

Office of School Facilities
Jaime G. Torrens, Chief Facilities Officer

SUBJECT: THAT THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, AUTHORIZE THE SUPERINTENDENT TO FINALIZE NEGOTIATIONS AND EXECUTE:

- 1) A PUBLIC SCHOOL CONCURRENCY PROPORTIONATE SHARE MITIGATION DEVELOPMENT AGREEMENT BY AND AMONG THE SCHOOL BOARD, CITY OF SUNNY ISLES BEACH AND 18555 DEVELOPERS, LLC, A FLORIDA LIMITED LIABILITY COMPANY, IN CONNECTION WITH CONSTRUCTION OF A NEW 132-UNIT RESIDENTIAL DEVELOPMENT, LOCATED AT 18555 COLLINS AVENUE, CITY OF SUNNY ISLES BEACH, FLORIDA 33160 (AKA PORSCHE DESIGN TOWERS MIAMI) PROVIDING FOR MONETARY PROPORTIONATE SHARE MITIGATION PURSUANT TO THE INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING IN MIAMI-DADE COUNTY; AND**
- 2) ANY OTHER DOCUMENTATION THAT MAY BE REQUIRED TO EFFECTUATE IMPLEMENTATION OF THE AGREEMENT**

COMMITTEE: FACILITIES AND CONSTRUCTION

LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES

Background

18555 Developers, LLC (“developer”), received site plan approval and subsequently a building permit from the City of Sunny Isles Beach (“City”) for a 132-unit residential development (“Residential Development”) on approximately 2.21 acres, located at 18555 Collins Avenue, City of Sunny Isles Beach, Florida 33160 (see location map), contingent upon the developer obtaining a school concurrency determination from the District, in accordance with the terms of the Interlocal Agreement for Public School Facility Planning in Miami-Dade County (“ILA”).

Pursuant to State Statutes and the ILA, the Residential Development application was reviewed by the District for compliance with Public School Concurrency. The review yielded that the applicable Level of Service (“LOS”) standard was met at the middle school and high school levels, but is deficient by six (6) elementary school seats. The impacted school is Norman S. Edelcup/Sunny Isles Beach K-8.

Proportionate Share Mitigation

Pursuant to the ILA, where there is insufficient capacity to address the impacts of a proposed development, representatives of the applicant, impacted local government and District (collectively “the Parties”) are to discuss ways of mitigating the development’s impact, including proportionate share mitigation options (“Mitigation”). After several meetings, the Parties have reached consensus on Mitigation, subject to Board and City approval; this also allows the Parties to enter into a Public School Concurrency Proportionate Share Mitigation Development Agreement (“Agreement”), pursuant to the ILA.

Under the governing provisions, the minimum acceptable mitigation project is a classroom. In this case, to address the deficiency of six (6) elementary student stations, Mitigation by the developer will be a monetary contribution equal to the cost of one elementary school classroom containing twenty-two (22) student stations (the “School Project”). To facilitate the proposed School Project, a line item in the amount of \$494,780 (the “Mitigation Cost”) will be added to the District’s Facilities Work Program as part of the next update, for the creation of twenty-two (22) elementary school student stations as part of proposed additional K-8 relief in the Northeast Miami-Dade Area, as contained in the Board approved Work Program.

The Mitigation Cost was derived based on the cost per student station, as published by the State of Florida Department of Education (“DOE”), for November of 2017, the date by which implementation of the School Project would likely start. It should be noted that as required under state law and the ILA, the developer will be eligible to receive Educational Facilities Impact Fee Credits in the amount of \$490,320, which is the actual amount of the Educational Facilities Impact Fees paid by the developer to Miami-Dade County (“County”) for the Residential Development.

Mitigation Banking

As stated above, the School Project will yield twenty-two (22) student stations, or sixteen (16) seats beyond the six (6) student stations required to address the Residential Development’s impact. Pursuant to the governing ILA, the developer will retain the right to transfer these sixteen (16) seats to future residential developments affecting the same Concurrency Service Area and also in need to provide mitigation at the elementary school level, through a Mitigation Bank to be established and entirely administered by the District.

