

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20060495

1. ACTION REQUESTED/PURPOSE: Adopt resolution amending Administrative Code 13-4, which establishes procedures for the partial reimbursement of school impact fees to providers of moderate, low, and very low income housing.

2. WHAT ACTION ACCOMPLISHES: Amendment is necessary to make partial reimbursement available Countywide and to expand its scope to include providers of moderate income households.

3. MANAGEMENT RECOMMENDATION: Approve amendment to Administrative Code 13-4.

4. Departmental Category: AIZB **5. Meeting Date:** 05-02-2006

6. Agenda:		7. Requirement/Purpose: (specify)		8. Request Initiated:	
<input type="checkbox"/> Consent		<input type="checkbox"/> Statute		Commissioner	
<input checked="" type="checkbox"/> Administrative		<input type="checkbox"/> Ordinance		Department <u>County Attorney/DCD</u>	
<input type="checkbox"/> Appeals		<input checked="" type="checkbox"/> Admin. Code	<u>13-4</u>	Division <u>Land Use/Planning</u>	
<input type="checkbox"/> Public		<input type="checkbox"/> Other		By: <u>Mary G. G. & Gloria Sajgo</u>	
<input type="checkbox"/> Walk-On				<u>Donna Marie Collins & Gloria Sajgo</u>	

9. Background:

Shortly after the County initiated impact fees for schools in 2001, the Board established a one-time fund of \$200,000.00 to partially reimburse providers of affordable housing for the payment of school impact fees. The funds allocated by the Board were to be made available within unincorporated Lee County with the exception of Enterprise Zones and the Sanibel Below Market Housing Program. The source of the one-time fund was from the General Fund Reserves, with a provision that the money would be repaid using the interest accrued from school impact fees. The original Administrative Code established the procedures governing the program to offer partial reimbursement to providers of low and very low income housing.

Since that time, at the Board's direction, the County staff has negotiated with school board staff to fund the continuation of this program using interest accrued from school impact fees on an ongoing basis. To this end, an interlocal agreement has been prepared and executed by Lee County and the School Board, which allows for 80 percent of the interest accrued on school impact fees collected by the County to be diverted into a fund that will be used to provide partial subsidies to providers of moderate, low, and very low income housing in all of Lee County. Thus, the proposal is to expand the program to be 1) on going; 2) available Countywide in both incorporated and unincorporated areas; and 3) available to providers of moderate income housing.

The purpose of the proposed amendments to Administrative Code 13-4 is to conform the Code with the intent set forth in the interlocal agreement between Lee County and the School Board adopted on May 2, 2006.

Attachment: Resolution

Draft Administrative Code 13-4

Copy of the Proposed Interlocal Agreement between Lee County and the School Board

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<u>Mary G. G.</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>DMC 4/18/06</u>	<u>J.P. 4/20/06</u>	<u>M.G. 4/20/06</u>	<u>P.V. 4/20/06</u>	<u>M. 4/20/06</u>	<u>4-20-06</u>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

RECEIVED BY COUNTY ADMIN:	<u>TD</u>
	<u>4/18/06</u>
	<u>4PM</u>
COUNTY ADMIN FORWARDED TO:	<u>J.P.</u>
	<u>4/20/06</u>
	<u>J.P.</u>

Rec. by CoAtty	
Date:	<u>4/18/06</u>
Time:	<u>2:00pm</u>
Forwarded To:	<u>ADMIN</u>
	<u>4/18/06 2:30</u>

LEE COUNTY RESOLUTION NO. _____

A RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS RELATING TO AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE AS ADOPTED BY LEE COUNTY ORDINANCE NO. 97-23; PROVIDING FOR APPROVAL OF CERTAIN AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners is the governing body in and for Lee County, a political subdivision of the State of Florida; and,

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 96-01, creating a charter form of government for Lee County pursuant to Section 125.80 and ff., Florida Statutes, and which was approved and ratified by the Electorate of Lee County on November 5, 1996; and,

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 97-23, which adopted the Lee County Administrative Code pursuant to Section 2.2.E. of Ordinance No. 96-01, the Lee County Charter; and,

WHEREAS, Lee County Ordinance No. 97-23 at Section III allows and provides for amendments to the Lee County Administrative Code to be made by Resolution of the Board of County Commissioners at a regularly scheduled Board of County Commissioners' meeting; and,

WHEREAS, certain amendments to the Lee County Administrative Code are now proposed, and the Board of County Commissioners finds that the proposed amendments are acceptable, serve a public purpose and are consistent with the terms and conditions

of Lee County Ordinance No. 96-01, the Lee County Charter.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS that:

1. The above preamble is hereby accepted and approved as true and accurate, and is adopted and incorporated herein as if set out further at length.
2. The proposed amendment to the Lee County Administrative Code to amend AC-13-4 (Administrative Procedures Governing Reimbursement of Lee County School Impact Fees), attached hereto as Exhibit "A", is approved, and is hereby directed to be incorporated into the Lee County Administrative Code as indicated in the amendment.
3. The provisions of this Resolution are severable, and it is the intention to confer to the whole or any part of this Resolution, the powers herein provided for. If any of the provisions of this Resolution are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair any of the other remaining provisions of this Resolution. It is hereby declared to be the Board's legislative intent that this Resolution would have been adopted had such an unconstitutional provision not been included herein.
4. This Resolution will become effective immediately upon its adoption by the Board of County Commissioners.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and, being put to a vote, the vote was as follows:

ROBERT P. JANES	_____
DOUGLAS R. ST. CERNY	_____
RAY JUDAH	_____
TAMMARA HALL	_____
JOHN E. ALBION	_____

DULY PASSED AND ADOPTED this ____ day of _____ 2006.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Tammara Hall, Chairwoman

APPROVED AS TO FORM:

By: _____
Donna Marie Collins
Office of the County Attorney

Exhibit A
ADMINISTRATIVE CODE
BOARD OF COUNTY COMMISSIONERS

CATEGORY: Development/Planning/Zoning	CODE NUMBER: 13-4
TITLE: Administrative Procedures Governing Reimbursement of Lee County School Impact Fees	ADOPTED: 4/22/03
	AMENDED: 8/30/05,
	ORIGINATING DEPARTMENT: Department of Community Development

PURPOSE/SCOPE: ~~To provide~~ Provides criteria and procedures for partial reimbursement of Lee County School Impact Fees paid for dwelling units in both unincorporated and incorporated Lee County. ~~by Internal Revenue Service (IRS) recognized non-profit affordable housing providers and for-profit affordable housing providers.~~

POLICY/PROCEDURE: The Board of County Commissioners (BOCC) recognizes that while impact fees are necessary in a rapidly growing community, they can have an adverse effect on the provision of housing for moderate, low and very low income families. In order to lessen this effect, the BOCC has established a fund to provide for partial reimbursement of School Impact Fees paid by government, non-profit affordable housing providers recognized by the IRS, and ~~to~~ for-profit affordable housing developers whose developments projects meet the criteria listed below.

Section 1.

Entities Eligible for Reimbursements: Partial reimbursement is available to government, charitable, not-for-profit entities and for-profit entities that construct single family or multiple family style affordable housing for moderate, low and very low income residents households of Lee County. ~~These partial reimbursements are primarily intended for charitable, not-for-profit entities and preference will be afforded to such entities.~~

- A. In order to qualify as a not-for-profit candidate for reimbursement, the entity must comply with one of the following criteria:
1. The entity is recognized under subsection 501(C)(3) of Chapter 26 of the United States Internal Revenue Code as a corporation, a community chest, a fund, or a foundation, organized and operated exclusively for charitable purposes, or for prevention of cruelty to children, and is then exempt from taxes under Section 501(a) therein; or
 2. The entity is recognized under Subsections 501(C)(4)(A) and (B) of Chapter 26 of the United States Internal Revenue Code as either a Civic League or an organization not organized for-profit, is operated exclusively for the promotion of social welfare, and is exempt from taxes under Section 501(a), therein; or
 3. The entity is recognized under subsection 501(C)(20) of Chapter 26 of the United States Internal Revenue Code as an organization or trust, the exclusive function of which is to form part of a qualified group legal services plan or plans within the meaning of Section 120 as referenced therein.

AC-13-14 (Continued)

- B. Reimbursements are available to for-profit entities on a case by case basis upon demonstration that the ~~affordable housing provided meets the following criteria:~~
1. ~~The housing is affordable to moderate, low and very low income residents households of Lee County; and one or more of the following criteria:~~
 - 2: 1. The units are in close proximity to established mass transit routes;
 - 3: 2. The units are located in an area that can be considered "urban infill;"
 - 4: 3. The project's traffic will not travel through areas with significantly lower densities before reaching the nearest collector or arterial road;
 - 5: 4. The project is integrated into the surrounding neighborhood; and,
 - 6: 5. The Director of Community Development finds that the affordable housing project furthers the goals and objectives of the County's Local Housing Assistance Plan.

Section 2.

Scope of Reimbursements Available: A qualified applicant may request partial reimbursement of School Impact Fees paid in connection with the new construction of affordable residential single family or multiple family style homes for moderate, low and very low income occupants households. Reimbursement requests can be up to 50 percent of the total school impact fee charged for the structure. In no case will a government or not-for-profit applicant be granted more than \$50,000 in total reimbursement per project per County fiscal year, and a For-profit applicants is are limited to \$25,000 per project per County fiscal year. Reimbursements may not exceed the total amount budgeted for this program.

