

1 Introduced by the Council President at the request of the Joint  
2 Planning Committee & substituted by the Land Use and Zoning  
3 Committee:

4  
5 **ORDINANCE 2007-1146-E**

6 AN ORDINANCE AMENDING CHAPTER 655, *ORDINANCE*  
7 *CODE*, (CONCURRENCY MANAGEMENT SYSTEM), TO  
8 IMPLEMENT PUBLIC SCHOOL CONCURRENCY; CREATING  
9 A NEW PART 4 TO IMPLEMENT PUBLIC SCHOOL  
10 CONCURRENCY; AMENDING PART 1, SECTIONS  
11 655.106, 655.108, 655.111, 655.112, 655.113  
12 AND 655.116 TO IMPLEMENT PUBLIC SCHOOL  
13 CONCURRENCY; PROVIDING FOR SEVERABILITY AND  
14 TRANSMISSION TO THE MUNICIPAL CODE  
15 CORPORATION; AND PROVIDING AN EFFECTIVE DATE.

16  
17 **WHEREAS**, the City Council finds that, in the interest of  
18 protecting the public health, safety, and general welfare, it is  
19 necessary to ensure that as new residential development occurs in  
20 the City of Jacksonville (City), adequate public school facilities  
21 are in place to serve those new residents; and

22 **WHEREAS**, Duval County Public Schools (DCPS) is responsible for  
23 providing public school facilities to Duval County residents; and

24 **WHEREAS**, the City and the other municipalities within Duval  
25 County, have entered into an Interlocal Agreement for Public School  
26 Facility Planning (Interlocal Agreement) with the DCPS, which sets  
27 forth matters required by state law related to public school  
28 concurrency, and which is intended to achieve a uniform, countywide  
29 public school concurrency system; and

30 **WHEREAS**, the City has adopted a Public School Facilities  
31 Element in its 2010 Comprehensive Plan to establish a uniform,

1 countywide public school concurrency system in accordance with  
2 state law; and

3 **WHEREAS**, the City has adopted Level of Service (LOS) Standards  
4 for public schools as provided in the Interlocal Agreement and the  
5 Public School Facilities Element of the City's 2010 Comprehensive  
6 Plan; and

7 **WHEREAS**, the City Council has determined that this ordinance  
8 is necessary to mitigate the potential negative impacts on public  
9 school facilities if new residential development is allowed to  
10 occur at a rate beyond the ability of the DCPS to provide adequate  
11 public school facilities for the new residents; and

12 **WHEREAS**, the City is required to adopt land development  
13 regulations to implement the Interlocal Agreement and the Public  
14 School Facilities Element; now, therefore

15 **BE IT ORDAINED** by the Council of the City of Jacksonville:

16 **Section 1.** Chapter 655 (Concurrency Management System),  
17 Part 1 (General Provisions), Sections 655.106, 655.108, 655.111,  
18 655.112, 655.113, and 655.116, *Ordinance Code*, are hereby amended,  
19 in part, to read as follows:

20 **CHAPTER 655**

21 **CONCURRENCY MANAGEMENT SYSTEM**

22 **PART 1. GENERAL PROVISIONS**

23 \* \* \*

24 **Sec. 655.106. Concurrency Management System Office (CMSO).**

25 There is hereby established a Concurrency Management System  
26 Office for the City of Jacksonville located in the Planning and  
27 Development Department.

28 (a) *Functions and responsibilities.* The CMSO shall perform  
29 the following functions:

30 (1) It shall provide to the public, upon request,  
31 information on existing capacities and levels of service for

1 traffic circulation, potable water, sanitary sewer, solid waste,  
2 drainage, recreation, public schools and mass transit. Such  
3 information shall include existing facility and service capacities,  
4 planned and committed facility and service capacity increases or  
5 extensions, and existing and committed service demands.

6 \* \* \*

7 **Sec. 655.108. Exemptions; completed structures; de minimis**  
8 **development.** Not all development or development activity impacts  
9 are significant enough to cause deterioration in the levels of  
10 service as adopted in the 2010 Comprehensive Plan.

11 (a) The following development shall be exempt from CMS  
12 review, as defined below:

13 (1) A change in use of a structure completed as of  
14 April 25, 1991, without addition of square footage, from a lawful  
15 use within a presently applicable zoning district to a similar  
16 permitted use within the same zoning district shall be exempt from  
17 all CMS review.

18 (2) A development with a vehicular trip generation rate  
19 of ten or less average daily trips (ADT) according to the latest  
20 revised edition of the ITE Trip Generation Manual shall be exempt  
21 from all CMS review.

22 (3) A development exempt or deemed de minimis pursuant  
23 to Chapter 655, Part 4 (Public School Concurrency) shall be exempt  
24 from CMS review for public school impacts.

