

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	-0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	-0-	-0-	-0-	-0-	-0-

ADDITIONAL FTE POSITIONS (Cumulative) _____

Is Item Included in Current Budget? Yes _____ No _____
 Budget Acct No.: Fund _____ Dept. _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

County Transportation Trust Fund
 FDOT JPA for Hurricane Frances
 Federal Grant Other Transportation

Reimbursement is subject to approval of the claims submitted. Once sufficient funds are received for Palm Beach County Claims, a budget amendment will be prepared to recognize the revenue and appropriate it as necessary.

Since Palm Beach County is only a pass through agency for municipal claims, funds received for them will be deposited in a holding account for dispersal to the appropriate entity.

C. Departmental Fiscal Review: R.D. Ward 10/4/06

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

 Jan Dink 10-11-06
 OFMB
ackw 10-11-06
AD 10/11/06
OTM 10/11/06
10-10-06

 Jim J. J... 10/12/06
 Contract Dev. and Control
E. James 10/12/06

B. Approved as to Form and Legal Sufficiency:
 Marvin... 10/13/06
 Assistant County Attorney

This amendment complies with our review requirements.

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
EMERGENCY JOINT PARTICIPATION AGREEMENT**

THIS AGREEMENT, entered into this 19th day of April, 2005, by and between the State of Florida Department of Transportation hereinafter called the DEPARTMENT, and PALM BEACH COUNTY, State of Florida, located at 160 Australian Ave., West Palm Beach, Florida 33406, hereinafter called the COUNTY.

WITNESSETH

WHEREAS, the DEPARTMENT and the COUNTY are desirous of having the COUNTY make certain repairs to the Federal Highway Administration (FHWA) functionally classified county road(s) damaged by Hurricane Frances. These repairs are located within Palm Beach County and are hereinafter referred to as the Project, and as detailed in Exhibit "A"; and,

WHEREAS, the DEPARTMENT is prepared to allocate funds towards the repair of county roads in accordance with the Executive Order 04-192, dated September 1, 2004 for Hurricane Frances and *President Bush's subsequent Disaster Declaration, dated September 6, 2004, under the Robert T. Stafford Disaster Emergency Act, to provide for the reimbursement of FHWA eligible costs of for Financial Project Number(s):* listed in Exhibit "B", All FHWA non-participating costs shall be borne by the COUNTY; and,

WHEREAS, the repairs of these FHWA functionally classified county road(s) damaged by the Hurricane Frances are in the interest of both the DEPARTMENT and the COUNTY and it would be more practical, expeditious and economical for the COUNTY to perform such activities; and,

WHEREAS, the COUNTY by Resolution No. 2005-0529 adopted on March 15, 2005, a copy of which is attached hereto and made a part hereof, authorizes the proper officials to enter into this AGREEMENT.

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the parties agree to the following:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. The COUNTY shall provide all design services necessary for completion of the Project.
3. The COUNTY shall obtain any permits necessary to complete the Project.
4. The COUNTY shall be responsible for assuring that the Project complies with all Federal Highway Administration (FHWA) and DEPARTMENT standards.
5. The COUNTY shall make available to the DEPARTMENT upon request any existing plans relevant to the COUNTY's design and construction activities. The COUNTY will be responsible for verifying the accuracy of any Project related plans prepared on the COUNTY's behalf, and the COUNTY shall revise them as necessary to reflect 'as-built' conditions upon completion of construction. Project plans that have been modified to reflect 'as-built' conditions shall be provided to the DEPARTMENT.
6. The DEPARTMENT agrees to reimburse the COUNTY only for eligible costs associated with design, construction and construction engineering and inspection of the aforementioned

improvements as stated in the FHWA Detailed Damage Inspection Reports, copies of which are attached hereto and made a part hereof. All other costs are to be borne by the COUNTY.

For satisfactory completion of all services as detailed in Exhibit A (Scope of Services) and the attached Detailed Damage Inspection Report of this Agreement, the DEPARTMENT will pay the PARTICIPANT funds received from FHWA a total not to exceed **FOUR MILLION THREE HUNDRED SEVENTY-FOUR THOUSAND TWO HUNDRED THIRTY-FOUR DOLLARS AND EIGHTY-ONE CENTS (\$4,374,234.81)**.

7. The DEPARTMENT shall have ten (10) working days to approve any invoice submitted by the COUNTY. A completed copy of **Exhibit "C", CERTIFICATION AS TO ACCURACY OF PAYMENT**, must accompany all invoices. Project costs eligible for DEPARTMENT participation will be allowed only from the date of final execution of the Agreement. Travel expenses are not authorized in this agreement. The COUNTY shall submit invoices for fees and other compensation for services or expenses in detail sufficient for a proper per-audit and post-audit thereof. Invoice(s) shall be submitted to State DEPARTMENT of Transportation at 3400 W. Commercial Boulevard; Ft. Lauderdale, FL 33309; Attn: Matthew Price.
8. The Agreement and any interest herein shall not be assigned, transferred or otherwise encumbered by the COUNTY under any circumstances without the prior written consent of the DEPARTMENT. However this Agreement shall run to the DEPARTMENT and its successors.
9. This Agreement shall continue in effect and be binding to both the COUNTY and the DEPARTMENT until **January 15, 2006**. All invoices and supporting documentation must be received by this date.
10. The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contracts which by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during the fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of \$25,000 and which have a term for a period of more than one (1) year.
11. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this Agreement for three years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred include the Contractor's general accounting records and the project records, together with supporting documents and records of the Contractor and all subcontractors performing work on the project, and all records of the Contractor and subcontractors considered necessary by the DEPARTMENT for the proper audit of costs.
12. The DEPARTMENT may cancel this Agreement for refusal of the COUNTY to allow public access to all documents, papers, letters, of other material subject to the provisions of Chapter 119 of the Florida Statutes, made or reviewed by the COUNTY in conjunction with this Agreement and shall make provisions in its Agreements with its consultants and sub-consultants to terminate for failure to comply with this provisions.
13. The COUNTY warrants that it has not employed or obtained any company or person, other than bona fide employees of the COUNTY, to solicit or secure this Agreement, and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee

employed by the COUNTY. For breach or violation of this provision, the DEPARTMENT shall have the right to terminate the Agreement without liability.

