

**A GUIDE TO THE  
ANNUAL UPDATE OF THE CAPITAL IMPROVEMENTS  
ELEMENT**



FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS  
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## **Note to Reader**

This Guide may be updated from time-to-time and the latest version of the Guide will be maintained on the DCA website at <http://www.dca.state.fl.us/GrowthManagement2005/>. In addition, answers to frequently asked question will be posted on this website.

Questions regarding this Guide should be directed via email to Bill Pable, Community Planning Policy Administrator in the Division of Community Planning, at [bill.pable@dca.state.fl.us](mailto:bill.pable@dca.state.fl.us).

## I. INTRODUCTION

Every year local governments must update their Capital Improvements Element (CIE), including the Five-Year Schedule of Capital Improvements (Schedule). See s.163.3177(3)(b)1., Florida Statutes (F.S.) and Rule 9J-5.016(5), Florida Administrative Code (F.A.C.). This guide discusses the annual update process and reflects the statutory changes adopted in 2005 in Senate Bill 360 (Chapter 2005-290, Laws of Florida).

Chapter 2005-290, Laws of Florida, became effective on July 1, 2005. Some of the statutory changes became effective immediately, while others become effective in 2006, 2007 or 2008. Attachment 1 lists the effective dates of the new provisions pertaining to the CIE included in SB 360.

The purpose of the CIE and the Schedule is to identify the capital improvements that are needed to implement the Comprehensive Plan and ensure that adopted Level of Service (LOS) Standards are achieved and maintained for concurrency related facilities (sanitary sewer, solid waste, drainage, potable water, parks and recreation, schools, and transportation facilities, including mass transit, where applicable). Attachment 4 provides a step by step template of how the CIE process can be implemented locally. If the LOS Standards are not met, concurrency management requires a local government to deny applications for development orders and permits until the deficiency is addressed. In order to assure that facilities will be in place to maintain LOS standards in a timely manner and prevent a concurrency moratorium, the Schedule must address deficiencies and be financially feasible.

This Guide is intended only to help the reader understand the general nature of the annual CIE update amendment. It is not a substitute for, or expansion of, any statutory or rule provisions nor is it a rule. The specific content of any amendment should reflect specific local circumstances.

The CIE and the local government's Capital Improvements Program (CIP) are often confused. The CIE is a required element of the Comprehensive Plan that is adopted and updated to reflect the timing and funding of capital projects to meet or maintain adopted LOS standards or implement the Goals, Objectives, and Policies of the Comprehensive Plan.

The CIP is a schedule of all capital projects to be undertaken by a local government, including non-LOS items such as equipment purchases and government facilities and buildings. In some cases, the first year of the CIP may represent a portion of or the entire annual budget of a local government. Many of the projects listed in the CIP will also be included in the CIE if they address LOS standards or the Goals, Objectives, and Policies of the Comprehensive Plan.

## **II. PROCESS FOR ANNUAL ADOPTION AND REVIEW**

### **A. Frequency of Adoption:**

The process for updating the CIE is established in Section 163.3177(3)(b), F.S. The element must be updated “on an annual basis.” The adopted update amendment must be received by the Department of Community Affairs (Department) by December 1 of each year. The annual update amendment is exempt from the twice-per-year limitation on plan amendment adoptions, pursuant to s.163.3187(1)(f), F.S.

The statute allows a local government to amend the CIE up to three times per year: one time as the annual update; and two times as part of the ordinary twice-per-year large scale amendment packages. Note that the Schedule and CIE may also be changed as part of an amendment that is adopted as an exception to the two times per year limitation; for example, as part of a DRI-related amendment (see s.163.3187, F.S.).

### **B. Public Hearing:**

The CIE annual update amendment may be adopted by a local government with only one public hearing. See s.163.3177(3)(b)2., F.S. Under this expedited process, the local government does not transmit the annual update as a proposed amendment and the Department does not issue an Objections, Recommendations and Comments Report. Instead, the local government simply adopts the CIE annual update amendment at a duly noticed public hearing, sends the adopted amendment to the Department, and the Department publishes a Notice of Intent after conducting a compliance review.

A local government may utilize the expedited adoption process during any of the three primary opportunities to amend the CIE discussed in section A, above. Thus, for the ordinary twice-per-year amendment packages, a local government may add CIE-related amendments into the adopted amendment package, even if those CIE-related amendments were not included in the proposed amendment package.

### **C. Optional Review Process:**

A local government may elect to submit the annual update as a proposed amendment for review just like other large scale amendments. Comments received from state and regional review agencies may help avoid potential compliance issues. If this optional review process is selected, the proposed amendment should be submitted early enough to ensure its adoption by December 1<sup>st</sup> of every year.

**D. Changes Not Requiring a Plan Amendment:**

The following changes can be made to the Schedule outside the required annual update amendment process. See s.163.3177(3)(b)1., F.S. A local government may adopt any of these changes by local ordinance, which is to be transmitted to the Department for record keeping purposes only.

1. Corrections and modifications concerning costs of a project already included in an adopted Schedule;
2. Corrections and modifications concerning revenue sources (for example, the Schedule might identify “Bonds” as a revenue source for a facility; this source could be changed to another source, such as “Developer Dedication”, without amending the Schedule; and
3. Acceptance of facilities pursuant to dedications, which are consistent with the plan. For example, a developer may choose to address development impacts through right-of-way dedication; such dedication can be accepted and included in the Schedule without a plan amendment.

**E. Changes Requiring a Plan Amendment:**

The annual update to the CIE is an amendment to the plan. At a minimum, the update amendment will add a new fifth year to the Schedule. In addition, a plan amendment is required to:

1. Add a new project(s) to the Schedule;
2. Eliminate a project(s) from the Schedule; or
3. Defer or delay the date of construction of a particular project(s) already included in the Schedule.

**F. Action by Local Governments with no Capital Improvements:**

Local governments with no scheduled improvements must still annually review and revise, as necessary, the CIE. Any goals, objectives and policies required by Rule 9J-5.016, F.A.C., and Chapter 163, Part II, F.S., which are out-of-date, should be revised during the annual review process. If the annual review establishes that no capital improvement projects need be included in the Schedule, then the annual update should demonstrate that LOS Standards will be maintained during the next five-year planning period and, thus, no capital improvements need be scheduled. For example, the annual

update plan amendment should include current and projected traffic volumes showing that roadways subject to concurrency are operating consistent with the adopted LOS Standards and that the LOS Standards will be maintained during the next five years. The CIE would then include a Schedule with no capital projects. This “blank” Schedule will serve as a placeholder into which projects can be added, as necessary, during future annual updates. If the annual update demonstrates that LOS standards will not be met within the 5-year schedule, then the local government must adopt either a long term concurrency management system or planning strategies in the CIE to address these deficiencies.

**G. Consequences of Not Adopting an Annual Update:**

Effective December 1, 2007, if the adopted annual CIE update amendment is not received by the Department by December 1<sup>st</sup> of each year, the local government is prohibited from adopting Future Land Use Map changes, except for amendments to meet new statutory requirements and emergency amendments, until the update amendment is submitted to the Department. See s.163.3177(3)(b)1., F.S. This prohibition on future amendments also applies to small scale amendments.

Also effective December 1, 2007, if the annual update is not adopted or if the update amendment is found not in compliance, then the Department of Community Affairs is obligated to notify the Administration Commission (AC). The AC may impose sanctions on the local government pursuant to s.163.3184(11), F.S. See s.163.3177(3)(c), F.S.

**III. GENERAL COMPONENTS OF THE SCHEDULE**

Rule 9J-5.016(4)(a), F.A.C., specifies the general components of the Schedule. These components are discussed below and a sample Schedule is included in Attachment 2.

**A. Fiscal Responsibility:**

In general, the Schedule must include those capital improvement projects for which the local government has fiscal responsibility. Local governments must also include in the Schedule some projects, such as school facilities, for which they do not have fiscal responsibility; water supply facilities, for which they may or may not have such responsibility; certain transportation facilities for which the local government does not have fiscal responsibility; and privately funded projects necessary to ensure that adopted Level of Service Standards are achieved and maintained. These projects are discussed in Section IV, below.

## **B. Time Period:**

The Schedule must be sub-divided into five one-year (fiscal year) periods. Thus, if the Schedule is adopted in December 2007 (which is during FY 2007-08), it must address projects for FYs 2007-08, 2008-09, 2009-10, 2010-2011 and 2011-2012 on a year by year basis.

The Schedule may also be required to address more than a five-year period. For example, if the local government has adopted a long-term (10- or 15-year period) transportation concurrency management system [see Section IV D(5)(b)(3), below], then the Schedule must address transportation facilities within the long-term concurrency management area for either the 10- or 15-year period. A local government that has adopted an urban service boundary, pursuant to s.163.3177(14), F.S., must adopt a 10-year facilities plan for that area within the CIE [see Section IV D(5)(d), below].

## **C. Project Description and General Location:**

A brief, general description of each project should be included in the Schedule. Usually a project is identified by a short title. The description must be specific enough to demonstrate that the project is consistent with the facility needs identified in the other elements of the plan.