25 (3 4) All public facilities necessary to ensure the  
26 protection of the health, safety and general welfare of the  
27 citizens of the City of Jacksonville, including all public facility  
28 construction projects included in the Capital Improvement Program  
29 and Capital Improvement Element of the 2010 Comprehensive Plan  
30 which are required to ensure compliance with all adopted levels of  
31 service, shall be exempt from all CMS review ~~concurrency reviews.~~

1 (b) An applicant for any final development order or final  
2 development permit for such a development shall be required to file  
3 an application for a CRC pursuant to Section 655.111 hereof. The  
4 CMSO shall process the application for a CRC in an expeditious  
5 manner and shall stamp the building permit with a stamp indicating  
6 "De Minimis Approved." Such a building permit shall be exempt from  
7 any further concurrency review.

8 \* \* \*

9 **Sec. 655.111. Concurrency Reservation Certificate application**  
10 **process and review procedures.**

11 \* \* \*

12 (b) *Conditional Capacity Availability Statement (CCAS)*  
13 *application procedures and review process.* An applicant may make  
14 an application for a CCAS. An applicant for a CCAS shall file a  
15 completed application with the CMSO on the form provided by that  
16 office. The applicant shall provide all the information requested  
17 on the application, to the extent applicable. The application shall  
18 be accepted by the CMSO only if the application is completed in  
19 full and submitted with all supplementary information required.  
20 Prior to filing the application, the applicant is encouraged to  
21 meet with the CMSO staff or the staff of any reviewing division to  
22 discuss the application. Upon the payment of the application fee to  
23 the Tax Collector, copies of the application shall be transmitted  
24 immediately to each reviewing division. The acceptance of an  
25 application for a CCAS shall constitute the issuance of reserve  
26 capacity as to those public facilities for which there is free  
27 capacity on the date of acceptance of the application. Each  
28 reviewing division shall review the application for compliance with  
29 level of service standards according to the methodologies and  
30 criteria set forth in the *Concurrency Management System Handbook*  
31 *for Jacksonville, Florida.*

1 (1) Reviews shall be performed as follows:

2 (i) Transportation Planning Division, Planning and  
3 Development Department: traffic circulation and mass transit;

4 (ii) JEA: potable water and sanitary sewer;

5 (iii) Solid Waste Division, Public Utilities  
6 Department: solid waste;

7 (iv) Engineering Division, Public Works  
8 Department: drainage;

9 (v) Park Development Division, Parks, Recreation,  
10 Entertainment, and Conservation Department: recreation.

11 (vi) Duval County Public Schools: public schools.

12 \* \* \*

13 (6) Each CCAS shall expire automatically ~~120 days~~ one  
14 year after the date of issuance unless the applicant applies for  
15 the final development order or development permit for which the  
16 CCAS was required within the ~~120 day~~ one-year period. An applicant  
17 may receive from the CMSO ~~one or more~~ four extensions of up to ~~90~~  
18 ~~days~~ six months each based upon a showing of good cause. The CCAS  
19 shall automatically expire simultaneously with the denial of the  
20 final development order or final development permit for which the  
21 CCAS was required.

22 \* \* \*

23 (c) *Concurrency Reservation Certificate (CRC) application*  
24 *procedures and review process.* An applicant may make an  
25 application for a CRC. In the event the applicant has not  
26 previously obtained a CCAS, the applicant shall follow the  
27 procedures set forth in subsections (c)(1) through (3) of this  
28 Section. In the event the applicant has previously obtained a CCAS,  
29 the applicant shall follow the procedures set forth in subsections  
30 (c)(4) through (8) of this Section. All CRCs, whether or not  
31 preceded by a CCAS, are governed by the provisions in subsections

1 (c)(8) through (13) of this Section.

2 \* \* \*

3 (3) If the application is approved, the written  
4 notification of approval, together with a CRC, shall be issued to  
5 the applicant by the CMSO within the time period set forth in  
6 subsection (b)(4) of this Section. The CRC shall expire  
7 automatically 120 days after the date of issuance unless the  
8 applicant applies for the final development order or development  
9 permit for which the CRC was required within the 120-day period. An  
10 applicant may receive from the CMSO one or more extensions of up to  
11 90 days based upon a showing of good cause. The CRC shall  
12 automatically expire simultaneously with (i) the denial or  
13 revocation of the final development order for which the CRC was  
14 required; or (ii) the expiration of the final development order or  
15 development permit to which it applies.

16 \* \* \*

17 **Sec. 655.112. Minimum requirements for CCAS or CRC approval.**

18 Minimum requirements for a CCAS or CRC approval for each of  
19 the following public facilities and services are as follows:

20 \* \* \*

21 (e) For public schools, the requirements of Chapter 655, Part  
22 4 must be met.

23 (e f) The burden of demonstrating compliance with the  
24 requirements of this Section shall be on the applicant.

25 \* \* \*

26 **Sec. 655.113. Substantial deviations.**

27 (a) Any proposed change from a final development order or  
28 final development permit for which a VPAC, CCAS or CRC was required  
29 shall be deemed a substantial deviation if the proposed change is a  
30 change in use or intensity which, either individually or  
31 cumulatively with other changes, will increase the development's

1 impacts upon the public facilities and services listed in Section  
2 655.112(a) through (d e) by more than five percent of:

3 (1) In the instance of a VPAC, the total capacity  
4 applicable to the development as vested pursuant to the VPAC; or

5 (2) In the instance of a CCAS or CRC, the reserve  
6 capacity applicable to the development.

