

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

Meeting Date: August 21, 2007 [ ] Consent [ X ] Regular  
[ ] Ordinance [ ] Public Hearing

Department  
Submitted By: PUBLIC SAFETY  
Submitted For:

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to: Approve an interlocal agreement with the School Board of Palm Beach County concerning the payment of overtime for school employees working at hurricane shelters.

**Summary:** Due to changes in the manner in which the American Red Cross reimburses hurricane shelter costs, the School Board is no longer eligible to obtain over-time reimbursement of costs to open, staff, and operate schools used as hurricane shelters. With the approval of this agreement, the Board of County Commissioners will pay the over-time costs of the School Board staff and seek reimbursement of those costs from the Federal Emergency Management Agency. County wide (DW)

**Background and Policy Issues:** On August 29, 2006 Palm Beach County opened its hurricane shelters as a precautionary measure anticipating the arrival of Tropical Storm Ernesto. The forecast called for heavy winds and rainfall and a voluntary evacuation order was executed for all persons living in mobile homes, recreational vehicles, substandard housing, and all persons living in flood prone areas. Historically, when shelters are opened, the American Red Cross has reimbursed the District for these costs. However, the American Red Cross has recently revised its cost allocation structure to disallow all overtime costs for reimbursement, so the District could not recoup these costs. Recognizing the need to open the shelters and recognizing this storm would not likely generate a Presidential Declaration for reimbursement of these overtime costs by the State or FEMA, an agreement was reached with the District that the County would reimburse these overtime costs for opening the shelters. A more formalized agreement between the County and District was developed to address this issue for any future opening of shelters.

**Attachments:**  
1. Interlocal Agreement

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Recommended by: *Parabiceo* 7/31/07  
Department Director Date  
Approved by: *Vincent Benvenuto* 8/8/07  
Assistant County Administrator Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact**

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

# ADDITIONAL FTE  
POSITIONS (Cumulative)

Is Item Included In Current Budget? Yes \_\_\_\_\_ No XX  
 Budget Account No.: Fund \_\_\_\_\_ Dept. \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_  
 Reporting Category \_\_\_\_\_

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

*The fiscal impact is undetermined at this time. Although, the county will be responsible for reimbursing the School Board for personnel costs directly associated w/ facility operation for those individuals eligible for overtime pay.*

**C. Departmental Fiscal Review:** \_\_\_\_\_

**III. REVIEW COMMENTS**

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

*Jan Dul 8.3.07*  
8/31/07 OFMB CN  
 8/2/07

*John Webster for JT*  
 Contract Administration 8/6/07

**B. Legal Sufficiency:**

*Item complies with current County policies.*

*[Signature]*  
8/7/07  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

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

7/11/07

**AN INTERLOCAL AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS, PALM BEACH COUNTY, FLORIDA AND THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA CONCERNING THE PAYMENT OF OVERTIME FOR SCHOOL EMPLOYEES WORKING AT HURRICANE SHELTERS**

This Interlocal Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007 between the Board of County Commissioners, Palm Beach County, Florida, hereinafter referred to as "COUNTY," and the School Board of Palm Beach County, Florida, hereinafter referred to as "SCHOOL BOARD"

WHEREAS, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969," authorizes local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, Part 1 of Chapter 163, Florida Statutes permits "public agencies" as defined in Section 163.01(3)(b), to enter into interlocal agreements with each other to exercise jointly any power, privilege, or authority which such agencies share in common and which each might exercise separately; and

WHEREAS, the Florida Legislature has found that safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state; and

WHEREAS, pursuant to Section 252.38(1)(d), Florida Statutes, during a declared state or local emergency and upon the request of the director of a local emergency management agency, the School Board shall participate in emergency management by providing facilities and necessary personnel to staff such facilities; and

WHEREAS, the County and the School Board mutually desire that the School Board make available certain school facilities for emergency shelters and the personnel to staff such shelters.