For transportation projects, the description should include the name of the facility being improved (or constructed), the limits of the projects (From .... To ....), the type of improvement (new roadway, widening, turn lanes, signals, etc.) and phase (right-of-way acquisition, PD&E, construction).

The Schedule should indicate the location of the project. Indicating the location of each project helps identify the project since the Schedule may include many, for example, water supply projects. Numbering each project in the Schedule and then displaying these numbers on a map or by including in the Schedule a description of the location of the project may accomplish this. The purpose of such a map or other location description is to inform the community and landowners of where infrastructure improvements are scheduled.

## **D. Consistency with other Elements:**

The Schedule must include a demonstration of consistency with the individual elements of the comprehensive plan. See Rule 9J-5.016(4)(a)1.b., F.A.C. One way to demonstrate consistency is by citing the page number, table or policy in which the project is identified in another element of the plan as a deficiency, replacement project or designed to meet a future need. The sample Schedule in Attachment 2 includes a column



labeled “Consistency with Other Plan Elements” where references can be inserted demonstrating that the projects are consistent with the other elements of the comprehensive plan.

It will likely be periodically necessary to amend another element of the Comprehensive Plan to ensure its consistency with the Capital Improvements Element. Section 163.3187(1)(f), F.S. provides guidance for such circumstances as follows: “(f) Any comprehensive plan amendment that changes the schedule in the capital improvements element, and any amendments directly related to the schedule, may be made once in a calendar year on a date different from the two times provided in this subsection when necessary to coincide with the adoption of the local government's budget and capital improvements program.

### **E. Projects and Costs:**

A local government has discretion in establishing the types of projects that will be included in the Schedule. Rule 9J-5.003(12), F.A.C., defines “capital improvement” as physical assets “which are large scale and high in cost ...generally nonrecurring and may require multi-year financing.” As one possible solution, the definition of capital improvement for the purposes of the Schedule might be relative to the size of the total community budget. For a large community with hundreds of capital projects every year, the minimum may be, say, \$100,000; while in a small community with few improvements the minimum may be, say, \$10,000. The minimum amount should be explicitly stated in the plan (perhaps as a footnote to the Schedule or adopted as a policy in the CIE). Projects costing less than the minimum need not be included in the Schedule. The CIE must also identify projects identified elsewhere in the Plan as projected needs regardless of cost.

The Schedule must identify the cost for each project. For roadway facilities, the Florida Department of Transportation (FDOT) is preparing guidelines for local governments to use in estimating costs. Local governments may develop and use their own cost estimates. Locally developed estimates must be justified and, in the case of state roads, coordinated with FDOT. When reviewing the Schedule, FDOT will verify the reasonableness of the costs. Note that funding for right-of-way acquisition and PD&E studies is not acceptable to meet concurrency because neither acquisition nor studies provide actual capacity. Only programmed construction phases will satisfy concurrency.

### **F. Revenue Sources:**

The revenue sources that will be used to fund each project must be indicated in the Schedule. The supporting data and analysis identify “existing funding sources” [see Rule 9J-5.016(1)(c), F.A.C.] and include a projection of the amount of revenue expected to be

collected from existing sources and “other revenue sources” [see Rule 9J-5.016(2)(f)4., F.A.C.]. The revenue sources included in the Schedule should be consistent with the sources described in the supporting data and analysis. That is, the data and analysis should include a projection of the amount of expected revenue for all sources included in the Schedule.

Revenue sources include any source that can be used to fund capital projects, including ad valorem taxes, bonds, state and federal funds or grants, tax revenues, impact fees, and developer contributions. For Transportation Regional Incentive Program (TRIP) facilities, the Schedule must show both revenue sources (50% state and 50% local match) and the local match must be from a committed funding source if the project is included in the first three years of the Schedule. See s.339.2819(4)(a), F.S.

In order for the Schedule to be financially feasible, the supporting data and analysis must demonstrate that sufficient revenues are currently available or will be available from “committed funding sources” to fund the projects included in the first three (3) years of the Schedule. Projects in years 4 and 5 may be funded from sources that are either “committed” or “planned” [see s.163.3164(32), F.S.]. Although any project included in the Schedule represents a pledge by the local government to pursue its implementation, planning for projects included in the first three years of the Schedule must be sufficiently advanced that funding from a committed source is allocated to the project.

The distinction between “planned” and “committed” revenue sources is discussed below.

1) Committed Funding Sources: A committed funding source is one which is available for and dedicated to financing capital improvements included in the Schedule and is based on expected revenues from an existing source. Rule 9J-5.003(29), F.A.C., notes that a currently available revenue source is “...an existing source and amount of revenue presently available to the local government. It does not include a local government’s present intent to increase the future level or amount of a revenue source which is contingent on ratification by public referendum.” A specific revenue source, such as ad valorem taxes, may be used to fund either capital projects or to fund other government expenditures. Thus, “committed funding source” means that expected revenues from an existing revenue source have been dedicated to funding the capital improvements included in the Schedule. A developer’s contribution becomes a committed funding source when it is included in a legally binding agreement.

2) Planned Funding Sources: A planned funding source is one that is not currently available to the local government to use to fund capital projects included in the Schedule. As stated in s.163.3177(3)(a)5., F.S., a planned revenue source is one which requires “... referenda or other actions to secure the revenue source.” Once the referendum passes or the other action occurs (such as, the grant is awarded), then the planned source is secured and becomes a committed sources that can be used to fund projects in the first three years of the Schedule.

A local government can demonstrate that a source is planned by adopting in the CIE a reasonable strategy that will be pursued to secure the revenue source and which coordinates land use decisions and fiscal resources with capital projects to maintain adopted LOS Standards (see Rule 9J-5.016(3)(b)3., F.A.C.). For example, the strategy could commit the local government by a date certain to initiate the referendum process or submit a specific grant application.

The plan must identify other existing revenue sources that will be used to fund the capital projects or otherwise amend the plan to ensure financial feasibility in the event the referenda are not passed or the other actions (such as approval by a grantor) do not secure the planned revenue. See s.163.3177(3)(a)5., F.S. Thus, the Schedule should identify the other existing revenue source, and, of course, the Schedule must be financially feasible using the other existing revenue source. Alternatively, the plan could include a policy stating that the project will not be undertaken if the grant is not obtained; however, the plan must still ensure that LOS Standards are maintained.

3) Grants: Projects may be funded entirely or in part by grants. The Schedule must identify the specific grant program to be used, the amount of the grant and the funding source of any required local match. Grants may be either a committed or planned funding source.

Grants which have been approved or committed by the grantor are considered a “committed funding source” and may be used to fund projects during any of the five years of the Schedule. Grants which have not been approved are considered a “planned funding source” and may be used to fund projects in years 4 and 5 of the Schedule, but not in years 1, 2 or 3.

## **IV. PROJECTS TO BE INCLUDED IN THE SCHEDULE**

The Schedule must include capital projects necessary to achieve and maintain LOS standards, reduce existing deficiencies, provide for necessary replacements, and meet future demand during the time period covered by the Schedule. See Rule 9J-5.016(1)(a), F.A.C.

### **A. General:**

The Schedule must address the facility needs identified in the other elements of the plan, for which LOS Standards must be adopted; these are the facilities for which concurrency is required. The concurrency facilities are: (1) sanitary sewer; (2) solid waste; (3) drainage; (4) potable water; (5) parks and recreation; (6) schools (beginning December 1, 2008); and (7) transportation facilities, including mass transit. See s.163.3180(1)(a), F.S. and s.163.3177(3)(a)5., F.S.

The Schedule may include other facilities related to locally approved concurrency. In addition, the Schedule may include other facilities identified in the plan as desirable, but not required to address either state-required or locally approved concurrency.

In general, the Schedule need only include projects for which the local government has fiscal responsibility. However, the Schedule must include certain public and privately-funded projects for which the local government does not have fiscal responsibility. These privately-funded projects include:

1. Water supply projects (see Section D(2)(c), below);
2. Public schools (see Section D(4)(e), below); and
3. Those included in the Metropolitan Planning Organization's Transportation Improvement Program (see Section D(5)(b)(1), below).
4. Projects that will be funded by the developer and needed to maintain LOS Standards. See s.163.3177(3)(a)5., F.S.

The Capital Improvements Element is based upon the public facility needs identified in the other elements of the comprehensive plan. See Rule 9J-5.016(1)(a), F.A.C. The annual update of the CIE must demonstrate that the comprehensive plan contains adequate strategies for achieving and maintaining adopted LOS Standards. The annual update should include an assessment of the current operating conditions of the seven (7) concurrency-related facilities to identify current deficiencies and a projection of future operating conditions to identify needed capital improvements. This supporting data and analysis must demonstrate that the Schedule addresses existing and projected future needs.

### **B. Projects to Reduce Existing Deficiencies:**

A deficiency is a facility or service that does not meet (is operating below) the adopted LOS Standard. The Schedule must include any projects that “reduce existing deficiencies.” The supporting data and analysis of the pertinent element(s) should include a list of identified deficiencies. If the annual update demonstrates that LOS standards will not be met within the 5-year schedule, then the local government must adopt either a long term concurrency management system or planning strategies in the CIE to address these deficiencies. The Schedule should include all projects needed to maintain the adopted LOS Standard during the five-year period covered by the schedule.