7 \* \* \*

8 **655.116. Schedule of fees.** The following schedule of fees shall  
9 apply. The effective date and time of filing the application shall  
10 be upon receipt of the required fee by the Tax Collector.

11 (a) Application for a CRC not preceded by a CCAS:

12 (1) Formal review:

13 (i) For residential, new building: ~~\$15~~ \$19 per  
14 dwelling unit up to 500 units, of which \$4 is designated for public  
15 school concurrency testing. ~~\$6~~ \$8 per dwelling unit for any  
16 additional units over 500 units, of which \$2 is designated for  
17 public school concurrency testing.

18 \* \* \*

19 (b) Application for a CRC preceded by a CCAS:

20 (1) For residential, new building: ~~\$6~~ \$8 per dwelling  
21 unit up to 500 units, of which \$2 is designated for public school  
22 concurrency testing. ~~\$2.40~~ \$3.40 per dwelling unit for any  
23 additional units over 500 units, of which \$1 is designated for  
24 public school concurrency testing.

25 \* \* \*

26 (c) Application for CCAS:

27 (1) For residential, new building: ~~\$9~~ \$11 per dwelling  
28 unit up to 500 dwelling units, of which \$2 is designated for public  
29 school concurrency testing. ~~\$3.60~~ \$4.60 per dwelling unit for each  
30 additional unit over 500 units, of which \$1 is designated for  
31 public school concurrency testing.

\* \* \*

(h) Concurrency time extensions for CCAS or CRC certificates (~~maximum 90 day extensions~~): ~~\$50~~ \$100 for CCAS; \$50 for CRC.

(i) All agencies, independent authorities and departments of the City of Jacksonville, as well as all departments and agencies of the state and federal government, are exempt from the requirement to pay Concurrency Management System fees.

(j) The CMSO shall coordinate the transfer of the identified public school concurrency testing fees collected pursuant to this Section to the DCPS quarterly.

\* \* \*

**Section 2.** A new Part 4, Chapter 655 (Concurrency Management System), *Ordinance Code*, is hereby created to read as follows:

**CHAPTER 655**

**CONCURRENCY MANAGEMENT SYSTEM**

**PART 4. PUBLIC SCHOOL CONCURRENCY**

**655.401. Purpose and declaration of public policy.** The purpose and intent of this Part 4 is:

(a) To implement the provisions of the City's 2010 Comprehensive Plan and the adopted Interlocal Agreement for Public School Facility Planning related to the adequacy of public school facilities as new residential growth occurs.

(b) To ensure that public schools needed to support new residential development will meet Level of Service Standards.

(c) To ensure that the City and DCPS maintain a financially-feasible Capital Facilities Plan to accommodate new residential development based on the DCPS ability to provide adequate public school facilities to new residents.

(d) To establish uniform procedures for the review of School

1 Concurrency Applications subject to the standards and requirements  
2 of this Ordinance.

3 (e) To establish a methodology whereby the impacts of  
4 development on public school facilities can be mitigated by the  
5 cooperative efforts of the public and private sectors.

6 (f) To encourage residential development in areas where  
7 public school facilities are adequate and/or planned in the DCPS  
8 Five-Year Capital Facilities Plan as provided for and required by  
9 state law.

10 (g) To ensure that all applicable legal standards and  
11 criteria are incorporated into these procedures and requirements.

12 (h) To ensure that approval of Development Orders will not  
13 adversely affect the public health, safety, and general welfare of  
14 existing and future residents of the City.

15 **Sec. 655.402. Legislative findings, intent, and authority.**

16 The Council finds and determines that:

17 (a) The availability of public school facilities is necessary  
18 for the public health, safety, and general welfare.

19 (b) New residential growth and development within the City  
20 has an impact on the school capacity of public school facilities,  
21 which impact can be mitigated as provided herein.

22 (c) The LOS Standards for each school type are necessary for  
23 the protection of the public health, safety and welfare.

24 (d) The impacts on public school facilities resulting from  
25 new residential development may be mitigated by measures that  
26 either reduce projected impacts on, or increase the school  
27 capacity.

28 (e) This ordinance is necessary so that continued residential  
29 growth does not surpass the DCPS ability to plan for and fund  
30 necessary public school facilities.

31 **655.403. Definitions.** In this Part 4, the following

1 definitions apply and supersede any contrary or inconsistent  
2 definition in this Chapter:

3       *Auxiliary Facility* means the spaces located at educational  
4 plants which are not designated for student occupant stations.

5       *Available Capacity* means a factor to be used to determine  
6 school concurrency that is determined by current permanent FISH  
7 capacity plus portables + planned additional permanent seats plus  
8 portables over the applicable testing period according to the CIE  
9 less current student enrollment (for testing in the current year)  
10 or projected enrollment (for testing in year 3) based on State  
11 Capital Outlay Full-Time Equivalent (COFTE), adjusted to remove  
12 students generated by projected new housing stock.

