

1
2 ALACHUA COUNTY
3 BOARD OF COUNTY COMMISSIONERS

4
5 ORDINANCE 24-
6

7 AN ORDINANCE AMENDING ALACHUA COUNTY UNIFIED LAND
8 DEVELOPMENT CODE CHAPTER 407 ARTICLE XII, CONCURRENCY
9 MANAGEMENT AND CHAPTER 364, TRANSPORTATION IMPACT FEE;
10 PROVIDING FOR SEVERABILITY; PROVIDING A REPEALING CLAUSE;
11 PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN
12 EFFECTIVE DATE.

13
14 WHEREAS, on November 14, 2023 the Alachua County Board of County
15 Commissioners adopted Chapter 365 Mobility Fee; and,
16

17 WHEREAS, on December 13, 2019 the Ordinance 19-25, Amendments to the
18 County's Comprehensive Plan based on the Evaluation and Appraisal Report, became
19 effective, and
20

21 WHEREAS, Ordinance 19-25 repealed transportation concurrency in
22 unincorporated Alachua County and changed the facilities for which concurrency is
23 required, consistent with Chapter 163, Florida Statutes, and
24

25 WHEREAS, Ordinance 07-23 amended the Alachua County Transportation
26 Impact Fee; and
27

28 WHEREAS, the County wishes to amend the Unified Land Development Code to
29 be consistent with the adopted Comprehensive Plan and allow for implementation of the
30 Mobility Fee for all new development;
31

32
33 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
34 ALACHUA COUNTY, FLORIDA:
35

36 **Section 1.** Alachua County Unified Land Development Code. Chapter 407 Article XII of
37 the Alachua County Code of Ordinances is amended as contained in Exhibit 'A'.
38

39 **Section 2.** Alachua County Unified Land Development Code Section 364.06 is amended
40 as contained in Exhibit 'B'.
41

42 **Section 3.** Modifications. It is the intent of the Board of County Commissioners that the
43 provisions of this ordinance may be modified as a result of considerations that may arise during
44 public hearings. Such modifications shall be incorporated into the final version of the ordinance
45 adopted by the Board and filed by the Clerk to the Board.
46

1 **Section 4.** Repealing Clause. All ordinances or parts of ordinances in conflict herewith
2 are, to the extent of such conflict, hereby repealed.
3

4 **Section 5.** Inclusion in the Code, Scrivener’s Error. It is the intention of the Board of
5 County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions
6 of this ordinance shall become and be made a part of the Code of Laws and Ordinances of
7 Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to
8 accomplish such intention; and that the word “ordinance” may be changed to “section,” “article,”
9 or other appropriate designation. The correction of typographical errors which do not affect the
10 intent of the ordinance may be authorized by the County Manager or designee without public
11 hearing, by filing a corrected or recodified copy of the same with the Clerk of the Circuit Court.
12

13 **Section 6.** Severability. If any section, phrase, sentence or portion of this ordinance is
14 for any reason held invalid or unconstitutional by any court of competent jurisdiction, such
15 portion shall be deemed a separate, distinct and independent provision, and such holding shall
16 not affect the validity of the remaining portions thereof.
17

18 **Section 7.** Effective Date. A certified copy of this ordinance shall be filed with the
19 Department of State by the Clerk of the Board of County Commissioners within ten (10) days
20 after enactment by the Board of County Commissioners. This ordinance shall take effect on
21 March 1, 2024.
22
23

24 DULY ADOPTED in regular session, this _____ day of _____, 2024.

25 BOARD OF COUNTY COMMISSIONERS OF
26 ALACHUA COUNTY, FLORIDA
27
28

29 ATTEST:

30 By: _____
31 Mary Alford, Chair
32

33 _____
34 J. K. "Jess" Irby, Esq, Clerk
35

36
37 (SEAL)

APPROVED AS TO FORM

38 _____
39 County Attorney
40
41

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Exhibit 'A'

ARTICLE XII. CONCURRENCY AND LEVEL OF SERVICE MANAGEMENT

Sec. 407.117. Purpose.

The purposes of this Article ~~are~~is to implement the Comprehensive Plan's adopted level of service standards for ~~road~~transportation facilities, potable water, sanitary sewer, parks, solid waste, stormwater management, and public school facilities, ~~mass transit and bicycle and pedestrian facilities.~~

Sec. 407.118. Requirements for concurrencyApplicability.

This Article shall apply to all development requiring ~~No a~~ final development order ~~shall be approved,~~ except for development that is defined as exempt or vested pursuant to this Chapter, No final development order shall be issued unless it is determined that adequate capacity to meet the level of service standards adopted in the Comprehensive Plan for each public facility will be available concurrent with the impacts of the proposed development. The burden of meeting this concurrency requirement will be on the applicant requesting a final development order. The following Article identifies the criteria that will be used to determine whether adequate capacity in the public facilities affected by the development will be available:

- (a) For potable water, sanitary sewer, solid waste, and stormwater management facilities, the requirement for public facility availability can be met through any of the following:
 - (1) The ~~necessary~~required facilities and services are in place at the time a development permit is issued; or
 - (2) A development permit is issued subject to the condition that the ~~necessary~~required facilities will be in place when the impacts of development occur; or
 - (3) The ~~necessary~~required facilities are under construction at the time a development permit is issued and will be in place when the impacts of development occur; or
 - (4) The ~~necessary~~required facilities and services are guaranteed in an enforceable development agreement that includes the provisions in Subsections 407.118(a)(1), (2), or (3) above. An enforceable development agreement may include, but is not limited to: (1) development agreements pursuant to F.S. § 163.3220, or (2) an agreement or development order issued pursuant to F.S. Ch. 380. Any such agreement must guarantee that the necessary facilities and services will be in place when the impacts of development occur.
- (b) For parks and recreational facilities, in addition to meeting one of the criteria defined under Subsection 407.118(a) above, the requirement for ~~concurrency~~public facility availability may be met if:
 - (1) At the time the development ~~permit~~order is issued, the ~~necessary~~required facilities and services are the subject of a binding executed contract which provides for the commencement of actual construction of the required facilities or the provision of services within one (1) year of the issuance of the development ~~permit~~order; or
 - (2) The ~~necessary~~required facilities and services are guaranteed in an enforceable development agreement which requires commencement of construction of the facilities within one (1) year of the issuance of the applicable development ~~permit~~order. Such enforceable development agreements may include, but are not limited to, development agreements pursuant to F.S. § 163.3220, ~~or an agreement or development order issued pursuant to F.S. Ch. 380.~~
- ~~(c) For motor vehicle, transit, pedestrian and bicycle.~~

- ~~(1) The requirement of concurrency, for development in the Urban Cluster without a valid final certificate of level of service compliance (CLSC), as of the adoption of the Multi-Modal Transportation Mitigation Program, that are below the Development of Regional Impact threshold or exempt from the Development of Regional Impact process, shall be satisfied through the payment of the Multi-Modal Transportation Mitigation as long as the approved development order remains valid. Developments within the urban service area that are greater than one thousand (1,000) dwelling units or three hundred fifty thousand (350,000) square feet of non-residential square feet shall also be required mitigate its impact consistent with Transportation Mobility Element Policy 1.1.10.3 of the Comprehensive Plan. Projects outside of the Urban Service Area that exceed the development of regional impact threshold shall meet concurrency through the proportionate share process per F.S. § 163.3180(12) and F.S. § 380.06.~~
- ~~(2) For development projects with a valid final certificate of level of service compliance (CLSC) as of the adoption of the multi-modal transportation mitigation program, or are exempt per Section 407.124 shall continue satisfying transportation concurrency through payment of a transportation impact fee. Upon expiration of the CLSC, the development shall mitigate its impact through payment of the multi-modal transportation mitigation. No further extensions of a valid CLSC for transportation concurrency shall be granted upon adoption of the multi-modal transportation mitigation program, except as provided for in Subsection 407.118(c)(3).~~
- ~~(3) Developments with a valid CLSC shall have the option to extend the transportation concurrency provision of the CLSC for two (2) years from the current expiration date. In addition, development shall be permitted to extend all phasing dates by two (2) years from the current expiration date. Complete and accurate applications must be September 30th, 2011. No additional traffic analysis shall be required. The date for any required transportation mitigation shall also be extended for two (2) years.~~
- ~~(4) Developments that have currently constructed twenty-five (25) percent or more of the roadway lane miles for the entire development based on the approved preliminary or final development plans or that have constructed a collector or arterial roadway shown on the future highway functional classification map may apply for a transportation concurrency vesting letter and may request and be granted vesting to the transportation impact fee schedule in effect at the time of application. The transportation impact fee schedule would be used to determine the impact fee rate for the remaining un-built portions of the development. Complete and accurate applications must be submitted by September 30th, 2011. The application must include documentation, signed and sealed by a licensed professional engineer, that demonstrates the 25 percent threshold has been achieved or that a collector or arterial roadway consistent with the future highway functional classification map has been constructed.~~
- ~~(5) Developments that have constructed fifty (50) percent or more of the roadway lane miles for the entire development based on approved preliminary or final development plans prior to expiration of a valid transportation CLSC may apply for a concurrency vesting letter and may request and be granted vesting to pay the transportation impact fee in effect at the time of building permit for the remainder of the development. Complete and accurate applications must be submitted prior to the expiration of a valid transportation CLSC. The application must include documentation, signed and sealed by a professional engineer, which demonstrates the 50-percent threshold has been achieved.~~
- ~~(6) The vesting provisions in Subsections 407.118(c)(4) and (5) above shall not preclude a developer's right to demonstrate that they are vested for transportation concurrency and vested to pay the transportation impact fee. However, request for vesting that does not meet the criteria established above shall be evaluated on a case-by-case basis.~~
- ~~(7) Development projects with a valued CLSC shall have the option to pay either the multi-modal transportation mitigation or the transportation impact fee, should the multi-modal transportation mitigation be less than the transportation impact fee due to the addition of~~