### **C. Replacement Projects:**

The Schedule must include projects that are needed as “replacement” for facilities that wear out or are obsolete. Such projects might include, for example, replacing a bridge that has deteriorated to such an extent that lane closure (to reduce weight) has resulted in

a reduction of roadway capacity and, thus, the roadway is no longer able to meet the LOS Standard.

**D. Projects to Meet Future Demand:**

The Schedule must include projects to “meet future demand.” Such projects should be identified in the data and analysis section of each element. The basic concurrency requirement included in the statute [s.163.3202(2)(g), F.S.] simply states that facilities must be “available when needed.” The exact definition of “available when needed” varies from facility to facility. The function of the Schedule is to time the construction of projects so that they are available when needed. If construction of a project results in sufficient capacity in the system such that the adopted LOS Standard is maintained, then the local government will be able to avoid denying an application for a concurrency certificate. The following discussion defines “available when needed” for each type of concurrency facility and identifies the type of projects that must be included in the Schedule.

1) Sanitary sewer, solid waste and drainage [see Rule 9J-5.0055(3)(a), F.A.C.]:

(a) At the time of issuance of a certificate of occupancy (CO), the necessary facilities are in place, or

(b) At the time of issuance of a DO or DP, the necessary facilities are guaranteed in an enforceable development agreement or a 380 agreement or DO to be in place at the time of issuance of CO.

2) Potable water [see Rule 9J-5.0055(3)(a), F.A.C.]:

(a) Potable water facilities must be available as described in 1, above, and prior to approving a building permit the local government must check with its water supplier to verify that adequate water supplies will be available no later than the anticipated date of issuance of a CO. See s.163.3180(2)(a), F.S.

(b) If the local government is located in an area for which the water management district (WMD) has prepared a regional water supply plan (RWSP), the Potable Water Sub-element must incorporate the water supply projects chosen by the local government from those identified in the RWSP or proposed by the local government to meet projected demand within the area served by the local government.

In addition, the Potable Water Sub-element must include a 10-year water supply facilities work plan for building needed facilities. The first five years of the adopted work plan must be included in the Schedule.

The work plan is to include public, private and regional water supply facilities needed to serve existing and new development. Also, the work plan is not limited to just new or expanded potable water facilities, but includes conservation and water reuse facilities. The work plan is to be updated within 18 months after the WMD revised its RWSP. Therefore, in order for the Schedule to be current, the work plan must be current. If the work plan includes multi-jurisdictional projects, then the Schedule must include the local government's share of the costs of such facilities. See s.163.3177(6)(c), F.S.

3) Parks and recreation: The statute distinguishes between open space and outdoor recreation acreage and the actual facilities constructed on such land. See 163.3180(2)(b).

(a) Before a local government can issue a CO, the acreage for needed park and recreation facilities must be dedicated or acquired by the local government. If developer fair share funds are to be used to acquire the acreage, then these funds must be committed before the local government can grant approval to begin construction.

(b) The actual facilities needed to serve new development must be in place or under actual construction no later than one (1) year after the local government issues a CO. The Schedule should be constructed so that the local government is able to meet both these tests and avoid denying COs. The list of park and recreation facilities in the Schedule must be consistent with the supporting data and analysis in the Open Space and Outdoor Recreation Element.

4) Schools: Beginning December 1, 2008, the CIE must address public school facilities needed to ensure concurrency.

(a) General: Unless exempt, local governments must adopt public school facilities elements on a phased schedule, but no later than December 1, 2008. The specific schedule may be found on the Department's website. The following items must be submitted as an amendment to the CIE at the same time as the submittal of the school element: public school LOS Standards per s.163.3180(13)(b)2., F.S.; and a financially feasible public school capital facilities program per s.163.3180(13)(d)1., F.S.

(b) Concurrency Test: Adequate school facilities must be in place or under actual construction within three (3) years after issuance of final subdivision approval or site plan approval. See s.163.3180(13)(e), F.S.

(c) Supporting Data and Analysis and Goals, Objectives and Policies: The supporting data and analysis and the goals, objectives and policies in the public school facilities element (see ss.163.3177(12)(c) and (i), F.S., and Rule 9J-5.025, F.A.C.) must address correction of existing deficiencies and ensure adequate school capacity for the five-year and long-range planning timeframes and include options for proportionate-share mitigation of impacts on public school facilities.

(d) Funding: In addition to the traditional state and local sources of funding, school facilities can be funded by developer contributions through a proportionate share mitigation program, if the developer executes a legally binding commitment to provide such proportionate share mitigation.

(e) List of School Projects: Since the Schedule must address facilities for which concurrency standards have been adopted, the Schedule must include the projects in the School District's 5-year Work Plan. This can be done through incorporation by reference. When incorporated by reference, the local government must supply a copy of the Work Plan to the Department, consistent with Rule 9J-5.005(2)(g), F.A.C. Funds collected under the proportionate share program must be directed to school facilities included in the School District's 5-year District Work Plan. See s.163.3180(13)(e)3., F.S.

(f) Long-Range School Planning: A local government may adopt a long-range (up to 10 years) school concurrency management system within a specifically designated area or areas where significant backlogs exist. The 10-year schedule must be adopted and include projects to correct existing deficiencies and address backlogged schools. See s.163.3180(9)(a), F.S.

A local government may adopt a 15-year school concurrency management system with the concurrence of the Department as provided for in s.163.3180(9)(b), F.S. In this case, the schedule would be for 15 years.

(g) Proportionate Share: S.163.3180(13)(e), F.S., contains a proportionate share provision that applies to public school facilities: "Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan and which satisfies the demands created by that development in accordance with a binding developer's agreement." Since the

proportionate-share mitigation must be in a financially feasible 5-year district work plan, it must also be in the Capital Improvements Element per s.163.3180(13)(d)1., F.S.

5) Transportation facilities (including mass transit):

(a) Concurrency Test: Transportation facilities needed to serve new development must be in place or under actual construction within three (3) years after the local government issues a building permit. See s.163.3180(2)(c), F.S.

(b) List of Projects: The Schedule must include projects on which the local government has relied or intends to rely for concurrency purposes.

The Schedule need not include costs related to project planning and design since this phase of a project does not add roadway capacity and cannot be used to satisfy concurrency.

Right-of-way acquisition projects can be included in the Schedule as one component of the total cost of a project. If a right-of-way acquisition project is included in the Schedule, the Schedule must also include the construction phases of the project.

(1) Metropolitan Planning Organization (MPO) Projects: The Schedule must include transportation improvements included in the first five years of the applicable MPO's Transportation Improvement Program (TIP) adopted pursuant to s.339.175(7), F.S., to the extent that such improvements are relied upon to ensure concurrency and financial feasibility. See s.163.3177(3)(a)6., F.S., and s.339.155, F.S.

The Schedule must also be coordinated with the applicable MPO's long-range transportation plan adopted pursuant to s.339.175(6), F.S. See s.163.3177(3)(a)6., F.S.

(2) Transportation Concurrency Management Area (TCEA) and Multimodal Transportation District (MMTD) Projects: The Schedule must include mobility projects within TCEAs [see s.163.3180(5)(e), F.S.] and MMTDs [see s.163.3180(15), F.S.], consistent with the provisions of the comprehensive plan and the purpose of the exception area, even though development within these areas is exempt from concurrency. The Schedule must include the community design feature projects intended to provide an adequate level of mobility within a multi-modal district. The



Schedule must be financially feasible over the timeframe of the district. Funding sources must be currently available or reasonably expected to be available over the planning period. See s.163.3180(15)(c), F.S., and Rule 9J-5.016(4)(a)4., F.A.C.

(3) Long-Term Concurrency Management Area Projects: If the local government has adopted a long-term concurrency management system pursuant to s.163.3180(9)(a), F.S., then, pursuant to s.163.3177(3)(d), F.S., the Schedule must address either a 10- or 15-year period [see s.163.3180(9)(b), F.S.]. The Schedule must include projects to correct existing deficiencies on a priority basis. Projects in the first five years of the long range (10- or 15-year) schedule should also appear in the five-year Schedule.

Because the definition of financial feasibility specifies that the first three years of funding must be committed and years four and five may be planned revenue sources, it follows that the outer years (beyond the third year) of the long-term concurrency management system may include planned revenue sources.

For the ordinary five-year Schedule, projects scheduled in years 4 and 5 would advance by at least one year towards the committed funding category and the annual CIE update amendment would add a new fifth year. In the case of a 10- or 15-year schedule, projects in the outer years would also advance by at least a year when the annual CIE update amendment is adopted, but new years would not be added at the end of the long-term schedule.

(4) Strategic Intermodal System (SIS) Projects: The local government must adopt LOS Standards for SIS facilities that are consistent with the FDOT standards. See s.163.3180(10), F.S. Projects needed to maintain the Standard must be included in the Schedule. MPOs are required to update their TIP every summer (July 1) and to include all regional/county projects in the new five-year work plan.