13       *Capacity* means the number of students that may be housed in a  
14 facility for the testing period based upon the permanent FISH  
15 capacity calculations plus portables.

16       *Capital Improvements* means physical assets constructed or  
17 purchased to provide, improve or replace a public facility. The  
18 cost of capital improvement is generally nonrecurring and may  
19 require multi-year financing.

20       *Class Size Reduction* means a provision to ensure that by July  
21 1, 2010, there are sufficient number of classrooms in a public  
22 school so that (i) the maximum number of students who are assigned  
23 to each teacher in the public classrooms for pre-kindergarten  
24 through 3<sup>rd</sup> grade does not exceed 18 students; (ii) the maximum  
25 number of students who are assigned to each teacher in the public  
26 classrooms for 4<sup>th</sup> grade through 8<sup>th</sup> grade does not exceed 22  
27 students; and (iii) the maximum number of students who assigned to  
28 each teacher in the public classrooms for 9<sup>th</sup> grade through 12<sup>th</sup>

1 grade does not exceed 25 students.

2        *Core Facility* means the cafeteria, media center, gymnasium,  
3 toilet facilities and circulation space of an educational facility.

4        *Concurrency Service Areas (CSAs)* means the designation of an  
5 area within which the level of service will be measured when an  
6 application for a residential development order is reviewed.

7        *Cost per Student Station* includes all costs of providing  
8 instructional and core capacity facilities as published in the  
9 Educational Specifications, State Requirements for Educational  
10 Facilities (SREF), Florida Building Code and designed using the  
11 standards listed in the Facilities Services Design Guidelines  
12 developed by the School District, including school facility  
13 construction cost, hurricane hardening of structures, required on  
14 and off-site infrastructure costs, including land, professional  
15 fees for architects, engineers, construction managers, design, DCPS  
16 athletic costs, buildings, equipment, furniture, and site  
17 improvements.

18        *Duval County Public Schools (DCPS)* means the Duval County  
19 Public Schools District

20        *Educational Facilities* means the public buildings and  
21 equipment, structures, and special educational use areas that are  
22 built, installed or established to serve educational purposes only.

23        *Educational Facilities Work Plan* means the listing of capital  
24 outlay projects for a five-year period that is adopted by the DCPS  
25 as part of the educational facilities plan. The work plan must  
26 include a schedule of major repair and renovation projects  
27 necessary to maintain the educational and ancillary facilities and  
28 a schedule of capital outlay projects necessary to ensure the

1 availability of satisfactory student stations for the projected  
2 student enrollment in K-12 programs.

3 *Education Plant Survey* means a systematic study of educational  
4 and ancillary facilities conducted every five years, to evaluate  
5 existing facilities, and to plan for future facilities to meet  
6 proposed program needs.

7 *Financial Feasibility* means an assurance that sufficient  
8 revenues are currently available or will be available from  
9 committed or planned funding sources for the 5-year capital  
10 improvements schedule.

11 *Five-Year Capital Facilities Plan* means the adopted DCPS Five-  
12 Year Work Plan and Capital Improvements Budget as authorized by  
13 Section 1013.35, Florida Statutes.

14 *Florida Inventory of School Houses (FISH) Capacity* means the  
15 report of the permanent capacity of existing public school  
16 facilities. The FISH capacity is the number of students that may  
17 be housed in a facility (school) at any given time based on a  
18 percentage of the total number of existing student stations and a  
19 designated size for each school type, based on the Department of  
20 Education (DOE) formulas.

21 *Interlocal Agreement Team (ILA Team)* means a committee of  
22 staff members representing the DCPS, the City, the Office of  
23 General Counsel, and the Cities of Atlantic, Neptune and  
24 Jacksonville Beaches and the Town of Baldwin.

25 *Joint Planning Committee* means a committee of elected and  
26 citizen members which provides advice to the DCPS, the City  
27 Council, and the other municipalities as established to comply with  
28 and implement Section 163.31777, Florida Statutes.

1        *Maximized Utilization* means the use of student capacity at  
2 each school to the greatest extent possible, based on the adopted  
3 LOS and the total number of permanent student stations according to  
4 FISH inventory, taking into consideration core capacity, special  
5 programs, transportation costs, geographic impediments, court  
6 ordered desegregation, and class size reduction requirements to  
7 prevent disparate enrollment levels between schools of the same  
8 type and provide equitable distribution of student enrollment  
9 district-wide.

10        *Mitigation Banking* means any system by which a residential  
11 developer or a group of developers may advance the cost of  
12 contributing land or constructing school facilities and be  
13 reimbursed by future residential development.

14        *Permanent FISH Capacity* means permanent FISH capacity, plus  
15 portables, for each school type, based on the utilization rate as  
16 established by the State Requirements for Educational Facilities  
17 (SREF).

18        *Permanent Student Station* means an area within a school that  
19 provides instructional space for a student, as specified by the  
20 FISH inventory.

21        *School Type* means Elementary, Middle, and/or High School.

22        *State Requirements for Educational Facilities (SREF)* means the  
23 Florida Department of Education's standards regulating the  
24 construction of educational facilities.

