

## EXHIBIT B

1 of 6

Return to: (razzore self-addressed stamped envelope)

## Name:

Bonnie L. Miskel, Esquire  
Ruden, McClosky, Smith, Schuster & Russell, P.A.

## Address:

200 East Broward Blvd.  
Fort Lauderdale, FL 33301

This Instrument Prepared by: See above

SPACE ABOVE THIS LINE FOR PROCESSING DATA

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**DECLARATION OF RESTRICTIVE COVENANTS**

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Declaration") made this 9 of January, 2006 by Captiva Associates, LLC, a Florida corporation, having an address of 2721 Ponce de Leon Boulevard, Penthouse II, Coral Gables, FL 33134 ("Declarant"), shall be for the benefit of BROWARD COUNTY, a political subdivision of the State of Florida, with a post office address at 115 South Andrews Avenue, Fort Lauderdale, Florida 33026 ("County") and the School Board of Broward County located at 600 S.E. 3 Avenue, Ft. Lauderdale, FL 33301 ("school Board").

WHEREAS, Captiva Associates, LLC is the fee simple owner of approximately 4.9 gross acres of land, generally located on Dixie Highway in the City of Pompano Beach, Florida and more particularly described in Exhibit "A" attached hereto ("Property"); and

WHEREAS, Captiva Associates, LLC has submitted an application, known as Land Use Plan Amendment No. PC 06-12, to Broward County for a Land Use Plan Amendment to change the existing land use designation from Commercial to Medium High (25) Residential, permitting an additional 123 units. Captiva Associates, LLC will restrict the site to 80 residential units.

WHEREAS, Captiva Associates, LLC agrees to grant this Declaration to the County, and the County agrees to accept this Declaration, regarding the mitigation of student impacts attributed to the overcrowded middle school, consistent with the Public School Facility Impact Statement Report dated February 2, 2006, a copy of which is attached hereto as Exhibit "B", associated with the proposed development on the property; and

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Declarant hereby declares that the Property specifically referenced herein shall be owned, held, used, transferred, sold, conveyed, demise and occupied subject to the covenants, restrictions, and regulations hereinafter set forth, all of which shall run with such property and any part thereof and which shall be binding upon all parties having any right, title or interest in such property or any part thereof, their heirs, successors and assigns.

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1. Recitations. The recitations set forth above are true and correct and are incorporated into this Declaration by this reference.
2. Property Development. Declarant shall restrict development of the Property to 56 villas and 24 town homes.
3. Amendments. This Declaration shall not be modified, amended or released as to any portion of the Property except by written instrument, executed by the then owner or owners of the portion of the Property affected by such modification, amendment, or release and approved in writing by the County. The appropriate governmental authority of the County shall execute a written instrument effectuating and acknowledging such modification, amendment or release. Any amendment, modification or release of this Declaration shall be recorded in the Public Records of Broward County, Florida.
4. Recordation and Effective Date. This instrument shall not become effective until recorded in the Public Records of Broward County, Florida. Once recorded, this Declaration shall run with the Property for the sole benefit of County and shall bind all successors and assigns to the title of the Property.
5. Severability. If any court of competent jurisdiction shall declare any section, paragraph or part thereof invalid or unenforceable, then such judgment or decree shall have no effect on the enforcement or validity of any other section, paragraph or part hereof, and the same shall remain in full force and effect.
6. Captions, Headings and Titles. Articles and paragraph captions, headings and titles inserted throughout this Declaration are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of this Declaration.
7. Context. Whenever the context requires or admits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.