~~revenue sources and/or the modification of the list of projects in the capital improvements element.~~

- ~~(8) The requirement of concurrency for development projects outside the Urban Cluster may be met if transportation facilities needed to serve new development shall be in place or under actual construction within three (3) years issuance of the final development order for a development that will result in additional traffic generation, or may be met through the proportionate fair-share process under Section 407.125.1.~~
- (d) For public school facilities, the requirement for concurrency, in accordance with F.S. § 163.3180(6)(h)2, shall be met if:
- (1) Adequate school capacity in the affected school concurrency service area (SCSA) is available or will be in place or under construction within three (3) years, as provided in the School Board of Alachua County 5-Year District Facilities Work Program, after the issuance of the final development order for residential development; or

Adequate school capacity in an adjacent SCSA is available, and when adequate capacity at the adopted LOS standards will be in place or under construction in the adjacent SCSA within three (3) years, as provided in the School Board of Alachua County 5-Year District Facilities Work Program, after the issuance of the final development order; or
 - (2) The developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by development of the property subject to the final development order, as described in Section 407.125.2; or
 - (3) The requirements listed in Subsections 407.118(d)(1)—(3) shall not apply to the following types of residential development, which are exempt from concurrency requirements for public school facilities:
 - a. Single-family lots of record that received final subdivision or plat approval prior to October 3, 2008, or single-family subdivisions or plats actively being reviewed on or before June 28, 2008 that received preliminary development plan approvals and the development approval has not expired.
 - b. Multi-family residential development that received final site plan approval prior to October 3, 2008, or multi-family site plans that were actively being reviewed on or before June 28, 2008 that received preliminary development plan approvals and the development approval has not expired.
 - c. Amendments to subdivisions or plat and site plan for residential development that were approved prior to October 3, 2008, and which do not increase the number of students generated by the development.
 - d. Age restricted developments that prohibit permanent occupancy by persons of school age. Such restrictions must be recorded, irrevocable for a period of at least thirty (30) years and lawful under applicable state and federal housing statutes. The applicant must demonstrate that these conditions are satisfied.
 - e. Group quarters that do not generate students in public school facilities, including residential facilities such as local jails, prisons, hospitals, bed and breakfast, motels and hotels, temporary emergency shelters for the homeless, adult halfway houses, firehouse dorms, college dorms exclusive of married student housing, and non-youth facilities.

Sec. 407.119. Information and methodology.

- (a) The information and methodology to be used by the County as the basis for ~~concurrency~~ public facility availability determinations are as follows:

The maximum service volume of each public facility affected by the proposed development based on the adopted level of service standards.

- (1) The existing demand on each public facility affected by the proposed development.
 - (2) Any reservation of capacity on each affected public facility for approved development.
 - (3) Proposed development impacts (the projected or estimated portion of the capacity of the affected public facility to be used by the proposed development).
- (b) The necessary public facilities will be deemed available concurrent with the impacts of the proposed development if the sum of proposed development impacts when added to the existing demand and the capacity reservation is less than the maximum service volume on the affected facilities.
- ~~(c) For the purposes of transportation planning within the Urban Cluster and for making transportation concurrency determinations for development outside the Urban Cluster, affected roadway facilities shall be determined as follows:~~
- ~~(1) For proposed developments generating less than or equal to one thousand (1,000) external average daily trips, (ADT) affected roadway segments are all those wholly or partially located within one-half (½) mile of the project's entrances/exits, or to the nearest intersecting major street, whichever is greater.~~
 - ~~(2) For proposed developments generating greater than one thousand (1,000) external ADT, affected roadway segments are those on which the project's impacts are five (5) percent or greater of the maximum service volume of the roadway per the Alachua County LOS Report. The study area for proposed developments generating greater than one thousand (1,000) external ADT must, at a minimum, include all roadway segments located partially or wholly within one-half (½) mile of the projects entrances/exits, or to the nearest major intersection, whichever is greater.~~
- ~~(c)~~ Public school concurrency review and determination shall be in accordance with the provisions of the Interlocal Agreement for Public School Facility Planning (ILA) including the maps of the school concurrency service areas (SCSAs). Public school concurrency determinations shall be conducted for all development plan applications subject to school concurrency by one of the following methods:
- (1) The determination of adequate public school capacity shall be based on findings and recommendations of the School Board of Alachua County staff; or
 - (2) For developments that do not exceed the threshold established by the School Board of Alachua County in accordance with the Interlocal Agreement, County staff may determine that there is adequate public school capacity.

Sec. 407.120. Preliminary certificate of level of service compliance.

An applicant must apply for a preliminary certificate of level of service compliance (CLSC) no later than the time of application for preliminary development plan approval. ~~Except for projects associated with an approved planned development, t~~The preliminary CLSC application shall be submitted with an application for preliminary development plan approval, consistent with the requirements of Article III, Chapter 402 of this ULDC. If the application is determined to be complete, an assessment of whether the concurrency requirements are met for each public facility affected by the proposed development will be provided by the ~~DRC~~ appropriate reviewing body with its review of the preliminary development plan.

~~(a) Transportation.~~

~~(1) The applicant shall submit with the preliminary application:~~

- a. ~~Documentation supporting any assertion of de minimis impact. The documentation shall also include an analysis to show that the impacted roadways do not operate above one hundred ten (110) percent of the maximum service volume or is a designated evacuation~~

~~route. De minimis impacts shall only pertain to developments outside of a transportation mobility district.~~

~~b. If the applicant is not asserting de minimis impacts, the appropriate traffic documentation including impacts to affected roadway facilities as defined in Subsection 407.119(c) shall be included in the application.~~

~~(2) The County will review the application and supporting traffic documentation for completeness and correctness within the timeframes of the applicable DRC cycle in order to ensure that the information submitted is sufficient to accept the application and continue its review. If the application is determined to be incomplete or incorrect, the applicant will be notified within the applicable DRC review period and advised of the deficiencies required to be addressed in a new or revised application.~~

~~(ba) Public schools.~~

~~(1) Development applications must include the number and type of units, and projection of students by type of school based on the student generation rates established by the school board.~~

~~If the development application requires review by the school board, the school board staff will review the projected student generation associated with the development application and report its findings and recommendations in writing to County staff as to whether adequate school capacity exists for each school type to accommodate the proposed residential development in all applicable school concurrency service areas adopted as part of the interlocal agreement, and based on the LOS standards adopted in the public school facilities element.~~

~~(2) If the development does not exceed the threshold for determination by the County as provided in Subsection 407.119(d)(2), separate review and written recommendation by the school board staff is not required.~~