(c) Proportionate-Share: The last sentence of the definition of “financial feasibility” [see s.163.3164(32), F.S.] notes that, “The requirement that level-of-service standards be achieved and maintained shall not apply if the proportionate-share process set forth in s.163.3180(12) and (16) is used.”

The reference to proportionate-share in this section applies only to transportation concurrency. As detailed in 163.3180(16)(b)1., “A

developer may choose to satisfy all transportation concurrency requirements by contributing or paying proportionate fair-share mitigation if transportation facilities or facility segments identified as mitigation for traffic impacts are specifically identified for funding in the 5-year schedule of capital improvements in the capital improvements element of the local plan or the long-term concurrency management system or if such contributions or payments to such facilities or segments are reflected in the 5-year schedule of capital improvements in the next regularly scheduled update of the capital improvements element.” (emphasis added)

In short, by using the proportionate-share process, transportation concurrency can be met if a project pays its fair-share for transportation projects that are identified as mitigation and that have funding in the Schedule or the long-term concurrency management system, or if the fair-share contribution is included in the Schedule in the next regularly planned update of the CIE.

A developer will need the proportionate fair-share option if the proposed development has been denied a concurrency certificate. Proportionate fair-share funds collected in such an instance may be used only to fund improvements to deficient roadways (that is, roads or segments that are operating below the adopted LOS Standard).

If the Schedule proposes to use proportionate share contributions to fund a transportation facility, the local government does not need to demonstrate that the proportionate share contribution will, in fact, immediately result in an improvement that will maintain the LOS Standard for that roadway. Note that a local government’s proportionate share process must be consistent with ss.163.3180(12) and (16), F.S., which list specific criteria that must be met.

Typically, the roadways impacted by a proposed development are identified first and then the developer’s proportionate share for each identified roadway is computed. Proportionate share funds must be applied to a roadway(s) in the Schedule or added to the Schedule at the next update. If several roadway segments are impacted and if sufficient funding is not available to construct all the required improvements, the local government and developer may enter into an agreement to construct one or more of the needed improvements. See s.163.3180(16)(f), F.S. In the event the agreed upon improvement(s) is not in the current Schedule, then the improvement(s) should be added to the Schedule at the next annual update. If the local government projects that sufficient funds will be available within 10 years to improve the deficient roadway(s) impacted by a proposed development, the roadway(s) should be added to years 4 or

5 of the Schedule at the next annual update; alternatively, a policy could be added to the CIE clarifying that the deficiency will be corrected within a specified timeframe or in a long-term schedule and the policy should be supported by adequate data and analysis.

Proportionate-share funds will probably not be sufficient to fund the entire project. In that case, the Schedule must also include the local government costs used to fund the remaining portion of the cost of the entire project. See s.163.3180(12), F.S. The projection of future revenues required by Rule 9J-5.016(2)(f)4., F.A.C., must demonstrate that sufficient revenues will be available to fund these projects.

Additionally, local governments should track projects for which they have collected proportionate share contributions, but are not yet fully funded in the Schedule. The data and analysis supporting the Schedule should include a separate table identifying the transportation facilities for which proportionate share contributions have been collected. This table should identify the name of the facility, segment (from – to; total segment, not individual links), source of revenues (name of project/developer), amount of funds collected and date of collection. The table should reference, perhaps using a footnote, the policy(s) authorizing the local government to collect proportionate share funds. Here is an example of such a table:

PROJECT NAME	SOURCE FUND		TOTAL	DATE OF CONTRIBUTION
SR 99: CR 135 to Davis Rd; pave and reconstruct to 6 lanes (1)	Omega International Builders – Prop Share	Streets	\$7,853,955	6/15/2008
Notes: (1) See CIE Policy 6.5.3				

The annual update of the CIE should demonstrate that proportionate share projects are being advanced over time into and within the Schedule. Once a proportionate share project is constructed, both the Schedule and the proportionate share table should be updated by deleting the appropriate entries.

The CIE must include strategies to address deficient roadway facilities. Funding a transportation improvement through the proportionate fair-share process does not relieve the local government from addressing any LOS deficiencies on any remaining links identified as deficient. The local government’s strategies to address any such deficiencies must be incorporated in the comprehensive plan. These strategies may include adding projects to the Five-Year Schedule of Capital Improvements or

longer term solutions such as long term concurrency management systems, transportation concurrency exception areas, multimodal transportation districts, transportation concurrency management areas, strategies in the CIE to be implemented over the planning timeframe, or other innovative solutions.

Updates to the CIE which reflect proportionate fair-share contributions may not be found not in compliance based on s.163.3177(3), F.S., (which is the requirement for the CIE) and s.163.3164(32), F.S., (which is the definition of financial feasibility) if additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities. See s.163.3180(16)(b), F.S. Thus, the annual update to the CIE should demonstrate that the impacted transportation facility will meet the LOS Standard within 10 years through funding sources that are reasonably anticipated.

For additional details regarding proportionate share, please see the *Model Ordinance for Proportionate Fair-Share Mitigation of Development Impacts on Transportation Corridors*, February 14, 2006, prepared by the Center for Urban Transportation Research under contract to the Florida Department of Transportation. This report may be found at <http://www.dca.state.fl.us/fdcp/dcp/transportation/model-ordinance.pdf>

(d) De Minimis Report Requirement: If local governments opt to allow exceptions for de minimis impacts, such local governments must comply with the reporting requirements described below. Section 163.3180(6), F.S., recognizes that certain types of development have a de minimis impact on level of service. A de minimis impact is an impact that affects no more than 1% of the maximum service volume at the adopted LOS Standard. Development which causes only a de minimis impact is not subject to traffic concurrency. However, total traffic volume should not exceed 110% of the maximum service volume at the adopted LOS Standard. Local governments must maintain records to ensure that the 110% criterion is not exceeded. Local governments need not maintain a record of de minimis impacts on roadways that are operating below 100% of the maximum service volume. Exceptions to concurrency for de minimis impacts are allowed only when a roadway is operating between 100% and 110% of the maximum service volume. When a roadway reaches 110%, a local government must stop granting de minimis concurrency exceptions. A summary of these records must be submitted with the annual update of the CIE. Note that the impact of a single family home on an existing lot of record will always constitute a de minimis

impact regardless of the level of deficiency of the affected roadway even if the 110% threshold is exceeded.

The annual update of the CIE must demonstrate that the 110% criterion has not been exceeded or, if it has been exceeded, that the impacted roadway is scheduled for improvement in the Schedule. No de minimis exceptions may be granted on roadways where the 110% criterion is exceeded until such time as the volume of the roadway is reduced below 110%.

Rule 9J-11.011(5)(f), F.A.C., requires that, after December 1, 2007, adopted plan amendment packages that contain a future land use map amendment must include a statement indicating the date that the annual capital improvement element update was adopted and submitted along with the summary of de minimis impact records.

Rule 9J-11.011(8)(b), F.A.C., specifies that if an adopted amendment is the annual CIE update amendment or is an amendment to eliminate, defer, or delay the construction for any facility listed in the Schedule, then pursuant to Section 163.3177(3)(b), F.S., the local government must submit a copy of the executed ordinance, the amendment in strike thru and underline format, and a summary of the de minimis impact records pursuant to Section 163.3180(6), F.S.

6) Urban Service Boundary: If a local government has designated an urban service boundary pursuant to s.163.3177(14), F.S., then it must demonstrate that the area within the boundary is served or is planned to be served with adequate public facilities and services by adopting a 10-year facilities plan in the CIE. This 10-year plan must be financially feasible and updated on an annual basis along with the rest of the element.

### **E. Capital Planning in the CIE Beyond the Five-Year Schedule**

Local governments will occasionally receive applications for future land use map amendments for proposed developments which, due to their size or intensity, are planned to be built out over an extended period. For example, a local government may intend to approve a large map amendment for a planned development that will be developed in phases over twelve years. This development will have infrastructure impacts over this entire build-out, some of which will occur outside the five years covered by the adopted Schedule. In such an instance, the local government will need to explain in the CIE how the infrastructure impacts for all twelve years will be addressed, including the seven years that are beyond the Schedule.

Additionally, a local government may come to the conclusion that long-term infrastructure deficiencies will occur based on development under the currently-adopted future land use map without any further amendments. Just as when a particular map amendment is projected to cause long-term deficiencies, the local government will have to address these projected deficiencies in the CIE.

Planning for these long-term needs differs from the adoption of the five-year Schedule in several manners. Perhaps most importantly, the definition of “financial feasibility” in Section 163.3164(32), Florida Statutes, applies only to the Schedule and not to long-term planning in the CIE. The long-term planning strategies in the CIE need not be accompanied by a demonstration that funding for projected needs is currently available or is available from planned funding sources, as is necessary for the Schedule. Rather, these strategies should be embodied in policies that, as with others in the comprehensive plan, spell out “the way in which programs and activities are conducted to achieve an identified goal.” Rule 9J-5.003(90), F.A.C. As their goal is to correct projected deficiencies, the policies should set forth the programs the local government intends to pursue to address these needs. For instance, the local government may plan for mass and multi-modal transit as part of its strategy to address transportation facility deficiencies. A local government may also plan for new funding sources to expand capital facilities, or may pursue conservation measures to lessen the demand on facilities such as water and sewer.