14. To the extent allowed by the Laws of Florida, the COUNTY hereby agrees to indemnify, defend, save, and hold harmless the DEPARTMENT from all claims, demands liabilities, and suits of any nature arising out of, because of, or due to any intentional and/or negligent act or occurrence, omission, or commission of the COUNTY, and/or its employees, arising out of this contract or the work which is the subject hereof. In addition, with respect to any of the COUNTY's agents, consultants, contractors, and/or sub-contractors, such party in any contract for this project shall agree to indemnify, defend, save and hold harmless the DEPARTMENT from all claims, demands, liabilities, and suits of any nature arising out of, because of, or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, contractors, and/or subcontractors. The COUNTY shall provide to the DEPARTMENT written evidence of the foregoing upon the request of the DEPARTMENT. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the DEPARTMENT for its own negligence.
15. The Agreement is governed by and construed in accordance with the laws of the State of Florida.
16. Section 215.422(5), Florida Statutes, request the DEPARTMENT to include a statement of vendor rights in the Agreement. The COUNTY is hereby advised of the following time frames. Upon receipt, the DEPARTMENT has ten (10) days to inspect the goods and services provided by the COUNTY. The DEPARTMENT has twenty (20) days to deliver a request for payment to the DEPARTMENT of Financial Services. The twenty days are measured from the latter of the date the invoice is received or the goods and services are received, inspected and approved by the DEPARTMENT.

If payment is not available with forty (40) days a separate interest penalty at a rate as established pursuant to Section 215.422 (3) (b), Florida Statutes, will be due and payable, in addition to the invoice amount, to the COUNTY. Interest payments of less than one (1) dollar will not be enforced unless the COUNTY requests payment. Invoices which have been returned to the COUNTY because of invoice preparations errors will result in delay in the payment. The invoice payment requirements do no start until a properly completed invoice is provided the DEPARTMENT.

Vendor Ombudsman has been established with the DEPARTMENT of Financial Services. The duties of this individual include acting as an advocate for the COUNTY in the event that the COUNTY may be experiencing problems in obtaining timely payment(s) from the DEPARTMENT. The Vendor Ombudsman may be contacted at (850) 410-9724 or by calling the Department of Financial Services Hotline 1-800-848-3792.
17. This document incorporates and includes all prior negotiations, correspondence, conversations, Agreements, or understanding applicable to the matters contained herein, and the parties agree that there are no commitments, Agreements or understanding concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or Agreements whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in written document executed with the same formality and of equal dignity herewith.
18. The DEPARTMENT agrees to pay the COUNTY for the services herein described at compensation as detailed in this Agreement. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Department of Financial Services 215.422 (14), Florida Statute, or by the Department's Comptroller under section 334.044(29), Florida Statutes. Any provisions for an advance payment are provided in Exhibit "A" attached, and made part of this Agreement.

19. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or a consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.
20. The DEPARTMENT's obligation to pay is contingent upon an annual appropriation by the Florida Legislature.
21. The DEPARTMENT will consider the employment by any contractor of unauthorized aliens a violation of Section 274A9e) of the Immigration and nationality Act. If the participant knowingly employees unauthorized aliens, such violation shall be cause for unilateral cancellations of this agreement.
22. Any or all notices (except invoices) given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledged or sent by certified mail, return receipt requested, or by email. All notices delivered shall be sent to the following address:

If to the DEPARTMENT:

Florida Department of Transportation - District Four
3400 West Commercial Blvd.
Fort Lauderdale, Florida 33309-3421
Attn: Antonette P. Adams, (954) 777-4624
With a copy to: Matthew Price (954) 777-4442
A second copy to: District General Counsel

If to the PARTICIPANT:

Randy Whitfield
Palm Beach County
160 Australian Avenue
West Palm Beach, Florida 33406
With a copy to: George Webb
With a copy to: Attorney

IN WITNESS WHEREOF, this Agreement is to be executed by the parties below for the purposes specified herein. Authorization has been given to enter into and execute this Agreement by Resolution No. _____, hereto attached.

R2005 0529 MAR 15 2005
PALM BEACH COUNTY

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: Tony Masilotti
Tony Masilotti, Chairman

BY: Rosielyn Quiroz
ROSIELYN QUIROZ
DIRECTOR OF TRANSPORTATION SUPPORT

ATTEST:

APPROVED: (AS TO FORM)

Sharon R. Bock, Clerk & Controller
Palm Beach County

By: Judith [Signature]
Deputy Clerk

BY: [Signature]
DISTRICT GENERAL COUNSEL

APPROVED:

APPROVED:

BY: Marlene [Signature]
COUNTY ATTORNEY

BY: Antoinette P. [Signature]
PROFESSIONAL SERVICES ADMINISTRATOR

Approved as to Form
and Conditions

By: [Signature]