~~In the event that the findings and recommendations from the school board staff state that there is not sufficient school capacity to meet the adopted LOS standards in the affected school concurrency service area or an adjacent school concurrency service area to address the impacts of a proposed development, the following standards shall apply. Either (1) the final development plan must provide capacity enhancement sufficient to meet its impacts through proportionate share mitigation in accordance with Public School Facilities Element Objective 2.5 and Section 407.125.2; or (2) the final development plan may not be approved until sufficient capacity enhancement to meet the level of service can be assured.~~

~~(eb) Based on review and approval by the DRC, the concurrency management official (CMO) will issue a preliminary CLSC determination within five (5) working days of DRC action on the preliminary development plan. The preliminary CLSC determination will indicate if the proposed developments' impacts are considered de minimis impacts or if the requirements for concurrency will be met, subject to any limitations indicated by the public facility provider, based on the preliminary development plan. The CLSC will also indicate any additional information or items that are required to be submitted with final plan application. Projects determined to have de minimis impacts shall not be required to meet roadway concurrency requirements, or if the requirements will not be met based on the preliminary development plan, the preliminary CLSC will indicate what deficiencies will have to be addressed in the final development plan in order for a final CLSC to be issued. A preliminary CLSC is valid for one (1) year from the date of assessment by the DRC. If there are changes to a proposed development's timing, the proposed density or intensity increases, or if the preliminary CLSC expires, then an amended CLSC must be obtained through the appropriate DRC process. An amended preliminary CLSC is valid for one (1) year from the date of reassessment by the DRC.~~

Sec. 407.121. Concurrency reservations for projects with phasing schedules.

- (a) *Planned developments.* For projects associated with a phased planned development (PD), the preliminary CLSC may be issued for time periods established by the phasing schedule of the PD provided that the applicant demonstrates that LOS standards can be met for the time frames established with the PD phasing plan. Any preliminary or final CLSC and associated reservation of public school capacity for such a planned development must be in accordance with an agreement as provided in the ILA between the County and the school board as detailed in Subsection 407.125.2(f) below. A CLSC for a phased PD shall not exceed a ten-year time frame, except a longer period may be considered in conjunction with an agreement involving the reservation of public school capacity consistent with the ILA between the County and the school board as detailed in Subsection 407.125.2(f) below.
- (ab) *Affordable housing developments.* For affordable housing developments, as defined in Chapter 410 of this ULDC, the preliminary CLSC may be issued for time periods established by the phasing schedule associated with an approved preliminary development plan. The applicant shall demonstrate that LOS standards can be met for the each of the time frames established with the approved preliminary development plan. Any preliminary or final CLSC and associated reservation of public school capacity for such an affordable housing development must be in accordance with a development agreement as provided in the ILA between the County and the school board as detailed in Subsection 407.125.2(f) below. A CLSC for a phased PD shall not exceed a five-year time frame, except a longer period may be considered in conjunction with a development agreement involving the reservation of public school capacity consistent with the ILA between the County and the school board as detailed in Subsection 407.125.2 below.
- (bc) *Traditional neighborhood and TODs.* For TND and TOD (Chapter 407, Article 7) the preliminary CLSC may be issued for time periods established by the phasing schedule associated with an approved preliminary development plan. The phasing schedule shall specify, as a percentage, that portion of the project that will be completed at the end of each calendar year. Any preliminary or final CLSC and associated reservation of public school capacity for such a TND or TOD must be in accordance with a development agreement as provided in the ILA between the County and the school board as detailed in Subsection 407.125.2(f) below. A CLSC for a TND or TOD shall not exceed a ten-year time frame, except a longer period may be considered in conjunction with a development agreement involving the reservation of public school capacity consistent with the ILA between the County and the school board as detailed in Section 407.125.2 below.

Sec. 407.122. Final certificate of level of service compliance.

- (a) The preliminary CLSC determination issued by the CMO may be submitted with an application for final development order as the basis for a final CLSC which shall be issued by the CMO provided all of the following conditions are met:

 - (1) The final development order is submitted and determined to be complete by the DRC prior to the expiration date of a valid preliminary CLSC.
 - (2) Any conditions identified in the preliminary CLSC are adequately addressed and are contained in the final development order application.
 - (3) The intensities and densities requested for the final development order approval do not exceed those approved for the preliminary development plan, unless the applicant has applied for and been issued an amended preliminary CLSC addressing the impacts of the increased densities or intensities requested and finding that adequate capacity will be available for each affected public facility. In order to obtain an amended preliminary CLSC, the applicant must submit the proposed increases in densities or intensities and relevant information to the DRC for an amended preliminary CLSC to be issued. The amended preliminary CLSC approval must be obtained by the applicant prior to application for final

development plan approval by the DRC. If the DRC determines that revised preliminary review is not required, an amended preliminary CLSC is not required for final development order approval.

- (b) The final CLSC shall be valid for a period of one (1) year from date of issuance by the DRC, unless otherwise specified for a phased PD, affordable housing project or TND with a village center, after which it shall be void unless construction has commenced prior to expiration of the one-year period, or other period specified for a phased PD, affordable housing project or TND with a village center, or an extension of no more than one (1) year has been granted by the CMO for good cause (defined in Chapter 410) shown by the applicant. Any such extension will be issued only if no imminent or existing public facility deficiencies exist at the time of the application for extension. Denial of an extension by the CMO may be appealed in accordance with this ULDC. Provided that construction has commenced within the allowable period, the project shall have reserved capacity for a period of no more than two (2) years from commencement of construction. After that two-year period, or any period otherwise specified in the final CLSC, the public facility capacity required to accommodate the impacts of the unconstructed portions of the development may be made available to other proposed developments applying for CLSCs. Once the County approves a final CLSC reserving the required public school capacity in accordance with the interlocal agreement and the final development order, the capacity necessary to serve the development shall be reserved by the school board for a period not to exceed three (3) years or until completion of construction of development infrastructure, whichever occurs first.
- (c) The County shall notify the school board within fifteen (15) working days of the approval or expiration of a concurrency reservation for a residential development.
- ~~(d) Notwithstanding the regulations in Subsection 407.122(b), a development for which a preliminary or final CLSC was issued between January 1, 2007 and December 31, 2008 will be granted a CLSC extension to December 31, 2009 provided they apply to the CMO for such extension by December 1, 2009. A planned development, TND or affordable housing development with an approved CLSC, for which a phase expired between January 1, 2007 and December 31, 2008 will be granted a CLSC extension for that phase until December 31, 2009 provided they apply to the CMO for such extension by December 1, 2009. Such projects will not be required to re-evaluate public facilities level of service impacts.~~

Sec. 407.123. Development orders requiring certificate.

The following development orders and permits are subject to a determination that the proposed development will not cause levels of service to fall below the County's adopted standards for ~~roads~~, potable water, sanitary sewer, stormwater management, parks, solid waste ~~and mass transit~~ and public schools:

- (a) An application for a final development order issued by the Alachua County DRC, where the proposed final development order would authorize any change in the density, intensity, location, land uses, capacity, size, or other aspects of the proposed development that could be expected to result in additional impacts on public facilities; or
- (b) An application for a mining, land excavation permit, or other permits for development that do not undergo review by the DRC, that will affect one or more of the public facilities that are subject to concurrency. Concurrency determinations for such permits will be limited to those public facilities which the DRC or Public Works Department determines will be impacted by the proposed activity.

Sec. 407.124. Exemptions from requirement for certificate.

Issuance of the following development orders shall be exempt from the requirements for obtaining a determination of capacity and a certificate of level of service compliance:

- (a) Projects determined to be vested from pertinent concurrency requirements pursuant to Chapter 402, Article XXVII, Vested Rights;
- (b) A demolition permit;

- (c) The initial permit for a temporary use;
- (d) A floodplain development permit;
- (e) A facility which by state or federal law is not subject to the concurrency requirements of local land development regulations. This shall include projects that create a special part-time demand located within areas designated as either urban infill and redevelopment areas under F.S. § 163.2517, existing urban service, or downtown revitalization areas. A special part-time demand is one that does not have more than two hundred (200) scheduled events during any calendar year and does not affect the one hundred (100) highest traffic volume hours;
- (f) Additions to existing single-family or duplex residential structures;
- (g) Ancillary facilities to existing residential structures including pools, screen enclosures, and utility sheds;
- (h) Permits to bring existing structures into code compliance, including re-roofs; and
- (i) Individual single-family residences and accessory building permits on existing lots of record.
- ~~(j) Expansion of existing non-residential uses that result in a de minimis transportation impact, defined as less than ten (10) average annual daily trips.~~

Sec. 407.125. Denial of certificate.