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**EXHIBIT "A"**

*[Legal Description of Property]*

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**EXHIBIT "A"**

**PROPERTY LEGAL DESCRIPTION**  
**(TOGETHER WITH A PROPERTY SKETCH)**

**DESCRIPTION:**

A PORTION OF THE EAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 2, TOWNSHIP 49 SOUTH, RANGE 42 EAST, BROWARD COUNTY FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF LOT 12, BLOCK 1, AMENDED PLAT OF FAIRVIEW, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 25, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. THENCE SOUTH 88°36'31" EAST, ALONG THE SOUTH BOUNDARY OF SAID BLOCK 1, A DISTANCE OF 438.97 FEET; THENCE SOUTH 14°12'31" WEST, ALONG THE WEST RIGHT OF WAY OF SOUTH DIXIE HIGHWAY PER FDOT RIGHT OF WAY MAP, SECTION 86170-2509, A DISTANCE OF 372.85 FEET; THENCE NORTH 88°15'21" WEST, ALONG A LINE 313.28 FEET NORTH OF, AS MEASURED AT RIGHT ANGLES TO AND PARALLEL WITH THE SOUTH LINE OF THE NORTH 1/2 OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 2, A DISTANCE OF 137.88 FEET; THENCE SOUTH 14°12'31" WEST, ALONG THE NORTHEASTERLY EXTENSION OF THE WEST BOUNDARY AND THE WEST BOUNDARY OF THE N & V LONG PLAT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 149, PAGE 2, OF SAID PUBLIC RECORDS, A DISTANCE OF 320.84 FEET; THENCE NORTH 88°15'21" WEST, ALONG SAID SOUTH LINE OF THE NORTH 1/2 OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 2, A DISTANCE OF 142.23 FEET; THENCE NORTH 00°58'07" EAST, ALONG A LINE 30.00 FEET EAST OF, AS MEASURED AT RIGHT ANGLES TO AND PARALLEL WITH THE WEST LINE OF SAID EAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 2, A DISTANCE OF 674.71 FEET TO THE POINT OF BEGINNING. THE LAST DESCRIBED COURSE BEING A SOUTHERLY EXTENSION OF THE EAST RIGHT-OF-WAY OF SOUTHWEST 8TH AVENUE.

SAID LANDS SITUATE IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA, CONTAINING 199,751 SQUARE FEET OR 4.586 ACRES MORE OR LESS.

EXHIBIT B

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The Nation's Largest Fully

Accredited School System

Facility Management, Planning & Site Acquisition Department  
 600 S.E. 3rd Avenue, 4th Floor  
 Fort Lauderdale, Florida 33301

Land Use Plan Amendment Public School Facility Impact Statement

<u>Property Description</u>		SEC 2	TWP 49	RNG 42
Type:	County			
Amendment #:	PC 06-12			
Owner / Developer :	Terrence Sals, Skycrest Coach Club, Inc.			
Jurisdiction :	City of Pompano Beach			
Current Land Use:	Commercial (Approx. 5.4 Acres)			
Proposed Land Use:	Medium-High (25) Residential (Approx. 5.4 Acres)			

<u>Potential Student Impact*</u>	<u>Additional Impact:</u>	<u>Cumulative Students From LUPA Approved Since:</u>			
Existing Permitted Units: 0	Elementary Students: 11	1/03/06 to 2/02/06			
Proposed Units: 80	Middle Students: 5	Elem	Midd	High	Total
Net Change : +80	High Students: 6	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Total: 22	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

\* Note: Calculations are based upon the maximum student generation rates in the Land Development Code.

<u>Currently Assigned Schools*</u>	School Capacity	20th Day* Enrollment	OVER/ (Under) Enrolled	<u>Projected Enrollment**</u>				
				06/07	07/08	08/09	09/10	10/11
Cypress Elementary	873	857	-16	892	963	940	1,026	
Pompano Beach Middle	937	1,090	153	1,053	1,279	1,265	1,053	
Ely High	2,861	2,457	-404	2,412	2,224	2,224	2,402	

Broward County Public Schools staff is advising the Broward County Planning Council, Broward County Commission, the applicant(s)/owner(s) and/or future developer(s) of the amendment site that based on the School District's 2005/06 Twentieth Day Report, Cypress Elementary School is neutral (>=90% to 110% of permanent capacity), Pompano Beach Middle School is overcrowded and Ely High School is under enrolled (<90% of Permanent capacity) in the 2005/06 school year. This application was reviewed as a potential 80 three or more bedrooms townhouse (64 villas, 16 townhouses) units development, and as proposed, is anticipated to generate 22 additional students into Broward County Public Schools, which will exacerbate overcrowded conditions at the impacted schools. As such, this application is subject to Section 7.8 of the Interlocal Agreement for Public School Facility Planning and School Board Policy 1161 as it relates to proposed residential applications with increased density impacting overcrowded schools. In a letter dated February 2, 2006, the applicant voluntarily committed to pay for one modular classroom as mitigation for the anticipated middle school students. The proposed mitigation option meets Policy 1161, but must be scheduled for specific School Board approval. The applicant/owner is advised that temporarily, the School Board utilizes other options such as portable classrooms, multi-track year round education, double sessions or boundary changes to accommodate students generated from developments in the County. In the 2005/06 school year, no charter school is located within a two-mile radius of the amendment site.

