø **INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING AND SCHOOL CONCURRENCY, CAPITAL IMPROVEMENT ELEMENT AND PUBLIC SCHOOL FACILITIES ELEMENT**

Add phrase “formally adopted by the School Board between July 1 and October 1 each year” at each location where the School District’s Capital Improvement Plan is referenced, consistent with the correspondence from the FDOE (refer to Tab w/ FDOE Correspondence).

Ø **INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING AND SCHOOL CONCURRENCY, CAPITAL IMPROVEMENT ELEMENT, PUBLIC SCHOOL FACILITIES ELEMENT, AND INTERGOVERNMENTAL COORDINATION ELEMENT**

Staff has modified the referenced documents to make grammatical changes, modified sentence structure, as necessary, and have made other revisions that do not change the meaning or intent of the respective provisions.

**Non-ORC Report Related Changes Since Transmittal – Proposed by School District**

Ø **INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING AND SCHOOL CONCURRENCY**

**Section 13.8 Required Comprehensive Plan Amendments:** The School District has proposed the removal of certain text previously approved by the Board of County

Words underlined are added, words ~~struck through~~ are deleted – Transmittal  
Words double underlined are added, words double ~~struck through~~ are deleted – Adoption  
Row of asterisks denotes break in text  
Blue text was added by adoption of Ordinance 2008-4, now in effect

Commissioners for Transmittal, as noted in shaded text below.

**13.8 Required Comprehensive Plan Amendments.**

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**(a) Development, Adoption and Amendment of the Capital Improvements Element (CIE).** An annual update or any amendment to the School District's Five-Year Capital Improvement Plan shall be transmitted to the Local Governments for review and comment no less than 60 days prior to adoption by the School Board. The County and the Cities shall adopt by reference the School District's annually updated financially feasible Capital Improvement Plan, formally adopted by the School Board between July 1 and October 1 each year, specifically the "~~Summary of Capital Improvement Program~~" and the "~~Summary of Estimated Revenue~~" Tables from the ~~School District's Five-Year Capital Improvement Plan~~ into the Capital Improvement Element of their respective Comprehensive Plans. The annual update to the "~~Summary of Capital Improvements Program~~" and "~~Summary of Estimated Revenue~~" Tables from the School District's annually adopted financially feasible Five-Year Capital Improvement Plan, ~~provided such adoption does not affect the Local Governments' ability to maintain a financially feasible CIE for the current five-year planning period.~~ The amended Tables shall be adopted by reference each year by the Local Governments. This shall occur ~~in the Local Government's next available comprehensive plan amendment cycle,~~ but no later than December 1<sup>st</sup> of each year. This will ensure that the CIE uniformly sets forth a financially feasible public school capital facilities plan, consistent with the adopted LOSS for public schools.

**Response:** County staff does not object to the proposed change, provided the school concurrency documents are amended to reflect the School Board's adoption of its CIP between July 1 and October 1 each year, as noted in the FDOE's correspondence dated August 8, 2008 (refer to **tab** labeled **FDOE Correspondence**).

Words underlined are added, words ~~struck through~~ are deleted – Transmittal  
Words double underlined are added, words double ~~struck through~~ are deleted – Adoption  
Row of asterisks denotes break in text  
Blue text was added by adoption of Ordinance 2008-4, now in effect