If it is determined that the requirements for concurrency cannot be met for any public facility impacted for a proposed development, an initial CLSC denial notice identifying the facilities that were determined not to be concurrent, the level of service deficiency and the impact assessment that was the basis for that determination will be issued by the concurrency management official and provided to the applicant.

- (a) *Request for reconsideration.* Upon receipt of an initial CLSC denial notice, the applicant may submit a request for reconsideration of initial CLSC denial to the concurrency management official with a proposed alternative impact assessment demonstrating that impacts will not violate concurrency management requirements. Any such request for reconsideration and the accompanying documentation shall be submitted within forty-five (45) days of the issuance of the initial CLSC denial notice and reviewed by the concurrency management official and approved or denied within forty-five (45) days of the receipt of the request for reconsideration.
- (b) *Proposal to address denial.* Upon receipt of an initial CLSC denial notice, the applicant may submit a proposal to address an initial CLSC denial to the concurrency management official. Such proposal will identify proposed options to remedy the deficiency or deficiencies identified by the County as the basis for the initial CLSC denial. These options may include:
 - (1) Modification of the density, intensity, or timing of the proposed development with identification of how the modifications will remedy the deficiency that was the basis for the initial CLSC denial; or
 - (2) Measures to mitigate the deficiency, including an action plan to reduce the impacts of the proposed development on the affected public facilities that were determined not to be concurrent; such action plans may include special demand management measures to be incorporated as conditions of the final development order; or
 - (3) Proposed improvements to the affected public facility that will be sufficient to offset the impacts of the proposed development resulting in the failure to meet concurrency. Such improvements may be included by the applicant as part of a development agreement or proposed as an amendment to the Comprehensive Plan in the form of projects to be included in the capital improvement program of the Comprehensive Plan or amendments to adopted level of service standards; or

- (4) Pay a proportionate fair-share contribution for transportation facilities as defined in Section 407.125.1 of this Chapter, or provide proportionate share mitigation for public school facilities as defined in Section 407.125.2 of this Chapter.
- (c) *Response to proposal.* The CMO shall respond to the proposal within forty-five (45) days of receipt with an indication of whether the proposal, if implemented, would allow the proposed development to meet the concurrency requirement. If the proposal would require further action by the DRC or by the BOCC, the applicant will be informed of the process to be followed to apply for such approval.

Sec. 407.125.1. Proportionate fair share contribution for transportation facilities.

- (a) ~~*Purpose and intent.* The purpose of this Section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair share program, as required by and in a manner consistent with F.S. § 163.3180(16).~~
- (b) ~~*Findings.* Alachua County finds and determines that transportation capacity is a commodity that has a value to both the public and private sectors and the Alachua County Proportionate Fair Share Program:

 - (1) ~~Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors;~~
 - (2) ~~Allows developers to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair share of the cost of transportation facilities;~~
 - (3) ~~Contributes to the provision of adequate public facilities for future growth and promotes a strong commitment to comprehensive facilities planning, thereby reducing the potential for moratoria or unacceptable levels of traffic congestion;~~
 - (4) ~~Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow Alachua County to expedite transportation improvements by supplementing funds currently allocated for transportation improvements in the Comprehensive Plan capital improvement element (CIE);~~
 - (5) ~~Is consistent with F.S. § 163.3180(16), and supports the policies in the Comprehensive Plan Policy 1.1.8 of the Transportation Mobility Element and Capital Improvements Element.~~~~
- (c) ~~*Applicability.* The proportionate fair share program shall apply to all developments outside the Urban Cluster in Alachua County that have been notified of a lack of capacity to satisfy transportation concurrency in the Alachua County Concurrency Management System (CMS), including transportation facilities maintained by FDOT or another jurisdiction that are relied upon for concurrency determinations. The proportionate fair share program does not apply to previously approved developments of regional impact (DRIs) using proportionate share under F.S. § 163.3180(12), developments exempted from concurrency as provided in Policy 1.1.8 of the Comprehensive Transportation Mobility Element, or developments exempted in Section 407.124 above.~~
- (d) ~~*Fair share mitigation options.*
 - (1) ~~An applicant may choose to satisfy the transportation concurrency requirements of Alachua County by making a proportionate fair share contribution, pursuant to the following requirements:

 - a. ~~The proposed development is consistent with the Comprehensive Plan and applicable ULDC regulations.~~
 - b. ~~The five year schedule of capital improvements in the Comprehensive Plan Capital Improvements Element or the long term schedule of capital improvements for an adopted long term concurrency management system includes a transportation improvement(s) that, upon completion, will satisfy the requirements of the Alachua County Concurrency Management System (CMS). The provisions of Subsection 407.125.1(d)(2). may apply if a project or projects~~~~~~

needed to satisfy concurrency are not presently contained within the Comprehensive Plan Capital Improvements Element or an adopted long-term schedule of capital improvements.

- (2) Alachua County may choose to allow a developer to satisfy transportation concurrency through the proportionate fair share program by contributing to an improvement that, upon completion, will satisfy the requirements of the CMS, but is not contained in the five-year schedule of capital improvements in the Comprehensive Plan Capital Improvements Element Plan or a long-term schedule of capital improvements for an adopted long-term CMS, where the following apply:
 - a. Alachua County adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the Comprehensive Plan CIE or long-term schedule of capital improvements for an adopted long-term CMS no later than the next regularly scheduled update. To qualify for consideration under this Section, the proposed improvement must be reviewed by the BOCC, and determined to be financially feasible pursuant to F.S. § 163.3180(16)(b)1., consistent with the Comprehensive Plan, and in compliance with the provisions of this Section. Financial feasibility for this Section means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed ten (10) years to fully mitigate impacts on the transportation facilities.
 - b. If the funds identified in the five-year Comprehensive Plan CIE or financially feasible adopted long-term CMS are insufficient to fully fund construction of a transportation improvement required by the CMS, Alachua County may still enter into a binding proportionate fair share agreement with the developer authorizing construction of that amount of development on which the proportionate fair share is calculated if the proportionate fair share amount in such agreement is sufficient to pay for one or more improvements which will, in the opinion of the governmental entity maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvement(s) funded by the proportionate fair share agreement shall be adopted into the five-year CIE or the long-term schedule of capital improvements for an adopted long-term CMS at the next annual CIE update.
 - c. Any transportation capacity project proposed to meet the Developer's fair share obligation must meet the design standards of both Alachua County and FDOT.
- (e) *Intergovernmental coordination.* Pursuant to policies in the Intergovernmental Coordination Element of the Comprehensive Plan, Alachua County shall coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose. The interlocal agreement may include provisions to allow for local governments to provide Alachua County proportionate fair share contributions from developers to address deficiencies on County maintained roadways that are within the boundary of a local jurisdiction or are impacted by development within the local jurisdiction. Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair share mitigation for development impacts to facilities on the strategic intermodal system (SIS) requires the concurrence of the FDOT.
- (f) *Application process.*
 - (1) Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the proportionate fair share program.
 - (2) Prior to submitting an application for a proportionate fair share agreement, a preapplication meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the strategic intermodal system (SIS), then the FDOT will be notified and invited to participate in the pre-application meeting.
 - (3) Eligible applicants shall submit an application to Alachua County that includes an application fee and the following information:

- a. Name, address and phone number of owner(s), developer and agent;
 - b. Property location, including parcel identification numbers;
 - c. Legal description and survey of property;
 - d. Project description, including type, intensity and amount of development;
 - e. Phasing schedule, if applicable;
 - f. Trip generation and distribution analysis;
 - g. Description of requested proportionate fair share mitigation method(s).
- (4) The concurrency management official shall review the application and certify that the application is sufficient and complete within fifteen (15) business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the proportionate fair share program, then the applicant will be notified in writing of the reasons for such deficiencies within fifteen (15) business days of submittal of the application. If such deficiencies are not remedied by the applicant within thirty (30) days of receipt of the written notification, then the application will be deemed abandoned. The concurrency management official may, in his or her discretion, grant an extension of time not to exceed sixty (60) days to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.
- (5) Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair share mitigation for development impacts to facilities on the SIS requires the concurrence of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair share agreement.
- (6) When an application is deemed sufficient, complete, and eligible, the Applicant shall be advised in writing and a proposed proportionate fair share obligation and binding agreement will be prepared by the applicant with direction from Alachua County and delivered to the appropriate parties for review, including a copy to the FDOT for any proposed proportionate fair share mitigation on a SIS facility, no later than sixty (60) days from the date at which the Applicant received the notification of a sufficient application and no fewer than thirty (30) days prior to the BOCC meeting when the agreement will be considered.
- (7) Alachua County shall notify the applicant regarding the date of the BOCC meeting when the agreement will be considered for final approval. No proportionate fair share agreement will be executed until approved by the BOCC and final development plan approval has been granted. Approval of the agreement shall not be binding upon the decision on the application for final development plan approval.
- (8) The public notice requirement for a proportionate fair share agreement shall be the same as the public notice requirements for development plans as stated in Chapter 402, Article IV, Public Hearings Table 402.12.1.
- (g) *Determining proportionate fair share obligation.*
- (1) Proportionate fair share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.
 - (2) A development shall not be required to pay more than its proportionate fair share. The fair market value of the proportionate fair share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.
 - (3) The methodology used to calculate an applicant's proportionate fair share obligation shall be as provided for in F.S. § 163.3180(12), as follows:
 "The cumulative number of Peak Hour trips from the proposed development expected to reach the impacted roadways from the complete build-out of a stage or phase being approved, divided by the

change in the Peak Hour Maximum Service Volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS."

OR

$$\text{Proportionate Fair Share} = \sum [(\text{Development Trips}_{i}) / (\text{SV Increase}_{i}) \times \text{Cost}_{i}]$$

Where:

Development Trips_i = Total number of trips from the stage or phase of development under review (minus pass-by, internal capture, and multi-modal trips) that are assigned to roadway segment "i" and have triggered a deficiency per the CMS;

SV Increase_i = The increase in capacity provided by the improvement to roadway segment "i" (The FDOT Generalized Tables shall be used to establish the base capacity and future year capacity with improvements);

Cost_i = Cost of the additional capacity. Cost shall include all improvements and associated costs, such as design, right of way acquisition, planning, engineering, maintenance of traffic, utility relocation, inspection, contingencies, stormwater facilities, turn lanes, traffic control devices, bicycle and pedestrian facilities, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

- (4) The methodology used to calculate an applicant's proportionate fair share obligation for stand-alone intersection improvements shall be as follows:

"The cumulative number of trips from the proposed development expected to reach the impacted intersection during peak hours from the complete build-out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of the intersection resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS. The LOS for intersections shall be determined based upon all movements operating at a volume to capacity ratio of 1.0 or less, the overall intersection shall operate at the least restrictive LOS standard for the intersecting roadways, and the left turn storage length shall be adequate to accommodate the average traffic queue."

OR

$$\text{Proportionate Fair Share} = \sum [[\text{Peak Hour Development Trips}_{i} / (\text{Additional Capacity}_{i})] \times \text{Cost}_{i}]$$

Where:

Development Trips_i = Total number of trips from the stage or phase of development under review (minus pass-by, internal capture, and multi-modal trips) that reach the impacted intersection "i" and have triggered a deficiency per the CMS;

Additional Capacity_i = The increase in capacity shall be obtained by subtracting the lane group capacity of the improved intersection minus the lane group capacity of the unimproved intersection;

Cost_i = Adjusted cost of the improvement to intersection "i". Cost shall include all improvements and associated costs, such as design, right of way acquisition, planning, engineering, maintenance of traffic, utility relocation, inspection, contingencies, stormwater facilities, turn lanes, traffic control devices, bicycle and pedestrian facilities, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

- (5) For the purposes of determining proportionate fair share obligations, Alachua County shall determine improvement costs based upon the actual cost of the improvement as obtained from the capital improvements plan, the MTPO Transportation Improvement Program or the FDOT Work Program.

Where such information is not available, improvement cost shall be determined using one of the following methods:

- a. An analysis by Alachua County of costs by cross section type that incorporates data from recent projects and is updated annually and approved by the BOCC or the concurrency administrator. In order to accommodate increases in construction material costs, project costs shall be adjusted by FDOT Construction Cost Inflation Forecast; or
- b. The most recent issue of FDOT Transportation Costs, as adjusted based upon the type of cross-section (urban or rural); locally available data from recent projects on acquisition, drainage and utility costs; and significant changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted FDOT Work Program shall be determined using this method in coordination with the FDOT District.

(6) If Alachua County has accepted an improvement project proposed by the applicant, then the value of the improvement shall be determined using one of the methods provided in this Section.

(7) If Alachua County has accepted right-of-way dedication for the proportionate fair share payment, credit for the dedication of the non-site related right-of-way shall be valued on the date of the dedication at one hundred twenty (120) percent of the most recent assessed value by the Alachua County Property Appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by Alachua County and at no expense to Alachua County. The applicant shall dedicate the right-of-way to Alachua County per all applicable County requirements at no expense to Alachua County.

(h) *Proportionate fair share agreement.*

(1) The applicant shall provide a draft proportionate fair share agreement to Alachua County which contains all required documentation within this Section prior to issuance of a preliminary certificate of level of service compliance. If the draft agreement is acceptable to Alachua County, then a preliminary certificate of level of service compliance may be issued with the condition that, "Prior to the issuance of a Final Certificate of Level of Service Compliance, the Applicant shall enter into a Binding Proportionate Fair Share Agreement approved by the Alachua County BOCC."

(2) Upon acceptance by the BOCC of a proportionate fair share agreement the applicant shall receive a final certificate of level of service compliance consistent with the provisions of Section 407.122 above. Should the applicant fail to apply for a final development permit within twelve (12) months, or as otherwise established in a binding agreement, then the agreement shall be considered null and void, and the applicant shall be required to reapply.

(3) Applicants may submit a letter to withdraw from the proportionate fair share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to Alachua County will be non-refundable. The applicant will lose its preliminary certificate of level of service compliance approval upon withdrawal proportionate fair share agreement.

(4) The proportionate fair share agreement shall specify the following:

- a. The payment of the proportionate fair share contribution shall be due in full prior to issuance of the final development order or recording of the final plat and shall be non-refundable. If the payment is submitted more than twelve (12) months from the date of execution of the agreement, then the proportionate fair share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment and adjusted accordingly. The acceptable form of payment of the contribution shall also be specified.
- b. All developer transportation capacity projects authorized under this Section must be completed prior to issuance of a building permit, or as otherwise established in a binding agreement that is accompanied by a security instrument that is sufficient to ensure the completion of all required

improvements. It is the intent of this Section that any required improvements be completed before issuance of building permits.

- c. ~~Dedication of necessary right of way for transportation capacity projects pursuant to a proportionate fair share agreement shall be completed prior to issuance of the final development order or recording of the final plat. The dedication and supporting documentation shall be completed at no expense to Alachua County.~~
 - d. ~~Any requested change to a development project subsequent to a development order may be subject to additional proportionate fair share contributions to the extent the change would generate additional traffic that would require mitigation.~~
 - e. ~~Time frame that the development is vested for concurrency, to include any phasing provisions or development thresholds.~~
 - f. ~~Process for addressing amendments to the agreement after the agreement has been accepted by the BOCC.~~
 - g. ~~Provisions for withdrawal of the agreement after the agreement has been accepted by the BOCC. Upon commencement of development, withdrawal shall not be allowed unless the applicant can clearly demonstrate that the development commenced has complied with all applicable concurrency requirements and that the traffic impact of the development has been acceptably mitigated.~~
- (5) ~~Alachua County may enter into proportionate fair share agreement with multiple applicants for selected corridor capacity projects to facilitate collaboration with multiple applicants and allow for shared transportation capacity projects.~~
- (6) ~~Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair share mitigation for development impacts to facilities on the SIS requires the concurrence of the Florida Department of Transportation.~~
- (i) ~~Appropriation of proportionate fair share revenues.~~
- (1) ~~Proportionate fair share contributions shall be placed in the appropriate project account for funding of scheduled improvements in the five year capital improvement plan or long term concurrency management system plan, or as otherwise established in the terms of the proportionate fair share agreement. At the discretion of the local government, proportionate fair share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair share revenues were derived. Proportionate fair share revenues may also be used as the fifty (50) percent local match for funding under the FDOT Transportation Regional Incentive Program (TRIP).~~
 - (2) ~~In the event a scheduled facility improvement is removed from the five year capital improvement plan or long term concurrency management system plan, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development.~~
 - (3) ~~Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in F.S. § 339.155, Alachua County may coordinate with other impacted jurisdictions and agencies to apply proportionate fair share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT TRIP. Such coordination shall be ratified by the BOCC through an interlocal agreement that establishes a procedure for earmarking of the developer contributions for this purpose.~~
 - (4) ~~Where a developer constructs a transportation facility that exceeds the Developer's proportionate fair share obligation, Alachua County may elect to establish an account for the developer for the purpose of reimbursing the developer for the excess contribution with proportionate fair share payments from future developments that impact the transportation facility.~~