25        *Student Generation Rate* shall be calculated for each school type  
26 by dividing the total number of public school students actually  
27 enrolled in that school type in Duval County by the number of total  
28 housing units for the same year.

1           **655.404. Applicability and Exemptions.**

2           (a) This Part 4 applies to residential development not  
3 otherwise exempt by subsection (b).

4           (b) The following residential uses are exempt from this Part  
5 4:

6                 (1) Developments with an approved CCAS or CRC as of the  
7 effective date of this Part 4.

8                 (2) Developments with a pending or approved Development  
9 Agreement as defined in Part 2 or Fair Share Contract as defined in  
10 Part 3 of this Chapter.

11                (3) Developments of Regional Impact pending or approved  
12 as of the effective date of this Part 4.

13                (4) Any development vested as defined in Part 1 of this  
14 Chapter.

15                (5) Any development with a de minimis impact defined as  
16 any residential development of 20 units or less; provided, however,  
17 that the development complies with the aggregation limitations in  
18 Section 655.106.

19                (6) Developments deed-restricted by age.

20                (7) Any development with a previously approved ordinance  
21 (for example, a conditioned Comprehensive Plan Amendment,  
22 conditioned PUD rezoning, Regional Activity Center, etc.)  
23 addressing mitigation for impacts to schools.

24           (c) All proposed residential developments shall be given  
25 credit for existing residential units and this Part 4 shall only  
26 apply to any increase in the number of residential units in such  
27 development.

28           **655.405. Minimum requirements for a CCAS or CRC approval for**  
29 **public schools.** For public school concurrency, one of the  
30 following must be met:

31                (a) Adequate school capacity to serve the development

1 (or anticipated phase(s) of the development which will be  
2 constructed in the first three years) will be in place or under  
3 actual construction within 3 years after the issuance of final  
4 subdivision or site plan approval, or the functional equivalent and  
5 the applicant has applied for and received a CCAS/CRC or has entered  
6 into a non-mitigation capacity reservation Development Agreement  
7 pursuant to Section 655.410; or

8 (b) A legally binding Mitigation Agreement between the  
9 applicant, the DCPS, and the City has been executed as provided  
10 herein.

11 **655.406. Concurrency Service Areas Defined.**

12 (a) The CSAs shall be less than district wide and shall be  
13 divided into Concurrency Service Areas established for Duval County  
14 elementary and high schools, and Concurrency Service Areas for  
15 middle schools. The current CSAs are depicted in Figures 1 through  
16 3.

17 (b) The following CSAs are considered adjacent to each other:

18 Elementary and High Schools:

19 CSA 1 is adjacent to CSA 2, 7, 8, and 9

20 CSA 2 is adjacent to CSA 1, 8, and 9

21 CSA 3 is adjacent to CSA 4, 5, and 9

22 CSA 4 is adjacent to CSA 3, 5, and 9

23 CSA 5 is adjacent to CSA 3, 4, 6, and 9

24 CSA 6 is adjacent to CSA 5 and 9

1 CSA 7 is adjacent to CSA 1 and 9

2 CSA 8 is adjacent to CSA 1 and 2

3 CSA 9 is adjacent to CSA 1, 2, 3, 4, 5, 6, and 7

4 Middle Schools:

5 CSA 1 is adjacent to CSA 2, 7, and 8

6 CSA 2 is adjacent to CSA 1, 7, and 8

7 CSA 3 is adjacent to CSA 4, 5, and 8

8 CSA 4 is adjacent to CSA 3, 5, and 8

9 CSA 5 is adjacent to CSA 3, 4, 6, and 8

10 CSA 6 is adjacent to CSA 5 and 8

11 CSA 7 is adjacent to CSA 1 and 2

12 CSA 8 is adjacent to CSA 1, 2, 3, 4, 5, and 6

13 (c) CSAs shall be subsequently modified to maximize available  
14 school capacity and make efficient use of new and existing public  
15 school facilities in accordance with the LOS standards set forth in  
16 this Part 4, taking into consideration the following criteria:

17 (1) Maximization of school facilities

18 (2) Minimize transportation costs

19 (3) Limiting student travel time

20 (4) Requirements of court-approved desegregation plans

21 (5) Achieving socioeconomic, racial, and cultural  
22 diversity objectives

1 (6) Recognizing capacity commitments resulting from  
2 local governments' development approvals for the CSA and  
3 contiguous CSAs.

4 (d) If there is a consensus to amend the CSAs, it shall be  
5 accomplished by the execution of an amendment to the adopted  
6 Interlocal Agreement relating to schools, adoption of necessary  
7 amendments to each local governments' comprehensive plan, and an  
8 amendment to this Part 4, following an advisory review by the ILA  
9 Team and the Joint Planning Committee. The amended CSAs shall not  
10 be effective until the amended Interlocal Agreement relating to  
11 schools is fully executed, amendments to the local government  
12 comprehensive plans are adopted, and amendments to this Part 4 are  
13 adopted.