Maximum Purchase price of the unit may not exceed that of the maximum purchase price established under the Lee County SHIP Program for moderate income households.

Section 3.

Funding:

- A. Pursuant to an interlocal agreement with the Lee County School District executed on May 2, 2006, the program is funded with 80 percent of the interest earned on school impact fees collected each quarter. The BOCC has allocated \$200,000 from the general fund to the subject School Impact Fee reimbursement program. Of this amount, \$50,000 has been designated for reimbursements in the County's Enterprise Zones, as designated in the Land Development Code, Appendix J, and the City of Sanibel's Below Market Housing Program. The remaining \$150,000 is intended for reimbursement in any part of unincorporated Lee County.
- B. If the total amount of impact fees reimbursed pursuant to this Code is less than \$200,000 in the first fiscal year, the remaining money not used for reimbursements may be carried forward and thereby be added to the next fiscal year. If, at any time, the unused funds in the subsidy account exceed \$400,000.00, no additional interest will be diverted into the subsidy account until the account balance falls below \$400,000.00.
- C. Eligibility to participate in this program will be retroactive to October 1, 2005.

Section 4.

Applications for Reimbursements:

- A. ~~The applicant must file a written request for consideration along with an Lee County Impact Fee Reimbursement application to the Director with the Department of Community Development concurrently with payment of the School Impact Fee. The County will not accept application after the School Impact Fee has been paid to the County.~~ The application must establish that the entity is eligible for partial reimbursement, based on the criteria set forth in Section 1, and provide proof that the school impact fee has been paid. The ~~Director~~ staff may request additional information deemed appropriate to ascertain confirm the applicant's eligibility for the requested reimbursements, including criteria noted in Section 196.195 and 196.196, Florida Statutes.
- B. The ~~Director~~ staff will review each application to determine eligibility for partial reimbursements based on the criteria set forth in Section 1. Within thirty (30) days after receipt of the application, the ~~Director~~ staff will inform the applicant in writing whether the application is complete. The County will also inform the applicant that in order to afford time for the construction of the unit and for the placement of an income qualified household in the unit:
1. the applicant will have 365 days or a calendar year after school impact fee payment to submit the following documentation: a) proof of certificate of occupancy, b) proof of the household's income eligibility, and c) proof of occupancy. If the application is incomplete, the application may be returned to the applicant, specifying in writing why the application fails to establish that the entity is eligible for consideration under this program. After receipt of such notice, the applicant has an additional thirty (30) days to re-submit an amended application. Failure to meet this deadline will void the applicant's eligibility for partial reimbursements unless an extension is granted for good cause at the Director's discretion.
 2. the applicant may request that the County issue a commitment for reimbursement on the condition that the applicant will provide all the necessary documentation within a specific 45-day time period that falls within the 365 days or calendar year from payment of the impact fee. (The purpose of this commitment is to allow the reimbursement funds to be factored in at time of closing. If documentation is not provided within that 45-day time period, the County's commitment will expire unless extended by the County in writing.)
- C. ~~After an application is determined by the Director to meet the above-specified minimum filing requirements, the Director will promptly process the application request.~~ Applications will be processed in the order they are found sufficient for review.

Section 5.

Application Process:

- A. Once an application is found to be sufficient, the ~~Director~~ staff will make a determination as to the eligibility of the applicant for participation in the program and. ~~The Director~~ will inform the applicant, in writing, about his/her the determination.
- B. If the applicant is found eligible, the ~~Director~~ staff will forward a copy of the decision to the appropriate Fiscal Officer for processing of the partial reimbursement.
- C. The Fiscal Officer will issue a check for the applicant in the proper amount and send it to the applicant with a copy of the check sent to ~~the Director~~ staff.

AC-13-14 (Continued)

Section 6.

Record keeping:

- A. County staff will maintain records of all recipients of subsidies for the payment of school impact fees, and will provide the School Board with an annual report of monetary disbursements under the program.

COPY

APPROVED

APR 04 2006

**INTERLOCAL AGREEMENT BETWEEN
LEE COUNTY AND THE LEE COUNTY SCHOOL BOARD SCHOOL BOARD OF
LEE COUNTY**

This Agreement is made this ____ day of _____ 2006, by and between Lee County, a political subdivision of the State of Florida, hereinafter referred to as "County", and the Lee County School Board, a public agency of the State of Florida, hereinafter referred to as "School Board."