~~(j) — Cross-jurisdictional impacts.~~

~~(1) — In the interest of intergovernmental coordination and to acknowledge the shared responsibilities for managing development and concurrency, Alachua County may enter into an interlocal agreement with one or more adjacent local governments to address cross-jurisdictional impacts of development on regional transportation facilities. The agreement shall provide for application of the methodology in this Subsection to address the cross-jurisdictional transportation impacts of development.~~

~~(2) — A development application submitted to Alachua County subject to a transportation concurrency determination meeting all of the following criteria shall be subject to this Subsection:~~

~~a. — All or part of the proposed development is located within one (1) mile of the area which is under the jurisdiction, for transportation concurrency, of an adjacent local government with which Alachua County has entered into an interlocal agreement per the provisions of Paragraph (1) above; and~~

~~Using its own concurrency analysis procedures, Alachua County concludes that the additional traffic from the proposed development would use five (5) percent or more of the Florida Department of Transportation Generalized Tables maximum service volume at the adopted LOS standard of a regional transportation facility within the concurrency jurisdiction of the adjacent local government ("impacted regional facility"); and~~

~~b. — The impacted regional facility is projected to be operating below the level of service standard, adopted by the adjacent local government, when the traffic from the proposed development is included.~~

~~(3) — Upon identification of an impacted regional facility, Alachua County shall notify the Applicant and the affected adjacent local government in writing of the opportunity to derive an additional proportionate fair share contribution, based on the projected impacts of the proposed development on the impacted adjacent facility.~~

~~a. — The adjacent local government shall have up to ninety (90) days in which to notify Alachua County of a proposed specific proportionate fair share obligation, and the intended use of the funds when received. The adjacent local government must provide reasonable justification that both the amount of the payment and its intended use comply with the requirements of F.S. § 163.3180(16), should the adjacent local government decline proportionate fair share mitigation under this Section, the provisions of this Subsection would not apply.~~

~~b. — If the subject application is subsequently approved by Alachua County, the approval shall include a condition that the applicant provides, as specified in the proportionate fair share agreement, evidence that the proportionate fair share obligation to the adjacent local government has been satisfied. Alachua County may require the adjacent local government to declare, in a resolution, ordinance, or equivalent document, its intent for the use of the concurrency funds to be paid by the applicant.~~

~~(k) — Impact fee credit. Impact fee credits for proportionate fair share contributions shall be provided per the Alachua County Impact Fee Ordinance and shall be consistent with F.S. § 163.3180(16)(b.)2.~~

Sec. 407.125.21. Proportionate share mitigation for public school facilities and phased reservations.

Purpose and intent. The purpose of this Section is to establish a method whereby the impacts of development on public school facilities can be mitigated by the cooperative efforts of the public and private sectors. Alachua County, in coordination with the School Board of Alachua County, shall provide for mitigation options that are determined by the SBAC to achieve and maintain the adopted LOS standard consistent with the adopted SBAC's Five-Year District Facilities Work Program.

Mitigation options. Mitigation may be allowed for those developments that cannot meet the adopted LOS standards. Mitigation options shall include options listed below for which the SBAC agrees to assume operational responsibility through incorporation in the adopted SBAC's Five-Year District Facilities Work Program and which will maintain adopted LOS standards.

- (1) The donation, construction, or funding of school facilities or sites in accordance with costs determined by the school board sufficient to offset the demand for public school facilities created by the proposed development;
- (2) The creation of mitigation banking within designated areas based on the construction of a public school facility in exchange for the right to sell capacity credits; and
- (3) The establishment of a charter school with facilities constructed in accordance with the state requirements for educational facilities (SREF).

Mitigation must enhance program capacity. Mitigation must be directed toward a program capacity improvement identified in the SBAC's 5-Year District Facilities Work Program that satisfies the demands created by the proposed development consistent with the adopted LOS standards.

Mitigation shall be directed to projects on the SBAC's 5-Year District Facilities Work Program that the SBAC agrees will satisfy the demand created by that development approval. Such mitigation proposals shall be reviewed by the SBAC, the County and any affected municipality. If agreed to by all parties, the mitigation shall be assured by a legally binding development agreement between the SBAC, the County, and the applicant which shall be executed prior to the County's issuance of the final development order. In order to agree to the mitigation, the SBAC must commit in the agreement to placing the improvement required for mitigation in its 5-Year District Facilities Work Program.

Calculating proportionate share. The applicant's total proportionate share obligation to resolve a capacity deficiency shall be based on the following:

Number of Student Stations (by School Type) = Number of Dwelling Units by Housing Type × Student Generation Multiplier (by Housing Type and School Type)

Proportionate Share Amount = Number of Student Stations (by School Type) × Cost Per Student Station for School Type.

The above formula shall be calculated for each housing type within the proposed development and for each school type (elementary, middle or high) for which a capacity deficiency has been identified. The sum of these calculations shall be the proportionate share amount for the development under review.

The SBAC average cost per student station shall only include school facility construction and land costs, and costs to build schools to emergency shelter standards when applicable.

The applicant's proportionate-share mitigation obligation shall be credited toward any other impact or exaction fee imposed by local ordinance for the same need, on a dollar-for-dollar basis, at fair market value.

Phased reservations. Phased projects consistent with Section 407.121 may be approved, provided the development order is in accordance with an agreement entered into by the school board, Alachua County, and the developer, which may include a phasing schedule or other timing plan for development plan approvals, capacity reservation fees, capacity enhancement agreements, or other requirements as determined by the school board. Any modifications to a phased project shall be pursuant to the agreement and in accordance with the ILA.

~~Sec. 407.125.3. Multi-modal transportation mitigation program.~~

- ~~(a) *Purpose and intent.* The purpose of this Section is to establish a method whereby the impacts of development on transportation facilities in the Urban Cluster can be mitigated by the cooperative efforts of the public and private sectors, to be known as the multi-modal transportation mitigation program, in a manner consistent with F.S. § 163.3180.~~

~~(b) Findings. Alachua County finds and determines that transportation capacity is a commodity that has a value to both the public and private sectors and the Alachua County Multi-Modal Transportation Mitigation Program:~~

- ~~(1) Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors;~~
- ~~(2) Allows developers to proceed through a one-time mitigation payment to address their impact to the multi-modal transportation system within transportation mobility districts established in the Urban Cluster;~~
- ~~(3) Contributes to the provision of adequate public facilities for future growth and promotes a strong commitment to comprehensive transportation mobility planning, thereby reducing the potential for moratoria or unacceptable levels of traffic congestion without viable multi-modal alternatives;~~
- ~~(4) Maximizes the use of public funds for adequate transportation mobility to serve future growth, and may, in certain circumstances, allow Alachua County to expedite transportation mobility improvements by supplementing funds currently allocated for transportation mobility in the Comprehensive Plan Capital Improvements Element.~~
- ~~(5) Is consistent with F.S. § 163.3180, and supports the policies in the Comprehensive Plan, Policy 1.1.7 of the Transportation Mobility Element and Policy 1.3.2 (C) 3. of the Capital Improvements Element.~~

~~(c) Applicability.~~

- ~~(1) The multi-modal transportation mitigation program shall apply to all developments in the County within transportation mobility districts located in the Urban Cluster that do not have a valid final CLSC for transportation concurrency as of the date of adoption of the multi-modal transportation mitigation ordinance or are exempt from a CLSC per Section 407.124.~~
- ~~(2) The multi-modal transportation mitigation program does not apply to projects that exceed thresholds for developments of regional impact (DRIs) outside of the urban service area per Objective 8.6 of the Future Land Use Element or are exempt from a CLSC per Section 407.124.~~
- ~~(3) Developments greater than one thousand (1,000) dwelling units or three hundred fifty thousand (350,000) square feet of non-residential uses shall also address the mitigation requirements per Transportation Mobility Element Policy 1.1.10.3 of the Comprehensive Plan.~~
- ~~(4) In order for a development to receive a final CLSC, the developer shall enter into a multi-modal transportation mitigation agreement that stipulates the developer voluntarily agrees to pay the mitigation in order to address its transportation impact.~~