Capital improvements that are needed beyond the next five years should also be reflected in the corresponding element from the comprehensive plan. The capital improvements element must demonstrate the local government’s ability to provide or require provision of the needed improvements identified in the other elements of the plan. The future infrastructure maps should also be amended to reflect all capital improvements for both the short and long range.

## **V. FINANCIAL FEASIBILITY**

The Schedule must be demonstrated to be financial feasible. The statute allows a local government to use any professionally acceptable method to demonstrate that its Schedule is financially feasible. See s.163.3177(2), F.S.

In general terms, the Schedule is financially feasible if committed revenues are projected to be sufficient to pay for the projects included in the first three years of the Schedule, and planned revenues are sufficient to pay for projects in years 4 and 5.

### **A. Supporting data and analysis:**

The annual update of the CIE must include an update of the data and analysis, as required by Rule 9J-5.016(1) and (2), F.A.C. This supporting information is used to demonstrate that the Schedule is financially feasible.

1) As explained in Rule 9J-5.016(1)(a), F.A.C., the CIE is based on the public facility needs identified in the other elements of the comprehensive plan. As part of the CIE annual update, other elements of the plan may need updating to provide support for and justification of new projects included in (or deleted from) the revised CIE and to maintain consistency of the elements of the plan, as required by s.163.3177(2), F.S.

2) The forecast of expenditures included in the supporting data and analysis should include the cost of the capital projects listed in the Schedule. See Rule 9J-5.016(2)(f), F.A.C.

Also, the update should include an analysis of the costs of needed capital improvements and an explanation of the basis of the cost estimates. See Rule 9J-5.016(2)(c), F.A.C.

3) The data and analysis should address the sources of revenue that will be used to fund the projects included in the Schedule:

(a) An inventory of existing revenue sources. See Rule 9J-5.016(1)(c), F.A.C.

(b) A forecast of revenues for the next five years. For roadway and schools, the analysis must include a forecast of revenues from proportionate share contributions from developers. See Rule 9J-5.016(2)(f), F.A.C.

A projection of impact fee revenue should be based on consideration of:

- a) past trends in impact fee revenues
- b) reasonable estimates of future building permit activities
- c) estimates of entitlements that have been approved, but not yet permitted, and

Note: The Schedule may include new (not currently existing) revenue sources; in which case these revenue sources would not be included in the Rule 9J-5.016(1)(c), F.A.C., inventory, but any new revenue sources would be included in Rule 9J-5.016(2)(f), F.A.C., forecast of revenues.

### **B. Demonstration of Financial Feasibility:**

For a Schedule to be financially feasible it must meet the definition of financial feasibility [see s.163.3164(32), F.S.]:

1) The assessment required by Rule 9J-5.016(2)(f), F.A.C., must demonstrate that sufficient funds are currently available or will be available from committed sources to fund all the identified capital improvements during the first three years of the Schedule. The projected expenditures (see Rule 9J-5.016(2)(f)1., F.A.C.) should include the costs of the capital improvements in the Schedule. If, after subtraction of all the other expenses of the local government, projected revenues exceed projected expenditures, then sufficient funds are available.

2) Sufficient funds must also be available to fund the projects scheduled for construction in years 4 and 5 of the Schedule. However, such funds may include planned (reasonably estimated to be available from an anticipated revenue source) as well as committed sources of funds.

If the Schedule includes planned revenue sources that require referenda or other action to secure the revenue source, the plan must identify alternative revenue sources that will be used to fund the project (or otherwise amend the plan) in the event the referenda are not passed or other actions to secure the planned revenue source do not succeed. See s.163.3177(3)(a)5., F.S.

The considerations discussed above also apply if the Schedule is for a 10- or 15-year period.

3) For capital improvements that will be funded by a developer, financial feasibility shall be demonstrated by being guaranteed in an enforceable development agreement or interlocal agreement pursuant to s.163.3177(10)(h), F.S., or other enforceable development agreement. See s.163.3177(3)(a)5., F.S.

## **VI. COMPLIANCE CONSIDERATIONS**

The Department of Community Affairs will evaluate the updated CIE and determine if it addresses the requirements of the law pertaining to completeness of the Schedule, the adequacy of the supporting data and analysis, and whether or not the Schedule is financially feasible. Some possible issues that may warrant compliance discussions by the Department are:

1. The Financial Feasibility of the Schedule. Schedules not demonstrated to be financially feasible would warrant compliance discussions. To be financially feasible, it has to be demonstrated through relevant and professionally accepted data and analysis that there are sufficient funds currently or will be available from committed sources to pay for the improvements identified during the first three years of the schedule. That is, the projections of revenues and expenditures have to show that there are sufficient funds to pay for the improvements.



2. Use of Planned Sources: Use of planned sources for the outer years to demonstrate financial feasibility that require other actions in order to secure the money, without identifying the alternative sources in case the actions do not materialize would warrant compliance discussions.
3. Funding by Developers: Funding during years 1, 2 or 3 by developers without an accompanying enforceable developer agreement will warrant compliance discussions.
4. Not Scheduling for Improvements the Projects Needed to Maintain Adopted LOS Standards: The primary purpose of the CIE update and the Schedule is to stay abreast of the facility needs of the community and to ensure that the deficiencies as well as the improvements identified in the other elements of the comprehensive plan as necessary to support the growth of the community are programmed and the deficiencies corrected accordingly over time. A compliance discussion is warranted if the annual updates and long term planning strategies do not reflect these needs.
5. Lack of Commitment to Fund the Needed Capital Improvements: If the updates do not demonstrate the local government's commitment to regularly update the plan and schedule the necessary improvements to stay abreast of needed improvements to support the growth of the community, that would warrant a compliance discussion. For example, if a project was slated for year 5 of the Schedule, and that particular project does not progress during successive annual updates, which is an indication of the lack of commitment to update the plan that would warrant compliance discussion.

## **Attachment 1**

### **SB 360 CIE-Related Implementation Dates**

- A. After 7/1/2005 (the effective date of SB 360), the following provisions are effective:
  - 1. The annual CIE update is adopted under an expedited process with a single public adoption hearing and compliance review by DCA. Section 163.3177(3)(b)2., F.S.
  - 2. New definition of financial feasibility (will not be able to use planned revenue sources for first three years of the Schedule). Section 163.3164(32), F.S.
  - 3. The Schedule must include the MPO's TIP to the extent that such improvements are relied upon to ensure concurrency and financial feasibility. Section 163.3177(3)(a)6., F.S.
  - 4. A summary of de minimis records must be submitted with the annual CIE update amendment. Section 163.3180(6), F.S.
  - 5. A plan amendment is required to change the scheduled date of construction of a project (previously this change could be done by adopting a local ordinance). Section 163.3177(3)(b)1., F.S.
  - 6. If a planned revenue source is used, plan must include existing revenue sources that will be used if the referendum or other action does not secure the planned source (previously this was only encouraged in the rule). Section 163.3177(3)(a)5., F.S.
- B. On 12/1/2006, the annual update of the CIE must address the following provision:
  - 1. The Schedule must reflect proportionate fair-share projects for transportation. Section 163.3180(16)(b)1., F.S.
- C. On 12/1/2007, the following provisions of SB 360 become effective:
  - 1. The Schedule must incorporate water supply projects 18 months after the WMD updates the RWSP. Section 163.3177(6)(c), F.S.
  - 2. Failure to adopt annual update results in a prohibition on adopting future land use amendment. Section 163.3177(3)(b)1., F.S.
  - 3. Failure to adopt may result in sanction by the Administration Commission. Section 163.3177(3)(c), F.S.
- D. On 12/1/2008, the following provisions are effective:
  - 1. The CIE must include school projects consistent with the school district's work plan, a public school facilities LOS Standard, identify the concurrency service areas, and must identify proportionate fair-share projects for schools. Section 163.3180(13)(d)1., F.S.

