

ORDINANCE NO. 09-_____

AN ORDINANCE AMENDING ORDINANCE NO. 89-05, AS AMENDED, THE COLLIER COUNTY GROWTH MANAGEMENT PLAN FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA BY PROVIDING FOR A REMEDIAL AMENDMENT RELATING TO PUBLIC SCHOOLS IN THE CAPITAL IMPROVEMENT ELEMENT; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on February 24, 2009, through the adoption of Ordinance No. 09-07 Collier County adopted its annual amendment to the Capital Improvement Element of the Growth Management Plan; and

WHEREAS, on May 19, 2009, the Department of Community Affairs (DCA) issued its Notice of Intent and Statement of Intent to find a portion of the County's annual amendment to the Capital Improvement Element, Ordinance No. 09-07, "not in compliance" as defined by Section 163.3184(1)(b), Florida Statutes; and

WHEREAS, pursuant to Subsection 163.3184(16), Florida Statutes, the DCA and Collier County Board of County Commissioners entered into a Compliance Agreement on September 15, 2009 to resolve issues raised in the proceedings; and

WHEREAS, to implement the Compliance Agreement remedial amendments to the Capital Improvement Element of the Growth Management Plan have been prepared for consideration and adoption by the Collier County Board of County Commissioners; and

WHEREAS, the Board of County Commissioners of Collier County did take action in the manner prescribed by law and did hold a public hearing concerning the adoption of the Remedial Amendment, including the following: the Collier County Executive Summary; and other documents, testimony and information presented and made part of the record at the meeting of the Collier County Board of County Commissioners held on September 15, 2009; and

WHEREAS, all applicable substantive and procedural requirements of law have been met.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, that:

SECTION ONE: ADOPTION OF A REMEDIAL AMENDMENT TO THE CAPITAL IMPROVEMENT ELEMENT OF THE GROWTH MANAGEMENT PLAN

The Board of County Commissioners hereby adopts the Remedial Amendment to the Capital Improvement Element of the Growth Management Plan in accordance with Section 163.3184, Florida Statutes. The relevant portions of the Capital Improvement Element affected by this amendment are attached hereto as Exhibit "A" and is incorporated by reference herein.

Exhibit A

OBJECTIVE 2 (FINANCIAL FEASIBILITY):

Provide public facilities, as described in Policy 1.1 above, in order to maintain adopted level of service standards that are within the ability of the County to fund, or within the County's authority to require others to provide, or as provided by the School District within their financially feasible Five-Year Capital Improvement Plan, formally adopted by the School Board between July 1 and October 1 of each year. ~~Any and all off site improvements associated with new schools and school expansions shall be the sole responsibility of the Collier County School Board unless Collier County and the Collier County School Board agree to an alternative funding mechanism.~~ With the exception of public school facilities, existing public facility deficiencies measured against the adopted level of service standards will be eliminated with revenues generated by ad valorem taxes and other intergovernmental revenues received based on economic activity. Future development will bear a proportionate cost of facility improvements necessitated by growth. Future development's payments may take the form of, but are not limited to, voluntary contributions for the benefit of any public facility, impact fees, dedications of land, provision of public facilities, and future payments of user fees, special assessments and taxes.

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Policy 5.4:

- A. The necessary ~~capital~~ facilities and services, ~~including requisite off site improvements,~~ are in place at the time a final site development plan, final plat or functional equivalent is approved; or
- B. The necessary ~~capital~~ facilities and services, ~~including requisite off site improvements,~~ are under construction or the contract for such facilities and services has been awarded, accepted, and duly executed by all parties at the time a final site development plan, final plat or functional equivalent; or
- C. The necessary ~~capital~~ facilities and services, ~~including requisite off site improvements,~~ are found in the first, second or third year of the School District of Collier County's 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 by December 1 of each year, at the time a final site development plan, final plat or functional equivalent is approved; or
- D. The necessary ~~capital~~ facilities and services, ~~including requisite off site improvements,~~ are the subject of a binding commitment with the developer to contribute proportionate share funding as provided for in Policy 2.4 of the Public School Facilities Element, if applicable, or to construct the needed facilities.