WHEREAS, on November 27, 2001, the County adopted Ordinance No. 01-21 assessing impact fees that are paid by new residential construction for educational purposes, hereinafter called "Ordinance"; and,

WHEREAS, the County and the School Board entered into an interlocal agreement on June 29, 2004, pursuant to Florida Statutes, Section 163.01, the Florida Interlocal Cooperation Act of 1969, to address the disbursement of school impact fees held in escrow during the pendency of a lawsuit challenging the legality of the Ordinance; and the June 29, 2004 interlocal, amongst other things, acknowledged that the County would retain \$200,000 from an account representing interest collected on school impact fees to provide a subsidy to qualifying affordable housing projects for the payment of school impact fees.

WHEREAS, Lee County adopted Administrative Code 13-4 to provide criteria and procedures for partial reimbursement of school impact fees paid by affordable housing providers; and,

WHEREAS, the County continues to disburse to the School Board, future school impact fees collected on a quarterly basis in accordance with the terms of the Ordinance; and,

WHEREAS, Goal 135 of the Lee County Comprehensive Plan requires Lee County to endeavor to meet the housing needs of present and future residents at affordable costs; and,

WHEREAS, the County desires to continue a program where the interest accrued on school impact fees between quarterly disbursement periods are set aside and made available to qualifying affordable housing providers and very low, low and moderate income households in the form of a subsidy for the payment of school impact fees; and,

WHEREAS, the County and the School Board desire to establish an on-going program whereby 80% of the interest accrued on school impact fees collected and held by the County are set aside and disbursed in accordance with Lee County Administrative Code Policies for the benefit of qualifying affordable housing providers and very low, low and moderate income households.

COPY

NOW, THEREFORE, IT IS AGREED as follows:

1. Upon acceptance and execution of this agreement by the parties, the County will retain 80% of the money from accounts representing interest accrued on school impact fees for use as a subsidy to qualifying affordable housing providers and very low, low and moderate income households to be used for the payment of school impact fees. The County will continue to disburse to the School Board all impact fees and 20% of the interest accrued on those fees on a quarterly basis in accordance with the terms of the School Impact Fee Ordinance.

2. If at any time the unused funds in the subsidy account exceed \$400,000, no additional interest will be diverted into the subsidy account until the account balance falls below \$400,000. During such time, interest accrued on school impact fees will be disbursed to the School Board in accordance with the terms of the School Impact Fee Ordinance.

3. The County will disburse the funds in the subsidy account to qualifying affordable housing providers and very low, low and moderate income households only in accordance with the policies and procedures set forth in Lee County Administrative Code 13-4, as may be amended from time-to-time.

4. Lee County will maintain records of all recipients of subsidies for the payment of school impact fees and will provide the School Board with an annual report of monetary disbursements under the program. This paragraph will remain in full force and effect until amended by mutual agreements of the parties whether repeal of the school impact fee ordinance and exhaustion of interest accrued.

IN WITNESS WHEREOF THE PARTIES HERETO have caused the execution hereof by duly authorized officials on the date set forth below:

Dated this ____ day of _____ 2006.

ATTEST:
CHARLIE GREEN, CLERK

**BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA**

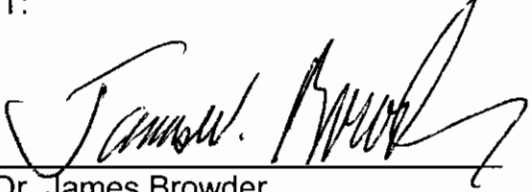
BY: _____
Deputy Clerk

BY: _____
Tammara Hall, Chairwoman

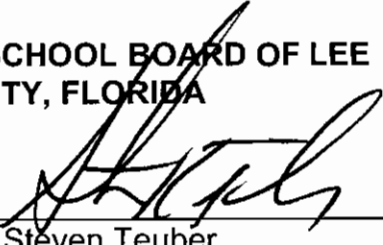
Approved as to form:

By: _____
Donna Marie Collins
Assistant County Attorney

ATTEST:

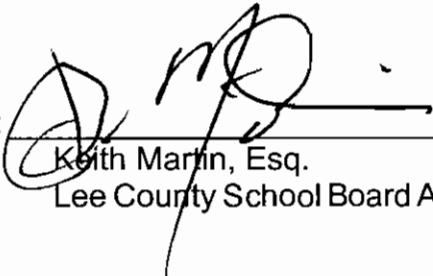
BY: 

Dr. James Browder
Superintendent
Lee County School Board

THE SCHOOL BOARD OF LEE
COUNTY, FLORIDA
BY: 

Steven Teuber
Chairman

Approved as to form:

By: 

Keith Martin, Esq.
Lee County School Board Attorney

APPROVED
APR 04 2006
SCHOOL BOARD OF
LEE COUNTY