14 **655.407. Levels of Service; DCPS Five Year Capital Facilities**  
15 **Plan; DCPS Long Range Capital Improvements Plan.**

16 (a) The uniform LOS standards for all public schools  
17 including magnets and all instructional facility types shall be  
18 105% of the permanent Florida Inventory of School House (FISH)  
19 capacity plus portables, based on the utilization rate as  
20 established by the SREF.

21 (b) The designated middle schools in CSA 5 shall be  
22 identified as backlogged facilities and an interim level of  
23 standard within CSA 5 shall be 115% until January 1, 2018, after  
24 which the uniform LOS standard shall apply.

25 (c) The implementation of long term concurrency management  
26 shall be monitored to evaluate the effectiveness of the implemented  
27 improvements and strategies toward improving the level of service  
28 standards for middle schools in CSA 5 over the 10-year period.

1 (d) The City shall adopt DCPS Long Range Capital Improvements  
2 Plan as the 10-year long-term schedule of improvements for the  
3 purpose of correcting existing deficiencies and setting priorities  
4 for addressing backlogged facilities within CSA 5. The long-term  
5 schedule shall include capital improvements and revenues sufficient  
6 to meet the anticipated demands for backlogged facilities within  
7 the 10-year period. The long-term schedule shall improve interim  
8 level of service standards for backlogged facilities and ensure  
9 uniform LOS is achieved by 2018. The long-term schedule shall be  
10 updated by December 1<sup>st</sup> of each year, in conjunction with the annual  
11 update to the DCPS Five-Year Capital Facilities Plan and the City's  
12 Capital Improvements Element.

13 (e) The City's strategy, in coordination with DCPS, for  
14 correcting existing deficiencies and addressing future needs  
15 includes:

16 (1) Implementation of a financially feasible Five Year  
17 Capital Facilities Plan to ensure level of service standards  
18 are achieved and maintained;

19 (2) Implementation of interim level of service standards  
20 within designated concurrency service areas with identified  
21 backlogged facilities in conjunction with a long-term (10-  
22 year) schedule of improvements to correct deficiencies and  
23 improve level of service standards to the district-wide  
24 standards;

25 (3) Identification of adequate sites for funded and  
26 planned schools; and

27 (4) The expansion of revenues for school construction.

28 (f) If there is a consensus to amend the LOS, it shall be

1 accomplished by the execution of an amendment to the adopted  
2 Interlocal Agreement relating to schools, adoption of necessary  
3 amendments to each local governments' comprehensive plan, and an  
4 amendment to this Part 4, following an advisory review by the ILA  
5 Team and the Joint Planning Committee. The amended LOS shall not be  
6 effective until the amended Interlocal Agreement relating to  
7 schools is fully executed, amendments to the local government  
8 comprehensive plans are adopted, and amendments to this Part 4 are  
9 adopted. No LOS shall be amended without showing that the LOS is  
10 financially feasible.

11 **655.408. Public School Concurrency Testing.**

12 (a) The uniform methodology for determining whether capacity  
13 is available shall be determined by the DCPS and adopted into the  
14 City's Public School Facilities Element. Capacity is defined as:

15 (1) Number of total student stations, which is permanent  
16 Florida Inventory of School Houses (FISH); plus  
17 portables, and

18 (2) Proposed changes to permanent FISH capacity as a  
19 result of construction, rehabilitation, or other changes  
20 in school capacity which will commence in the first  
21 three (3) years of the Five-Year Capital Facilities  
22 Plan.

23 (b) The following steps shall be used for school concurrency  
24 testing:

25 (1) Is there current capacity in the CSA and adjacent  
26 CSAs?

27 (2) Will adequate facilities be in place or under actual

1 construction within 3 years after the issuance of final  
2 subdivision or site plan approval?

3 (3) Are there facilities in the approved CIE scheduled  
4 for construction in year 4 or later of the CIE that can be  
5 accelerated into the first 3 years of the CIE, and the  
6 developer is willing to enter into a binding, financially  
7 guaranteed Agreement with the school district to construct the  
8 accelerated facility within the first 3 years, and the cost of  
9 the facility is equal to or greater than the development's  
10 proportionate share?

11 (4) Are there capacity improvements in the 5 year CIE  
12 to provide an adequate facility to satisfy the demands created  
13 by the development, and the developer is willing to pay a  
14 proportionate share mitigation contribution?

15 (5) What other mitigation can be worked out?

16 (c) Following an advisory review by the Joint Planning  
17 Committee and the ILA Team, the assumptions for the formula within  
18 the methodology shall be revisited and updated annually by the City  
19 and DCPS to address changing circumstances, including inflation,  
20 construction and land costs, and policy issues including the magnet  
21 and private school systems.