\* Note: 2005/06 School Year Data - School attendance areas are subject to change each year.  
 \*\* Adjusted Cohort projections - Cohort Survival Model, School Boundaries Department.

Planned and Funded Improvements in the Currently Assigned District Educational Facilities Plan

**Elementary Schools:** None  
**Middle Schools:** Pompano Beach Middle: 8 classrooms addition (Cap. 138) to replace portables. Under active bid. Also school renovations.  
**High Schools:** None  
**Comments:**

Date: February 2, 2006

Revised 6/30/03

By:   
 Facility Management, Planning & Site Acquisition Department

EXHIBIT C

The Nation's Largest Fully



Accredited School System

Facility Management, Planning & Site Acquisition Department  
 600 S.E. 3rd Avenue, 4th Floor  
 Fort Lauderdale, Florida 33301

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	Total: 22	Elem Midd High Total
		<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

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Currently Assigned Schools*	School Capacity	10th Day* Enrollment	Over/ (Under) Enrolled	Projected Enrollment**				
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\* Note: 2005/06 School Year Data - School attendance areas are subject to change each year.  
 \*\* Adjusted Cohort projections - Cohort Survival Model, School Boundaries Department.

**Planned and Future Improvements in the Currently Adopted District Educational Facilities Plan**

**Elementary Schools:** None

**Middle Schools:** Pompano Beach Middle: 8 classrooms addition (Cap. 158) to replace portables. Under active bid. Also school renovations.

**High Schools:** None

**Comments:**

Date: February 2, 2006

By:   
 Facility Management, Planning & Site Acquisition Department

EXHIBIT D



**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**  
Seawater Technology Park, 1643 N. Harrison Parkway, Building B, Sunrise, Florida 33323 • TEL 754-331-4350 •  
FAX 754-331-4183

Chris O. Akagbosu, Director  
Growth Management Division  
Facility Management, Planning & Site Acquisition  
chris.akagbosu@browardschools.com

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Dr. Frank Till  
Superintendent of Schools

April 3, 2006

Leon J. Wolfe, President  
Captiva Associates, LLC  
2121 Ponce De Leon Boulevard  
Coral Gables, Florida 33134

RE: **CITY OF POMPANO BEACH - VOLUNTARY COMMITMENT FOR LAND USE PLAN  
AMENDMENT PC 06-12**

Dear Mr. Wolfe:

The purpose of this correspondence is to inform you that on March 7, 2006, the School Board accepted Captiva Associates LLC proposed voluntary commitment to pay for one modular classroom as mitigation for the 22 (11 elementary, 5 middle and 6 high school) students anticipated from the proposed development of 80 three or more (64 villas and 16 townhouse) bedrooms townhouse units in the City of Pompano Beach.

Please be advised that to enable legal enforcement of the voluntary commitment, a Declaration of Restrictive Covenant must be executed against the subject property prior to the land use designation becoming effective. Furthermore, School Board Policy 1161 requires that the draft Restrictive Covenant must be submitted to staff for review before execution. Also, upon execution and recordation, a recorded copy of the Declaration must be provided to District staff. Be advised that a copy of the School District's standard Declaration of Restrictive Covenant document can be obtained via [www.browardschools.com](http://www.browardschools.com), by accessing the web page of the Facility Management, Planning and Site Acquisition Department, and selecting Growth Management Division.

Thank you for your cooperation in this matter, and please email me at the above address, or call me at 754.321.8352 if you have additional questions.

Sincerely,

Chris O. Akagbosu Director  
Growth Management Division  
Facility Management, Planning and Site Acquisition

cc: Thomas J. Coates, Executive Director, Facility Management, Planning and Site Acquisition  
Maite Azcoitia, Deputy County Attorney  
Henry Sniezek, Executive Director, Broward County Planning Council  
Dave Danovitz, Director, Development Management Division  
Mark Leaf, Director, Planning Department, City of Pompano Beach

Transforming Education: One Student at A Time  
Broward County Public Schools Is An Equal Opportunity/Equal Access Employer