~~(d) Payment of multi-modal transportation mitigation.~~

- ~~(1) The multi-modal transportation mitigation rates will be established at final development plan approval and included as part of the CLSC. The MMTM will be assessed at the time of final development building permit application based upon the rates established as part of the final CLSC. The MMTM shall be paid prior to approval of the final inspection for the use. The MMTM rates shall represent the maximum mitigation to be paid by the development so long as the CLSC remains valid. Should the MMTM rates decrease due to additional revenue to fund transportation mitigation and/or the modification of the projects included in the capital improvements element, then the development shall have the right to pay the lower rates.~~
- ~~(2) For uses that do not require a building permit, the multi-modal transportation mitigation shall be paid prior to final development plan approval, unless otherwise specified in the MMTM agreement.~~
- ~~(3) A developer has the option to pay their multi-modal transportation mitigation concurrent with final development plan approval and if applicable, approval of any subsequent developer agreement. The mitigation shall be based on the MMTM schedule in effect at the time of final development plan approval. The mitigation shall be re-evaluated at the time of building permit application to determine if~~

additional mitigation or a refund of the mitigation is due based on changes to the size of the use or unit of measure used to determine the mitigation at final development plan approval or if the MMTM rates decrease due to additional revenue to fund transportation mitigation and/or the modification of the projects included in the capital improvements element.

- (4) ~~Shell buildings shall be assessed at the time of building permit application for interior completion of the shell. The mitigation shall be based on the MMTM schedule in effect at the time of building permit application for the interior completion of the shell.~~
- (5) ~~Upon payment of the multi-modal transportation mitigation, the development will have mitigated its impact and not be subject to any subsequent changes in the multi-modal transportation mitigation program.~~
- (6) ~~Recognizing the "time value of money" component to financing, Alachua County offers the following MMTM payment incentives:
 - a. ~~Payment concurrent with final development plan approval = Fifteen (15) percent reduction.~~
 - b. ~~Payment concurrent with building permit application = Seven and one half (7.5) percent reduction.~~
 - c. ~~Payment concurrent with final building inspection = Zero (0) percent reduction.~~~~

~~(c) *Determining multi-modal transportation mitigation obligation.*~~

- (1) ~~Multi-modal transportation mitigation for transportation mobility impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.~~
- (2) ~~A development shall not be required to pay more than its impact to the transportation system. The fair market value of the multi-modal transportation mitigation for mobility impacts shall not differ regardless of the method of mitigation.~~
- (3) ~~The methodology used to calculate an applicant's multi-modal transportation mitigation shall be as follows:~~

~~"The target funding level divided by the growth in vehicle miles of travel times the vehicle miles of travel for the proposed use."~~

~~OR~~

$$\text{VMTg} = \text{VMTf} - \text{VMTb}$$

$$\text{Tcfl} = \text{Cc} - \text{Cr}$$

$$\text{Ttofl} = \text{Toc} - \text{Cr}$$

$$\text{VMTr} = (\text{Tcfl} / \text{VMTg}) + (\text{Ttofl} / \text{VMTg})$$

$$\text{VMTp} = (\text{Tg} * \text{Atl}) * .5 * (1 - \%CC) * (\%NT)$$

$$\text{Multi-Modal Transportation Mitigation} = \text{VMTr} * \text{VMTp}$$

~~Where:~~

~~Vehicle Miles of Travel Growth (VMTg) = The projected total of vehicle miles traveled in the horizon year (VMTf) minus the base year (VMTb) vehicle miles of travel.~~

~~Target Capital Funding Level (Tcfl) = The total cost of transportation capital (Cc) for projects consistent with the Capital Improvements Element. Cost shall include all capital infrastructure construction costs, along with cost for design, right of way, planning, engineering, maintenance of traffic, utility relocation, inspection, contingencies, project management, stormwater facilities, turn lanes, traffic~~

control devices, bicycle and pedestrian facilities, transit vehicles, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

Target Transit Operations Funding Level (Ttofl) = The total cost of transit operations (Toc) consistent with the Capital Improvements Element.

Committed Revenue (Cr) = The total committed revenue to fund transportation capital and transit operations.

Vehicle Miles of Travel Rate (VMTr) = Target Funding Level for transportation capital and transit operations divided by Vehicle Miles of Travel Growth.

Vehicle Miles of Travel Proposed Use (VMTp) =

{Tg} = Trip Generation Rate

{Atl} = Average Trip Length

{CC} = Community Capture

{NT} = New Trips

(4) For the purposes of determining multi-modal transportation mitigation obligations, Alachua County shall determine mobility improvement costs, including transit, based upon the actual cost of the improvement utilizing the latest available data. Mobility improvements, including transit shall be consistent with projects identified in the capital improvements element.

(5) An applicant shall have the option to conduct an alternative multi-modal transportation mitigation study consistent with the methodology in Subsection 407.125.3(d)(3). A signed methodology agreement by the Alachua County CMO or his/her designee shall be required prior to the applicant conducting the alternative analysis. The analysis shall be conducted by a professional engineer or certified planner with documented experience in conducting transportation analysis. The alternative study must be found sufficient and requires acceptance and approval by Alachua County before an applicant can receive a CLSC.

(f) *Multi-modal transportation mitigation agreement.*

(1) The applicant shall provide a multi-modal transportation mitigation (MMTM) agreement in the form provided by the County that contains all required documentation within this Section. The agreement shall require approval by the BOCC before becoming effective.

(2) An applicant may submit the agreement with preliminary development plans. For projects that require preliminary development plans be approved by the BOCC, the agreement may be approved concurrent with preliminary development plans. For projects where preliminary development plans are approved by the DRC, the agreement would require separate approval by the BOCC upon approval of the preliminary development plans. The applicant shall enter into a binding agreement with the County prior to any final development plan approval. Such agreement shall not constitute final development plan approval or any intent by Alachua County to guarantee approval of the final development plan application. Entering into the agreement only satisfies the applicant's transportation concurrency requirements. Should the application for final development plan be denied, the agreement shall be null and void.

(3) The multi-modal transportation mitigation agreement shall be an addendum to the final certificate of level of service compliance. The MMTM schedule in effect at the time of final development plan approval shall be included with the CLSC to establish the MMTM rate to be evaluated at building permit application. Should the applicant fail to apply for a final development plan within twelve (12) months, or as otherwise established in a binding agreement, then the agreement shall be considered null and void, and the applicant shall be required to reapply.