22 **655.409. Available Capacity Determination.** In evaluating a  
23 proposed residential development for concurrency, any relevant  
24 improvements which are committed or planned in the Five-Year  
25 Capital Facilities Plan and the Capital Improvement Plan, shall be  
26 considered available capacity for the project and factored into the  
27 level of service analysis. Any relevant improvements which will  
28 commence construction after the 3<sup>rd</sup> year of the Five-Year Capital

1 Facilities Plan shall not be considered available capacity for the  
2 project unless either (i) funding to accelerate the improvement  
3 into the first three years is assured through DCPS; (ii) funding  
4 for the improvements which are scheduled to commence in years four  
5 or five is provided through proportionate share mitigation; (iii)  
6 the developer agrees to accelerate the construction of the facility  
7 so as to commence within the first three years; or (iv) some other  
8 means. Also, any projected reduction in the number of students  
9 enrolled in the CSA or adjacent CSA will be considered as additional  
10 available capacity. The City shall not deny an application for  
11 site plan, final subdivision approval, or the functional equivalent  
12 for a development or phase of a development authorizing residential  
13 development for exceeding the adopted level of service, where  
14 adequate school facilities will be in place or under construction  
15 within three years after the issuance of final subdivision or site  
16 plan approval, or the functional equivalent.

17 **655.410. Non-mitigation/Capacity Reservation Development**  
18 **Agreements permitted.** An applicant who has reached the maximum  
19 number of extensions for a CCAS or CRC may continue to reserve the  
20 public school facility capacity reserved by such CCAS or CRC by  
21 entering into a non-mitigation capacity reservation Development  
22 Agreement pursuant to Chapter 655, Part 2; provided, however, that  
23 the following limitations apply:

24 (a) The term of a Development Agreement entered pursuant to  
25 this subsection shall be negotiated by the applicant, the City, and  
26 DCPS; and

27 (b) Any Development Agreement approved by the City pursuant  
28 to this subsection shall not become effective unless and until  
29 approved by DCPS.

1           **655.411. School Concurrency Determination.** To determine  
2 school concurrency, the following analysis shall apply:

3           (a) If adequate facilities to serve the development are  
4 currently in place, or the applicable Capital Improvement Plan  
5 demonstrates that adequate facilities to serve the development will  
6 be in place or under actual construction in the applicable CSA or  
7 adjacent CSAs within three years after the issuance of final  
8 subdivision or site plan approval, then school concurrency will be  
9 deemed satisfied as long as the applicant has applied for and  
10 received a CCAS/CRC or has entered into a non-mitigation capacity  
11 reservation Development Agreement pursuant to Section 655.410; or

12           (b) If facilities in the approved CIE scheduled for  
13 construction in year 4 or later of the CIE are accelerated into the  
14 first 3 years of the CIE, and the developer is willing to enter  
15 into a Mitigation Agreement as provided herein to construct the  
16 accelerated facility within the first 3 years, and the cost of the  
17 facility is equal to or greater than the development's  
18 proportionate share, then school concurrency will be deemed  
19 satisfied; or

20           (c) If capacity improvements in the applicable five year  
21 Capital Improvement Plan would provide adequate facilities to  
22 satisfy the demands created by the development, school concurrency  
23 will be deemed satisfied pursuant to sections 163.3180(13)(e) and  
24 163.3180(13)(e)3, Florida Statutes, provided that: (i) those  
25 improvements are scheduled for years four and five of the Capital  
26 Improvement Plan; (ii) the developer is willing to pay a  
27 proportionate share mitigation contribution as defined herein; and  
28 (iii) the developer executes a Mitigation Agreement as provided  
29 herein; or

1 (d) If approval of the development order is conditioned upon  
2 phasing the project's impacts, then development orders shall be  
3 delayed to a date when capacity enhancement and LOS can be assured;  
4 or

5 (e) Other acceptable mitigation is adopted by a Mitigation  
6 Agreement as provided herein, including additions to the Capital  
7 Improvement Plan.

8 **655.412. Mitigation Options.** Mitigation shall be allowed  
9 where feasible, as identified in Section 655.411 above. The  
10 applicant shall initiate in writing a mitigation negotiation period  
11 with the DCPS and the City in order to establish an acceptable form  
12 of mitigation. Mitigation shall be negotiated and agreed to by the  
13 DCPS and the City and shall be sufficient to offset the demand for  
14 public school facilities projected to be required by the  
15 development. Proposed mitigation must be directed toward school  
16 capacity improvement identified in the DCPS financially feasible  
17 Five-Year Capital Facilities Plan, which satisfies the demands  
18 created by the proposed development. Relocatable classrooms will  
19 not be accepted as mitigation. Mitigation Agreements shall be  
20 permitted for a term of up to ten years. Acceptable forms of  
21 mitigation shall include but not be limited to:

22 (a) The donation, construction, or funding of school  
23 facilities sufficient to offset the demand for  
24 public schools created by the proposed development  
25 under a Mitigation Agreement satisfactory to the  
26 DCPS and the City. Improvements to existing schools  
27 will only be acceptable if they add student station  
28 and associated core space capacity.

29 (b) Land acquisition or contribution such as: a

1 developer signs a development Agreement or is  
2 subject to a conditional zoning requiring donation  
3 of land satisfactory to the DCPS and the City. Land  
4 must be demonstrated to contain the minimum number  
5 of buildable acres determined by the DCPS as  
6 required for a particular school type, as evidenced  
7 by a report by a licensed environmental consultant  
8 acceptable to the DCPS.

9 (c) Expansion of existing permanent school facilities  
10 subject to the expansion being consistent with DCPS  
11 standards for a school of the same category.