## Attachment 2

### An Example of a Five-Year Schedule of Capital Improvements

Project Number	Project Name	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-2011	FY 2011-2012	Total Project Cost	Consistency with Other Plan Elements
<b>Transportation</b>								
1	12 <sup>th</sup> St. from 1 <sup>st</sup> Ave. to 5 <sup>th</sup> Ave.; add two lanes (1/2 mile)	\$100,000 (GT) <sup>†</sup> \$100,000 (O)	\$300,000 (GT)				\$500,000	See Transportation Policy 4.3.2
2	CR 790 at Oak Street, add turn lanes		\$50,000 (I)	\$50,000 (I)			\$100,000	See Transportation Policy 4.5.4
<i>Transportation Total</i>		\$200,000	\$350,000	\$50,000			\$600,000	
<b>Sewer</b>								
1	Replace 2 <sup>nd</sup> Avenue Pump Station	\$25,000 (RB) \$25,000 (A)					\$50,000	See Infrastructure Element, Table 4
<i>Sewer Total</i>		\$50,000					\$50,000	
<b>TOTAL ALL CATEGORIES</b>		\$250,000	\$350,000	\$50,000			\$650,000	

† Notes for Revenue Sources:			
(A) Special Assessments	(EB) Environmental Lands Bond	(O) One Cent Local Option Sales Tax	(R&R) Renewal and Replacement Fund
(C) Capacity Charges	(G) Grants	(PM) Private Mitigation Funds	(T) Transportation
(D) Disposal User Fees	(GT) Gas Tax	(R) Road and Bridge Fund	(TT) Tourist Tax
Revenue	(I) Impact Fees Improvement	(RB) Revenue Bond	(U) Stormwater Utility Charges
	(LG) Ad Valorem Taxes		

**Five-Year Schedule of Capital Improvements  
Summary by Functional Category<sup>1</sup>**

Category	FY 2007-2008	FY 2008-2009	FY 2009-2010	FY 2010-2011	FY 2011-2012	Total
(1) sanitary sewer	\$50,000					\$50,000
(2) solid waste						
(3) drainage						
(4) potable water						
(5) parks and recreation						
(6) transportation	\$200,000	\$350,000	\$50,000			\$600,000
<b>TOTAL</b>	<b>\$250,000</b>	<b>\$350,000</b>	<b>\$50,000</b>			<b>\$650,000</b>

**Five-Year Schedule of Capital Improvements  
Summary by Revenue Source<sup>1</sup>**

Source	FY 2007-2008	FY 2008-2009	FY 2009-2010	FY 2010-2011	FY 2011-2012	Total
(I) Impact Fees		\$50,000	\$50,000			\$100,000
(O) One Cent Local Option Sales Tax	\$100,000					\$100,000
(A) Special Assessments	\$25,000					\$25,000
(GT) Gas Tax	\$100,000	\$300,000				\$400,000
(RB) Revenue Bond	\$25,000					\$25,000
ETC.						
<b>TOTAL</b>	<b>\$250,000</b>	<b>\$350,000</b>	<b>\$50,000</b>			<b>\$650,000</b>

<sup>1</sup> In addition to this summary table, the annual update must include an assessment of the local government's ability to finance the capital improvements included in the Schedule. This assessment must include a forecast of revenues and expenditures for five years; a projection of debt service obligations for currently outstanding bond issues; projections of ad valorem tax base assessment ratio and millage rate; projections of other tax bases and other revenue sources used to fund capital projects listed in the Schedule; a projection of operating cost considerations; and a projection of debt capacity. See Rule 9J-5.06(2)(f), F.A.C., and Section V of this Guide.

## **Attachment 3 Statutory and Rule Citations**

### **Statutory citations:**

- 163.3164(32): definition of “financial feasibility”
- 163.3177(2): requires the comprehensive plan to be “financially feasible”
- 163.3177(3): specifies content requirements for the Capital Improvements Element
- 163.3177(3)(a)5.: requirement for Schedule; developer funding; planned revenue sources requiring referenda or other actions
- 163.3177(3)(a)6.: coordination of Schedule with MPO plans
- 163.3177(3)(b)1.: annual update process and prohibition of Future Land Use Map amendment
- 163.3177(3)(b)2.: single public hearing
- 163.3177(3)(c): sanctions by the Administration Commission
- 163.3177(3)(d): capital improvements schedule for long-term concurrency management system
- 163.3177(6)(c): requires water supply facilities work plan for certain local governments
- 163.3177(10)(h): general concurrency requirement
- 163.3177(12)(c): requires public school facility element to include goals, objective and policies
- 163.3177(12)(g)4.: requires infrastructure to support public schools
- 163.3177(14): requires infrastructure to be available within designated urban service areas
- 163.3180: addresses concurrency requirements for infrastructure.
- 163.3180(1)(a): list of required concurrency facilities
- 163.3180(2)(a): concurrency requirement of sanitary sewer, solid waste, drainage, adequate water supply and potable water facilities
- 163.3180(2)(b): concurrency test for parks and recreation facilities
- 163.3180(2)(c): concurrency test for transportation facilities
- 163.3180(5)(e): TCEAs
- 163.3180(6): de minimis reporting requirement
- 163.3180(9)(a): long-term transportation and school concurrency management systems
- 163.3180(9)(b): long-range schedule of capital improvements for backlogged transportation and school facilities
- 163.3180(10): Strategic Intermodal System and Intrastate Highway System
- 163.3180(12): proportionate-share contribution within multiuse DRIs
- 163.3180(13)(b)2.: public school facility concurrency requirement
- 163.3180(13)(c): public school facility service areas
- 163.3180(13)(d)1.: CIE amendment required when adopting school concurrency

- 163.3180(13)(e): concurrency test for schools
- 163.3180(15): multi-modal districts
- 163.3180(15)(c): capital improvement to promote community design within multi-modal districts
- 163.3180(16): proportionate fair-share mitigation for roadways
- 163.3180(16)(b)1.: adopt fair-share ordinance by December 1, 2006
- 163.3184(11): sanctions by Administration Commission
- 163.3187(1)(f): exemption from twice per year limitation of adoption of amendments
- 163.3202(2)(g): concurrency requirement
- 339.175(6): MPO's long-range transportation plan
- 339.175(7): MPO's TIP
- 339.155: FDOT transportation planning
- 339.2819: requires projects to be funded by the Transportation Regional Incentives Program to be included in the Five-Year Schedule of Capital Improvements.

**Rule Citations:**

- 9J-5.003(12): definition of capital improvement
- 9J-5.003(29): definition of currently available revenue sources
- 9J-5.005(2)(g): incorporation by reference
- 9J5.0055: requirements for the Concurrency Management System
- 9J5.0055(3)(a): definition of "available when needed" for concurrency facilities
- 9J-5.016: requirements for the CIE
- 9J-5.016(1)(a): CIE is based on needs identified in other elements of the plan
- 9J-5.016(1)(c): identification of existing funding sources
- 9J-5.016(2)(c): analysis of the cost of capital improvements
- 9J-5.016(2)(f)1.: projected expenditures
- 9J-5.016(2)(f)4.: projection of revenue from other revenue sources
- 9J-5.016(3)(b)3.: use of CIE to address capital improvement needs
- 9J-5.016(4)(a): requirements for capital improvements implementation
- 9J-5.016(4)(a)1.: general components of the Schedule
- 9J-5.016(4)(a)4.: multi-modal districts
- 9J-5.016(5): requirements for Five-Year Schedule of Capital Improvements

**Attachment 4**  
**CIE Step by Step Template**

# **Preparing the Five-Year Schedule of Capital Improvements**



Walker Banning  
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Florida Department of Community Affairs  
Division of Community Planning



## Preparing the Five-Year Schedule of Capital Improvements

Walker Banning, Administrator, State Planning Initiatives  
Florida Department of Community Affairs

### Background

The **Five-Year Schedule of Capital Improvements** (Schedule) is one component of the Capital Improvements Element in the local comprehensive plan. (For more information on the other required components of the element, please see the *CIE Guidelines*). The Schedule is updated every year through an amendment to the comprehensive plan. The amendment must be adopted and transmitted to the Department of Community Affairs for review by December 1 of every year. The Schedule includes all capital improvements scheduled for construction within the community during the next five years.

Capital improvements are purchased or constructed physical assets which are large in scale and high in cost. Generally the cost is non-recurring and may require multi-year financing. The capital improvements that are required to be included in the Schedule are related to the facilities for which a **Level of Service Standard** has been adopted. These must include the facilities for which concurrency is required. (A community may also adopt a level of serve standard for its other facilities and services).

The facilities for which concurrency must be maintained are:

- (1) Sanitary sewer
- (2) Solid waste
- (3) Drainage
- (4) Potable water
- (5) Parks and recreation
- (6) Schools (beginning December 1, 2008)
- (7) Transportation facilities, including mass transit.

The Level of Service Standards must be included in the Capital Improvement Element. A priority for your capital program will be ensuring that your facilities currently meet these adopted standards and that they will continue to do so in the future as growth occurs or other conditions change. A projection of future population is necessary, along with analysis that predicts where this population will be located.

You will need to compare the actual level of service at which these facilities are operating against the adopted standard. These data should be available through other parts of your local government or from state agencies, such as FDOT. If an outside entity provides some of these services (potable water, for example), the service provider should be able to provide current and projected level of service.

As you compare current and future level of service against the standard, take note of areas where deficiencies or shortfalls are occurring or may occur in the future.

## Preparation Assistance Guide for DCA Direct Grant Deliverables

Providing funding for capital projects that will enable you to continue to meet the established level of service will need to be a priority as you thoughtfully allocate anticipated revenues against future needs.

The Schedule cannot be prepared until the local government has first identified the capital improvements that should be constructed to meet current and future needs. To identify these facilities, planners first prepare a **public facilities capacity analysis** to identify those facilities where demand exceeds capacity and those facilities where capacity exceeds demand. This analysis should address the current year and all future years through the long-range planning timeframe (at least 10 years).