- (4) ~~Request for credit for the construction of infrastructure or right-of-way dedication shall be made in the draft MMTM agreement. If the infrastructure project or right-of-way dedication was requested or required by the County after submittal of the draft MMTM agreement, then the draft agreement shall be revised prior to submittal of the final development plan. The CMO has the option to require an applicant to enter into a developers agreement, which would require approval by the BOCC before going into effect, where credit is requested for large-scale infrastructure projects or right-of-way dedication. A developers agreement shall be required in instances where a developer requests reimbursement for the expenditure of funds beyond the developer's multi-modal transportation mitigation.~~
- (5) ~~Applicants may submit a letter to withdraw from the multi-modal transportation mitigation agreement at any time prior to the approval of the Final CLSC. The application fee and any associated advertising costs to Alachua County will be nonrefundable. The applicant will lose its preliminary CLSC approval upon withdrawal from the multi-modal transportation mitigation agreement.~~
- (6) ~~Any requested change to a development project subsequent to a development order may be subject to additional multi-modal transportation mitigation to the extent the change would generate additional traffic that would require mitigation.~~
- (7) ~~The agreement shall specify the following:~~
- ~~a. The proposed timing of the payment of the multi-modal transportation mitigation.~~
 - ~~b. The process for determining the required multi-modal transportation mitigation. The applicant shall specify whether they elect to utilize the multi-modal transportation mitigation schedule or they conducted an alternative multi-modal transportation mitigation study. The study, if applicable, shall be included as an addendum to the agreement. If the CMO has agreed to an alternative timing to conduct the study, then the timing shall be specified in the agreement.~~
 - ~~c. The process for establishing the value of an infrastructure project or right-of-way dedication where credit is requested. If a dollar amount is agreed to, then the dollar amount and the basis for the agreed-to figure shall be included in the agreement.~~
 - ~~d. The voluntary acknowledgment that the developer will pay the required mitigation. The developer is required to provide a disclosure form to be utilized by a builder applying for a building permit or occupant applying for development plan approval for uses not requiring a building permit that specifies who is responsible for payment of the mitigation. A copy of the disclosure form specifying the entity that will pay the mitigation shall be provided with all building permit or development plan applications. The disclosure form shall be signed by both the developer and the builder or occupant. The developer will be required to pay the required mitigation if the building permit applicant fails to pay the required mitigation within ten (10) days of receiving the County's demand for payment.~~
 - ~~e. Time frame that the development is vested for concurrency, including any phasing provisions or development thresholds.~~
 - ~~f. Process for addressing amendments to the agreement after the agreement has been accepted by the BOCC.~~
 - ~~g. Provision for withdrawal once the agreement has been approved by the County. Upon commencement of development, withdrawal shall not be allowed unless the applicant can clearly demonstrate that the development commenced has complied with all applicable concurrency requirements and that the traffic impact of the development has been acceptably mitigated.~~
- (g) ~~Appropriation of multi-modal transportation mitigation funds.~~
- (1) ~~The Comprehensive Plan identifies three (3) transportation mobility districts within the Urban Cluster. The NW district is generally the area north of Newberry Road east of Interstate 75 and north of SW 8th~~

~~Avenue west of Interstate 75. The SW District is generally the areas south of SW 8th Avenue and west of Interstate 75. The East District is generally the areas east of NW 34th Street (SR 121).~~

- ~~(2) Multi-modal transportation mitigation funds shall be placed in special revenue/mobility project trust funds established for the three (3) transportation mobility districts for funding of scheduled transportation improvements consistent with the capital improvements element. Funds shall be placed in the transportation mobility district trust fund from which the revenues were collected. Funds shall be spent in the district from which they were collected.~~
 - ~~(3) Multi-modal transportation mitigation funds shall be used to fund infrastructure projects and transit operations consistent with the capital improvements element. Multi-modal transportation mitigation revenues shall not be spent for maintenance of infrastructure, within any municipality or for local roads or mainline Interstate improvements.~~
 - ~~(4) Multi-modal transportation mitigation funds may be used for intersection operational and capacity improvements prior to construction of a corridor wide capacity project identified in the capital improvements element.~~
 - ~~(5) Where a developer constructs a transportation mobility improvement that exceeds the developer's multi-modal transportation mitigation, Alachua County may elect to establish an account for the developer for the purpose of reimbursing the developer for the excess contribution with multi-modal transportation mitigation payments from future developments within the same transportation mobility district.~~
 - ~~(6) Alachua County may elect to establish a separate infrastructure account within a transportation mobility district to ensure that funds collected in a particular area are spent on a specific infrastructure project(s) or within a specific development from which they are collected.~~
 - ~~(7) The full cost to administer the multi-modal transportation mitigation program such as preliminary assessments, application for credit due to construction of improvements, dedication of right-of-way or existing uses, front-ending agreements, building permit assessment, alternative analysis, annual reporting and monitoring, periodic updates, infrastructure and transit planning and dispute resolution.~~
- ~~(h) *Determining multi-modal transportation mitigation credit.*~~
- ~~(1) An applicant may request multi-modal transportation mitigation credit for the dedication of non-site related right-of-way and construction of infrastructure consistent with the capital improvements element. In addition, an applicant may request credit for funds expended to fund transit operations to and from the development consistent with transit service identified in the capital improvements element.~~
 - ~~(2) If Alachua County has accepted an infrastructure project, consistent with the capital improvements element, in lieu of the entire or a portion thereof of the applicant's multi-modal transportation mitigation, then the value of the improvement shall be determined using invoices based on actual cost or for projects that choose to make payment at development plan approval a certified signed and sealed engineer's estimate acceptable to Alachua County.~~
 - ~~(3) If Alachua County has accepted right-of-way dedication consistent with the capital improvements element, in lieu of the entire or a portion thereof applicant's multi-modal transportation mitigation, credit for the dedication of the non-site related right-of-way shall be valued on the date of the dedication at one hundred thirty (130) percent of the most recent assessed value by the Alachua County Property Appraiser or, at the option of the applicant, by fair market value established by a licensed independent appraiser at no expense to Alachua County. To receive the credit, the applicant shall dedicate the right-of-way to Alachua County per all applicable County requirements at no expense to Alachua County.~~

- ~~(4) For projects not identified in the capital improvements element, the BOCC may elect to adopt the projects for inclusion in the capital improvements element and include the project in subsequent updates of the capital improvements element.~~
- ~~(5) Multi-modal transportation mitigation credits may be transferred to other developments within the same transportation mobility district, so long as all the developments are owned by the same development entity. If the credit is based on an improvement or right-of-way dedication for a facility that forms the border of two (2) transportation mobility districts, the credit could be utilized in either district.~~
- ~~(i) *Multi-modal transportation mitigation schedule.* The multi-modal transportation mitigation schedule shall be provided in a tabular format with specified uses, the mitigation for each use and the effective date of the schedule. The schedule shall be made available on the growth management department's website and posted in the building permit division.~~
- ~~(j) *Updates of multi-modal transportation mitigation.* The multi-modal transportation mitigation shall be evaluated on an annual basis concurrent with updates to the capital improvements element. The multi-modal transportation mitigation shall be re-evaluated should transportation mobility improvements in the capital improvements element be added, modified or removed. The multi-modal transportation mitigation shall be re-evaluated in the event a sales tax, gas tax or other revenue source is established to pay for all or a portion of the transportation mobility improvements in the capital improvements element. Any increase in the multi-modal transportation mitigation program, not related to a phase-in of the mitigation, shall require ninety (90) days advertised notice and posting on the growth management website prior to the increase going into effect.~~
- ~~(k) *Administrative manual.* An administrative manual shall be developed to specify the procedures related to the administration of the multi-modal transportation mitigation program, updates, reporting requirements, exceptions, alternative studies, credit applications and forms.~~
- ~~(l) *Impact fee.* Developments that pay the multi-modal transportation mitigation shall not be required to pay a transportation impact fee. Once a development's certificate of level of service compliance expires, all subsequent building activity within the development shall be required to mitigate its impact through payment of the multi-modal transportation mitigation.~~

Sec. 407.126. Appeals.

Any person with legal standing who wishes to challenge a final CLSC or a proportionate share final determination may do so in accordance with the procedures outlined in Chapter 402, Article XXVIII, Appeal Procedures.

Sec. 407.127. Reserved Enforcement.

A violation of this Chapter shall be a misdemeanor punishable according to law; however, in addition to or in lieu of any criminal prosecution, Alachua County shall have the power to sue in civil court to enforce the provisions of this Chapter. Violations of this Chapter may also be referred to any Alachua County code enforcement mechanism pursuant to Chapter 24 of Alachua County Code, as amended from time to time, for enforcement in accordance with F.S. Ch. 162, as amended from time to time, and Chapter 24 of the Alachua County Code of Ordinances, as amended from time to time.

Exhibit 'B'

Sec. 364.06. Imposition of transportation impact fee.

- (a) Any person who, after March 28, 2005 or until March 1, 2024, seeks to develop land within the unincorporated area of Alachua County, Florida, by applying for a building permit or the extension of a building permit to make an improvement to land which will generate vehicular trips is hereby required to pay a transportation impact fee in the manner and amount set forth in this chapter. The transportation impact fee shall be determined at the time of building permit application. Impact fees shall be paid prior to zoning approval or final development order approval, whichever occur last, for developments which generate vehicular trips but do not require the issuance of a building permit.
- (b) No certificate of occupancy for any activity requiring payment of an impact fee pursuant to section 364.07 shall be issued by Alachua County unless and until the transportation impact fee hereby required has been paid.
- (c) No zoning approval or final development order approval, whichever occurs last, shall be issued by Alachua County for developments which generate vehicular trips but do not require the issuance of a building permit unless and until the transportation impact fee hereby required has been paid.