12 (d) Establishment of a Charter School with facilities  
13 constructed in accordance with the SREF.

14 (e) Mitigation banking within designated areas based on  
15 the construction of a public school facility in  
16 exchange for the right to sell capacity credits.  
17 Capacity credits shall be sold to developments  
18 within the same CSA or adjacent CSA.

19 (f) Project phasing considerations.

20 (g) Proportionate Share mitigation subject to Section.  
21 655.413.

22 **655.413. Proportionate Share Mitigation.**

23 (a) *Methodology.* The following methodology shall be used  
24 to determine proportionate share within the CSAs:

25 (1) The number of proposed housing units, multiplied by  
26 the Student Generation Rate by affected school type,  
27 multiplied by the Cost per Student Station by

1 affected school type.

2 (2) Applicable credits shall be deducted to determine  
3 the proportionate share mitigation amount.

4 Applicable credits are:

5 (i) City contributions to address co-locations  
6 with other public facilities or hurricane shelter  
7 provision.

8 (ii) Ad Valorem Tax Credits- The present value of  
9 50% of that portion of the 2 mils collected by Duval  
10 County and distributed. The two mils collected  
11 shall be based on the median appraised value per  
12 housing unit. The term shall be 25 years. The  
13 discount shall be equal to the current rate for DCPS  
14 Certificates of Participation (COPs), as of the date  
15 of the proportionate share Mitigation Agreement. The  
16 result of this present value shall be multiplied by  
17 the number of seats mitigated.

18 (iii) Residential units existing on the site at the  
19 time proportionate share mitigation is proposed,  
20 which will be replaced by the proposed project.

21 (b) *General requirements.* Proportionate Share Mitigation  
22 Agreements may be for a term up to ten years as permitted by  
23 Section 655.412 above and payments shall be due no later than  
24 building permit issuance.

25 **655.414. Adoption of Mitigation Agreements.** Mitigation  
26 Agreements, including proportionate share mitigation, shall be  
27 approved by the City, by ordinance, with a public hearing before  
28 the appropriate committee of reference and executed by the Mayor  
29 and Corporation Secretary, and shall be approved by the DCPS as

1 provided by DCPS rule. For the City approval, Mitigation Agreements  
2 meeting the following criteria may be executed by the Planning and  
3 Development Department Director, after approval by the Office of  
4 General Counsel and the Office of the City Council Auditor:

5 (a) the Mitigation Agreement is for a monetary contribution  
6 less than \$100,000, a land donation with a fair market value of  
7 less than \$100,000, or construction of facilities with a fair  
8 market value of less than \$100,000.

9 **655.415. Appeals.** Appeals of any decision or technical  
10 determination made by the DCPS shall be pursuant to Section  
11 655.114.

12 \* \* \*

13 **Section 3. Adoption of Maps.** The maps **attached hereto** as  
14 **Exhibit 1** are hereby adopted as Figure 1, Figure 2, and Figure 3 as  
15 referenced above in new Section 655.406, *Ordinance Code*.

16 **Section 4. Approved CCASs.** All developments with an  
17 approved CCAS as of December 31, 2007 may receive from the CMSO up  
18 to four extensions of six months each, based upon a showing of good  
19 cause and pursuant to Section 655.111, *Ordinance Code*, as amended  
20 herein. The above-referenced four extensions are *in addition to*  
21 any previously granted extensions.

22 **Section 5. Applications for CRC preceded by CCAS.**  
23 Applications for a CRC, which were preceded by a CCAS approved as  
24 of December 31, 2007, shall not be required to pay the additional  
25 \$2.00 fee in Section 655.116(b), as adopted herein, for school  
26 concurrency testing.

27 **Section 6. Implementation.** The amendments to Chapter  
28 655, *Ordinance Code*, in Sections 1, 2, and 3 hereinabove, shall  
29 become effective and shall be implemented on January 1, 2008,  
30 subject to final approval of the Interlocal Agreement for Public  
31 School Facility Planning as amended, and the Public School

1 Facilities Element of the 2010 Comprehensive Plan by all necessary  
2 local, regional, and state governments and/or agencies.

3 **Section 7. Severability.** If any section, subsection,  
4 sentence, clause, phrase or portion of this Ordinance is, for any  
5 reason, held to be invalid or unconstitutional by the decisions of  
6 any court of competent jurisdiction, such decision shall not affect  
7 the validity of the remaining portions thereof.

8 **Section 8. Transmittal to Municipal Code Corporation.** The  
9 Legislative Services Division is hereby directed to transmit this  
10 Ordinance to the Municipal Code Corporation for updating the  
11 relevant sections of the Ordinance Code.

12 **Section 9. Effective Date.** This ordinance shall become  
13 effective upon signature by the Mayor or upon becoming effective  
14 without the Mayor's signature.

15  
16 Form Approved:

17  
18 \_\_\_\_\_  
19 Office of General Counsel

20 Legislation Prepared By: Shannon K. Eller

21 G:\SHARED\LEGIS.CC\2007\ord\LAND USE GENERAL\2007-1146-E.doc