Public School Concurrency Proportionate Share Mitigation Development Agreement

The Agreement between the Board, City and developer shall contain, substantially, the following terms and conditions:

- As part of a typical Mitigation Development Agreement, in this case, the developer would make an upfront monetary contribution to the Board of \$494,780, which is the estimated cost of constructing twenty-two (22) elementary school student stations based on the November 2017 cost per student station published by DOE. Further, as consideration for the developer's up-front monetary contribution, the District would provide an Educational Facilities Impact Fee Credit towards any Educational Facilities Impact Fee imposed by County Ordinance for construction of the Residential Development. In this case, the developer has already paid all Educational Facilities Impact Fees, in the total amount of \$490,320. As such, the net monetary contribution to the Board shall be \$4,460;
- the value of the School Project is to be added to the District's Facilities Work Program at the time of its next annual update following the execution of the Agreement and upon receipt of the monetary contribution from the developer, most likely as part of the preparation for the FY 2016-17 five-year work plan cycle;
- upon the full execution of the Agreement by all appropriate Parties and receipt of payment from the developer, the District shall issue a Finding of Available School Facility Capacity ("Finding"). Issuance of the Finding by the District shall be a pre-condition to issuance of a Certificate of Occupancy by the City for the subject Residential Development;
- the selected monetary contribution, which will provide for the cost of construction by the District of twenty-two (22) elementary school seats, results in sixteen (16) seats in excess of the six (6) seats needed to be mitigated by the developer. As such, the District will establish and administer a Mitigation Bank and mitigation banking process, which will have an initial quantity of sixteen (16) Banked Seats. Due to the full payment by the developer of \$490,320 in Educational Facilities Impact Fee, and the developers need to mitigate six (6) elementary student stations at an established value of \$22,490 per seat (total of \$134,940), there is no reimbursable value to the developer for each Banked Seat;
- Banked Seats will be made available to future residential developers affecting the same Concurrency Service Area at the then current cost per student station, as established by DOE, with the Board to retain all proceeds. Banked Seats may be purchased up to six (6) years from the date the School Board authorized the execution of this Agreement. Any remaining Banked Seats shall be deemed expired at that time;
- future residential developments may purchase Banked Seat(s) only if the Mitigation Bank has sufficient number of available seats to provide for the entire school capacity deficiency. In the event that in the future, multiple Mitigation Banks are created for the same Concurrency Service Area, the Banked Seats

shall be transferred to future residential developments in the order in which each Mitigation Bank was created;

- the Agreement shall expire upon the Parties' completion of their performance of all obligations or within six (6) years from the date that the Agreement is executed by all Parties, whichever comes first;
- the developer may assign its rights, obligations and responsibilities under this Agreement to a third party purchaser of all or any part of fee simple title to the Residential Development. Any such assignment shall be in writing and shall require the prior written consent of all of the Parties;
- the developer shall pay all recordation costs to the District necessary to record the Agreement and any related documentation, including without limitation, Assignments, if any, and Releases;
- in the event of any dispute among the Parties, each Party shall be responsible for its own Attorney's fees, and the Parties waive trial by Jury in any action, proceeding or counterclaim brought by any Party against any other Party or Parties with respect to any matter arising under this Agreement; and
- for purposes of this Agreement, the Superintendent or his/her designee shall be the Party designated by the Board to grant or deny any and all approvals required under the Agreement, including, without limitation, issuance of reports.

The Agreement has been reviewed by the School Board Attorney's Office for legal sufficiency. Both Counsel for the City and Counsel for the developer have reviewed the Agreement and indicated their concurrence with the proposed terms and conditions.

RECOMMENDED:

That the School Board of Miami-Dade County, Florida, authorize the Superintendent to finalize negotiations and execute:

- 1) a Public School Concurrency Proportionate Share Mitigation Development Agreement by and among the School Board, City of Sunny Isles Beach and 18555 Developers, LLC, a Florida Limited Liability company, in connection with construction of a new 132-unit residential development, located at 18555 Collins Avenue, Sunny Isles Beach, Florida 33160 (aka Porsche Design Towers Miami), providing for monetary proportionate share mitigation pursuant to the Interlocal Agreement for Public School Facility Planning in Miami-Dade County; and
- 2) any other documentation that may be required to effectuate the implementation of the Agreement.

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Location Map