The analysis should consider the demand created by development that has been approved by the local government even if that development has not yet been constructed. If the analysis identifies facilities that do not have enough capacity to meet existing or projected demand, projects that will increase capacity should be identified (alternatively, steps might be taken to reduce demand). Projects should be constructed in time to avoid issues with insufficient capacity. The plan amendment support document submitted with the annual update amendment should demonstrate that proposed capital improvements will maintain the adopted Level of Service Standards.

For those facilities where the backlog of needed projects is greater than the local government's ability to fund all the improvements in the five year schedule, include a long-term system or long-term planning strategies in the element that will address these deficiencies.

The location of development within the community should be examined to be sure that projects are targeted to the appropriate locations. Completing this analysis will result in knowing what facilities are needed, when they are needed, and where they are needed. The only other information that is needed to complete the Schedule is the estimated cost of each project and the source(s) of funds that will be used to finance the construction of each project.

Once this information is prepared, the following steps may be applied:

- Step 1 - List Your Facility Needs That Are Identified in the Comprehensive Plan
- Step 2 - List Your Facility Needs That Are Not Identified in the Comprehensive Plan
- Step 3 - Identify Revenue Sources
- Step 4 - Use of Fund Account System (if applicable)
- Step 5 - Forecast Your Future Revenues
- Step 6 - Expenditure Projections for Currently Scheduled Capital Improvements
- Step 7 - Project Debt Service Funding Requirements for Current Capital Projects
- Step 8 - Cost of New Capital Improvements
- Step 9 - Project Your Increase in Operating Costs
- Step 10 - Conduct a Fiscal Assessment
- Step 11 - Deal with Revenue Shortfalls
- Step 12 - Construct the Schedule of Capital Improvements

**Step 1 - List Your Facility Needs That Are Identified in the Comprehensive Plan**

The Schedule must include the facility needs identified in the other elements of the comprehensive plan. Planners need to review each element of the plan and make a list of all the facilities that are identified as needed to be constructed during the next five years.

Very often, these facilities may be identified in the comprehensive plan's data and analysis or in its goals, objectives and policies section. Make a note of the section of the plan where the facility is identified as needed (page number, objective or policy number). Also make a note about when the facility must be completed in order to maintain the adopted Level of Service. Organize this information into a table. Include in the table the estimated cost of each capital improvement, and the construction start and finish dates.

Example of the product prepared as a result of completing Step 1:

**Table 1: Capital Improvement Needs Identified in the Comprehensive Plan**

<b>Project Number</b>	<b>LOS Facility Type</b>	<b>Description</b>	<b>Target Dates</b>	<b>Estimated Cost</b>	<b>Source</b>
1	Transportation	Widen 12 <sup>th</sup> Street	Begin: 2007 Finish: 2008	\$500,000	Transportation Element, Table 4.6
2	Transportation	Turn lanes on CR 790	Begin: 2007 Finish: 2008	\$100,000	Transportation Element, Policy 3.2.1

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### **Step 2 – List Your Facility Needs That Are Not Identified in the Comprehensive Plan**

In preparing the list from Step 1, you are likely to notice that certain capital improvements which are needed are not mentioned in the comprehensive plan. Make a list of any missing improvements which are necessary (from a concurrency perspective) for the local government to have in place or under construction during the next five years. Include a short justification or reason why each improvement is necessary. Also make a list of the capital projects that the local government is currently funding (under construction or scheduled for construction). Make a note of whether these projects are consistent with the comprehensive plan (if they are not, the plan element should be revised). Organize this information into a table.

Example of the product prepared as a result of completing Step 2:

**Table 2: Other Needed Capital Improvements**

<b>Project Number</b>	<b>LOS Facility Type</b>	<b>Description</b>	<b>Target Dates</b>	<b>Estimated Cost</b>	<b>Source</b>
1	Sanitary Sewer	Pump Station	Begin: 2008 Finish: 2008	\$50,000	Special study completed in July 2006

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### **Step 3 - Identify Revenue Sources**

Make a list of all the sources of revenue that your local government has available for financing capital improvements. Revenue sources include any source that can be used to fund capital projects. This list may include such revenue sources as property (ad valorem) taxes, public utility or user charges, general obligation bonds, revenue bonds, grants, gas taxes, enterprise funds, tax increment financing, developer contributions and impact fees. For each source indicate the amount actually collected during the past fiscal year. (Although they do not need to be listed, you will want to use the revenue level of several recent previous years in the course of projecting future revenues).

Example of the product prepared as a result of completing Step 3:

**Table 3: Local Government Revenue Sources**

REVENUE SOURCE	DOR Code	COLLECTIONS DURING FY 05-06
Ad Valorem Taxes	311000	\$
Local Communications Services Tax		\$
Local Occupational License Taxes <sup>1</sup>		\$
Local Option Taxes	312100	
A. General Local Option Sales Surtaxes		
Charter County Transit System Surtax		\$
Local Government Infrastructure Surtax		\$
Small County Tax		\$
School Capital Outlay Surtax		\$
B. Local Option Fuel Taxes	312400	
County Local Option Fuel Tax (6¢ max.)		\$
County Local Option Motor Fuel Tax (5¢ max.)		\$
Ninth Cent Fuel Tax	312300	\$
C. Discretionary Surtax on Documents		\$
State Revenue Shared with Local Governments		
A. ½ ¢ Sales Tax (Cities and Counties)	335180	\$
B. Municipal Revenue Sharing		\$
C. County Revenue Sharing		\$
Impact Fees		\$
Stormwater Assessment		\$
Stormwater Utility Fee		\$
Public Service Tax		\$
Franchise Fees		\$
Private Funding		
A. Proportionate Share Contribution		\$
B. Other Developer Contribution		\$
C. Other (specify)		
Grants (specify)		
A. Federal (specify)	331390	\$
B. State (specify)	334100	\$
Other (specify)		\$
<b>TOTAL</b>		<b>\$</b>

Note: <sup>1</sup> Name changed to Local Business Tax by Legislature in 2006.

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### **Step 4 – Use of Fund Account System (if applicable)**

The accounting system employed by most local governments record financial transactions in individual accounts which are called “funds.” Records for each fund provide a complete accounting of fund assets, liabilities, reserves, equities, revenues and expenditures. Prepare a table listing the fund accounts used by your local government. Take the revenue sources listed in Table 3 and place them in the appropriate account and add the current revenues from Table 3.

Example of the product prepared as a result of completing Step 4:

**Table 4: Fund Accounts**

<b>Funds and Revenue Sources</b>	<b>DOR Code</b>	<b>FY 05-06 (current budget)</b>
General Fund		
Appropriate revenue sources from Table 3		\$
<b>FUND TOTAL</b>		\$
Capital Improvement Fund		
Appropriate revenue sources from Table 3		\$
<b>FUND TOTAL</b>		\$
Transportation Improvement Fund		
Appropriate revenue sources from Table 3		\$
<b>FUND TOTAL</b>		\$
Enterprise Funds		
Sanitary Sewer		\$
Appropriate revenue sources from Table 3		\$
<b>FUND TOTAL</b>		\$
Solid Waste		\$
Appropriate revenue sources from Table 3		\$
<b>FUND TOTAL</b>		\$
Potable Water		\$
Appropriate revenue sources from Table 3		\$
<b>FUND TOTAL</b>		\$
Stormwater Drainage		
Appropriate revenue sources from Table 3		\$
<b>FUND TOTAL</b>		\$
<b>TOTAL</b>		\$

Note: All figures in millions.

**Step 5 - Forecast Your Future Revenues**

Take the fund accounts and associated revenue sources prepared in Step 4 and for each revenue source, project how much revenue you anticipate will be collected by that source for each of the next five years. For each forecast, write down the assumptions used in preparing the projection. It is likely that in some cases you will need to make estimates by looking at current levels and determining how local or economic trends will affect them.

For example, the amount of revenues that will be collected through ad valorem taxes will depend on the assessed value of property within the community (tax base), the assessment ratio and the millage rate. Make a note of the assumptions regarding these three variables that are used when preparing the forecast of ad valorem revenues.

In a similar fashion, keep good notes on the assumptions used to forecast each revenue source and the calculations used. The assumptions may change from year-to-year; for example, property values may be climbing one year and be relatively static the next. When updating the Schedule every year, it is important to know what assumptions were used to prepare the previous Schedule of Capital Improvements.

As a result of completing this step, you will have a forecast of expected revenues, by revenue source, for each fund for each of the next five years and extensive notes regarding the assumptions used to prepare the forecast.

Example of the product prepared as a result of completing Step 5:

**Table 5: Revenue Projections Affecting Capital Improvements**

FUND	DOR CODE	FY 05-06 (current budget)	FY 06-07	FY 07-08	FY 08-09	FY 09-10
Same as Table 4		\$	\$	\$	\$	\$
<b>TOTAL</b>		\$	\$	\$	\$	\$

Notes: (1) All figures in millions. (2) The forecast of ad valorem revenue is based on the following assumptions:

Tax Base	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10
Taxable Value	5.456	6.002	6.602	7.262	7.988

Notes: All figures in billions. Projection assumes 10% growth rate per year for in the taxable value of property.

