

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

**SUBJECT:**                    **A) 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, MIAMI-DADE COUNTY AND KARIS VILLAGE, LLC (“DEVELOPER”), JOINED BY THE PROPERTY OWNERS, IN CONNECTION WITH CONSTRUCTION OF A NEW 88-UNIT RESIDENTIAL DEVELOPMENT, LOCATED AT S.W. 119 AVENUE AND S.W. 216 STREET, UNINCORPORATED MIAMI-DADE COUNTY, PROVIDING FOR MONETARY PROPORTIONATE SHARE MITIGATION PURSUANT TO THE INTERLOCAL AGREEMENT FOR PUBLIC SCHOOL FACILITY PLANNING IN MIAMI-DADE COUNTY; AND

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2) ANY OTHER DOCUMENTATION THAT MAY BE REQUIRED TO EFFECTUATE IMPLEMENTATION OF THE AGREEMENT

**B) THAT THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, AUTHORIZE THE SCHOOL BOARD ATTORNEY TO EXECUTE THE WAIVER OF CONFLICT LETTER FROM GREENBERG TRAUIG, WHICH FIRM IS SERVING SOLELY AS COUNSEL FOR THE DEVELOPER IN THIS TRANSACTION**

**COMMITTEE:**                    **FACILITIES AND CONSTRUCTION**

**LINK TO STRATEGIC BLUEPRINT:**                    **EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES**

Background

Karis Village, LLC (“developer”), joined by the property owners, is in the process of obtaining site plan and plat approval from Miami-Dade County (“County”) for a 88-unit residential development (“Residential Development”) on approximately 1.8 acres, located at S.W. 119 Avenue and S.W. 216 Street, unincorporated Miami-Dade County

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(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 eleven (11) elementary school seats. The impacted school is Caribbean K-8 Center.

#### 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 County approval; this also allows the Parties to enter into a Public School Concurrency Proportionate Share Mitigation 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 eleven (11) 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 \$495,968 (the “Mitigation Cost”) will be included in 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 a proposed addition at Caribbean K-8 Center.

The Mitigation Cost was derived based on the cost per student station, as published by the State of Florida DOE, for December 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 an amount currently estimated at \$132,000. The final amount of the Educational Facilities Impact Fee Credit will be adjusted to reflect the actual impact fees assessed by Miami-Dade County (“County”) for the Residential Development, once all the residential permits are issued.

#### Mitigation Banking

As stated above, the School Project will yield twenty-two (22) student stations, or eleven (11) seats beyond the eleven (11) student stations required to address the Residential Development’s impact. Pursuant to the governing ILA, the developer will retain the right to transfer these eleven (11) 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, County and developer shall contain, substantially, the following terms and conditions:

- the developer shall make an upfront monetary contribution to the Board of \$495,968, which is the estimated cost of constructing twenty-two (22) elementary school student stations based on the December 2017 cost per student station published by the DOE;
- 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 2017-18 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 building permits by the County for the subject Residential Development;
- as consideration for the developer's up-front monetary contribution, the District shall provide an Educational Facilities Impact Fee Credit, estimated at One Hundred Thirty-Two Thousand Dollars (\$132,000), toward any Educational Facilities Impact Fees imposed by County ordinance for construction of the Residential Development. The final Educational Facilities Impact Fee Credit amount shall be determined by the County, pursuant to the then current Miami-Dade County School Impact Fee Ordinance;
- the selected monetary contribution, which will provide for the cost of construction by the District of twenty-two (22) elementary school seats, results in eleven (11) seats in excess of the eleven (11) seats needed to be mitigated by the developer. As such, the developer has the right to transfer some or all of the excess eleven (11) seats to future residential developments, should such a need arise. In this regard, the District shall establish and administer a Mitigation Bank and mitigation banking process, which, in this instance, will have an initial quantity of eleven (11) Banked Seats. The estimated reimbursable value of each Banked Seat has been established at \$5,272 (total upfront contribution, minus the estimated amount of impact fees to be paid, less the value of the eleven (11) mitigated seats, divided by the twenty-two (22) seats created by the School Project). This estimated reimbursable value shall be adjusted to reflect actual total Educational Facilities Impact Fees assessed by the County, and no

reimbursement to the developer shall occur until the impact fee amount to be credited is fully reconciled by the County and determined to be final;

- Banked Seats may be purchased by future residential developments affecting the same Concurrency Service Area 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 and the Banked Seats are available for transfer to another residential developer applicant;
- 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.

#### Waiver of Conflict Letter

Developer and its affiliates have selected Greenberg Traurig ("GT") to serve as its legal counsel in this transaction. Greenberg Traurig has represented in the past and presently represents the Board in other unrelated transactions, but not in this one. To that end, GT has proffered a waiver of conflict letter for the Board's consideration and approval, a copy of which is included as Exhibit "A".

The Agreement will be reviewed by the School Board Attorney's Office and the Office of

Risk and Benefits Management for legal sufficiency and risk management issues, respectively, prior to execution.

**RECOMMENDED:**

A) 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, Miami-Dade County and Karis Village, LLC (“developer”), joined by the property owners, in connection with construction of a new 88-unit residential development, located at S.W. 119 Avenue and S.W. 216 Street, unincorporated Miami-Dade County, providing for monetary proportionate share mitigation pursuant to the Interlocal Agreement for Public School Facility Planning in Miami-Dade County; and

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2) any other documentation that may be required to effectuate implementation of the Agreement.

B) That the School Board of Miami-Dade County, Florida, authorize the School Board Attorney to execute the waiver of conflict letter from Greenberg Traurig, which firm is serving solely as counsel for the developer in this transaction.

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