	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10
Ad Valorem Tax Yields	33.609	36.852	40.409	44.316	48.626

Notes: (1) All figures in billions. (2) Projection assumes a constant millage rate.

**Step 6 – Expenditure Projections for Currently Scheduled Capital Improvements**

If your local government is currently financing some capital improvement projects, it is necessary to subtract the projected expenditures for these improvements from the total projected revenue in order to determine what fund has enough projected revenue to fund the new capital improvements listed in Tables 1 and 2. First determine the cost of the currently scheduled capital improvements (called Scheduled Capital Costs in Table 6).

Product prepared as a result of completing Step 6:

**Table 6: Expenditure Projections for Scheduled Capital Improvements**

FUND	FY 05-06 (current budget)	FY 06-07	FY 07-08	FY 08-09	FY 09-10
Same as Table 4	\$	\$	\$	\$	\$
<b>TOTAL</b>	\$	\$	\$	\$	\$

Notes: (1) All figures in millions.

**Step 7 – Project Debt Service Funding Requirements for Current Capital Projects**

Project for the next five years the amount of revenue that will be used to meet your current debt payments for current bond issues or loans. These bonds probably relate to the capital projects currently being funded by the local government and which are included in the list of projects prepared during Step 6 or for past capital improvements that have already been completely constructed (and thus do not appear in Table 6).

Example of the product prepared as a result of completing Step 7:

**Table 7: Loan and Bond Payments**

Source of Funds to Pay Debt Service	FY 05-06 (current budget)	FY 06-07	FY 07-08	FY 08-09	FY 09-10	Total
Same as Table 4	\$	\$	\$	\$	\$	\$
<b>TOTAL</b>	\$	\$	\$	\$	\$	\$

Note: All figures in millions.



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### **Step 8 – Cost of New Capital Improvements**

The direct costs of the needed capital improvements included in Tables 1 and 2 represent additional costs the local government must incur in order to maintain adopted Level of Service Standards under projected growth conditions. These costs can be brought forward and displayed in a summary table by facility type.

Example of the product prepared as a result of completing Step 8:

**Table 8: Needed Capital Improvements**

Facility Type	FY 05-06 (current budget)	FY 06-07	FY 07-08	FY 08-09	FY 09-10
<b>Sanitary Sewer</b>	\$	\$	\$	\$	\$
<b>Solid Waste</b>	\$	\$	\$	\$	\$
<b>Stormwater Management</b>	\$	\$	\$	\$	\$
<b>Potable Water</b>	\$	\$	1.5	1.0	1.9
<b>Parks and Recreation</b>	\$	\$	0.065	\$	\$
<b>Schools</b>	\$	\$	\$	\$	\$
<b>Mass Transit</b>	\$	\$	\$	\$	\$
Traffic Circulation	\$	\$	\$	\$	\$
<b>TOTAL</b>	\$	\$	1.565	1.0	1.9

Notes: (1) Cost data derived from Tables 1 and 2. (2) All figures in millions.

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### **Step 9 - Project Your Increase in Operating Costs**

The capital improvement projects needed by the local government (Tables 1 and 2) have not only direct construction costs, but will also increase the total operating costs of the local government in order to maintain and operate these new facilities. Since these operation and maintenance costs are cumulative over time, as each new operating cost is incurred (following completion of the capital improvement) this operating cost must be carried forward and added to the costs incurred in successive years to assess the impact on total local government's operating costs. Prepare a projection of future operating costs based on the list of capital improvements prepared in Steps 1 and 2.

Example of the product prepared as a result of completing Step 9:

**Table 9: Cumulative Operating Cost Increase  
Due to New Capital Improvements**

Facility Type	FY 05-06 (current budget)	FY 06-07	FY 07-08	FY 08-09	FY 09-10
Roadways	\$	\$	\$	\$	\$
Sanitary Sewer	\$	\$	\$	\$	\$
Solid Waste	\$	\$	\$	\$	\$
Drainage	\$	\$	\$	\$	\$
Potable Water	\$	\$	\$	0.102	0.869
Recreation	\$	\$	\$	0.003	0.006
Mass Transit	\$	\$	\$	\$	\$
Total	\$	\$	\$	\$	\$

Note: All figures in millions.

### **Step 10 – Conduct a Fiscal Assessment**

In order to pay for new capital improvements, sufficient revenues must be available during each of the next five years included in the Schedule. To see if there will be sufficient revenues, it is necessary to first determine how much the local government will spend for all non-capital improvement expenses.

These expenses would be the sum of general government expenses (salaries, etc., Table 9), expenditures from currently funded capital projects (Table 6) and debt service on existing capital projects (Table 7). This sum can be subtracted from the projected fund revenues shown in Table 5.

Table 8 summarizes the results of this process. To prepare Table 8, take the forecasts of revenues prepared in Table 5 and subtract from each fund the amount that will be used for:

- (1) Non-capital improvement expenses
- (2) Cost of currently funded capital projects (from Table 6)
- (3) Debt service expenditures (from Table 7)
- (4) The cost of the capital improvements (Table 8).
- (5) Increased operating costs (Table 9) and

Before these subtractions can take place, a forecast of these non-capital improvement expenses (general local government operating expenses) will have to be prepared; this forecast is for the next five years, by year.

The result of subtracting these expenses from total revenue for each revenue source is the balance of funds from each revenue source. This will show whether sufficient revenues are forecast to be collected from each revenue source to

- Fund general government expenses,
- Pay for current projects,
- Repay outstanding debt, and
- Fund the needed capital improvements.

Thus, the balance for each revenue source indicates the difference between the projected revenues and expenditures. A negative balance indicates a revenue shortfall for that year.

Table 10: Product prepared as a result of completing Step 10. An identification of any projected revenues shortfalls.

**TABLE 10: Fiscal Assessment**

FUND	FY 05-06 (current budget)	FY 06-07	FY 07-08	FY 08-09	FY 09-10
General Fund					
Revenues	\$	\$	\$	\$	\$
- Non-Capital Expenses	\$	\$	\$	\$	\$
- Debt Payments	\$	\$	\$	\$	\$
- Operating Cost Increase	\$	\$	\$	\$	\$
- Capital Improvements	\$	\$	\$	\$	\$
Balance	+/- \$	+/- \$	+/- \$	+/- \$	+/- \$
Capital Improvements Fund					
Revenues	\$	\$	\$	\$	\$
- Non-Capital Expenses	\$	\$	\$	\$	\$
- Debt Payments	\$	\$	\$	\$	\$
- Operating Cost Increase	\$	\$	\$	\$	\$
- Capital Improvements	\$	\$	\$	\$	\$
Balance	+/- \$	+/- \$	+/- \$	+/- \$	+/- \$
And so on for all funds used to finance capital improvements.					

Note: All figures in millions. Revenues are from Table 4. Expenditures are the sum of Table 5 and all non-capital improvement related expenditures (general operating expenditures, etc.)

**Step 11 - Deal With Revenue Shortfalls**

If Table 10 reveals a negative balance during any year for any funding source, it is necessary to determine the cause and possible cure for the shortfall. Possible solutions include moving the scheduled capital improvement to another year, stretching the project over more years (phasing), collecting more funds from the revenue source used to fund the improvement, funding the capital improvement with revenue from additional available revenue sources, and securing new revenue sources.

If new revenue sources are being considered, it is important to note that these new sources are considered to be “planned” revenue sources and can be used only to fund projects listed in the fourth and fifth years of the Schedule. Projects in years 1, 2 and 3 must be funded from existing revenue sources.

Example of the product prepared as a result of completing Step 11: A revision to Table 10 where there are no negative balances.

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### Step 12 - Construct the Schedule of Capital Improvements

As a result of Step 11 there is sufficient projected revenue to fund the capital improvements and the Schedule is financially feasible with existing revenue sources used to fund the projects in any year of the Schedule and planned sources used only to the extent necessary in years 4 and 5.

Example of the product prepared as a result of completing Step 12: A Five-Year Schedule of Capital Improvement.

**Table 12: Five-Year Schedule of Capital Improvements**

Project Number	Project Name	FY 05-06 (current budget)	FY 06-07	FY 07-08	FY 08-09	FY 09-10	Total Project Cost
<b>TRANSPORTATION</b>							
1	12 <sup>th</sup> Street from 1 <sup>st</sup> Avenue to 5 <sup>th</sup> Avenue; add two lanes (1/2 mile)		\$100,000 (A) <sup>†</sup> \$100,000 (B)	\$300,000 (C)			\$500,000
2	CR 790 at Oak Street, add turn lanes		\$50,000 (D)	\$50,000 (D)			\$100,000
<i>Transportation Total</i>			\$250,000	\$350,000			\$600,000
<b>SEWER</b>							
1	Elevate 2 <sup>nd</sup> Avenue Pump Station				\$25,000 (E) \$25,000 (F)		\$50,000
<i>Sewer Total</i>					\$50,000		\$50,000
<b>TOTAL ALL CATEGORIES</b>			\$250,000	\$350,000	\$50,000		\$650,000

Note: The funding sources (A through F) and the funds shown in Tables 4 and 10.