NOW, THEREFORE, in consideration of the mutual promises contained herein, it is mutually agreed between the parties as follows:

1. The SCHOOL BOARD agrees, that after meeting its responsibilities to pupils, it will permit upon request of COUNTY, the use of specific mutually agreed upon public school facilities by COUNTY as emergency shelters in advance of a potential emergency and during and after an emergency.
2. The SCHOOL BOARD agrees to operate, supervise and staff the shelters with SCHOOL BOARD personnel, including but not limited to: cafeteria staff, custodians,

School Police Officers, language facilitators, and appropriate administrative staff as mutually acceptable to the COUNTY and SCHOOL BOARD.

3. COUNTY agrees to reimburse the SCHOOL BOARD for personnel costs directly associated with facility operation at the actual current per hour time and one-half rate for those individuals who are eligible for overtime pay.

4. By this Agreement, the SCHOOL BOARD recognizes that for the purposes stated, the SCHOOL BOARD is an active participant with COUNTY in this community service endeavor. Each is cognizant of the provisions of Chapter 252, Florida Statutes, pertaining to "EMERGENCY MANAGEMENT," particularly Section 252.51, Florida Statutes, insulating both the SCHOOL BOARD and COUNTY from liability due to death of, or injury to, any person on or about emergency shelter premises or for loss of, or damage to, the property of any such person unless the gross negligence or the willful and wanton misconduct of the SCHOOL BOARD owning or COUNTY controlling such emergency shelter is the proximate cause of such death, injury, loss or damage occurring during such sheltering period.

#### 5. Indemnification

The Parties recognize their respective liability for certain tortious acts of their agents, officers, employees, and invitees, and agree to be responsible respectively for all claims, liability, losses and/or causes of action that may arise from any negligent act or omission of their agents, servants, or employees. Such liability is subject to the provisions of law including the limits included in section 768.28, Florida Statutes, the State of Florida's partial waiver of sovereign immunity to which said governmental entities are subject. It is expressly understood that this provision shall not be construed as a waiver of any right or defense that the governmental entities have under section 768.28 or any other statute. Each party covenants to maintain sufficient professional, general liability and worker's compensation coverage, unless self-insured, regarding its respective liability, throughout the term of this Agreement.

#### 6. Insurance

The Parties warrant that they are self-insured and agree to maintain general liability insurance as required by law. The Parties further agree to provide each other with a copy of said insurance certificates.

#### 7. Non-Discrimination

The Parties shall not discriminate on the basis of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

#### 8. Modifications

This Agreement may be modified or amended only by mutual written consent of the Parties.

#### 9. Relationship of the Parties

The Parties hereto acknowledge that their relationship is that of independent contractors. No employee of either party shall be deemed an employee of the other party. Nothing

contained herein shall be construed to create a partnership or joint venture between the Parties.

10. No Third Party Beneficiaries

This Agreement and the provisions hereof are for the exclusive benefit of the Parties hereto and their affiliates and not for the benefit of any third person, nor shall this Agreement be deemed to confer or have conferred any rights, express or implied, upon any other third person.

11. Notices

Any notices to be provided hereunder shall be in writing and given by personal service, mailing the same by United States certified mail, return receipt requested, and postage prepaid or a nationally recognized overnight carrier, addressed as follows:

If to COUNTY to: Vincent J. Bonvento  
Assistant County Administrator  
301 N. Olive Avenue, 11<sup>th</sup> Floor  
West Palm Beach, FL 33401

With Copy to: Dawn S. Wynn,  
Assistant County Attorney  
301 N. Olive Avenue, 6<sup>th</sup> Floor  
West Palm Beach, FL 33401

If to SCHOOL BOARD to: Arthur C. Johnson, Ph.D.  
Superintendent of Schools  
3360 Forest Hill Boulevard  
West Palm Beach, FL 33406

12. Severability

The invalidity or unenforceability of any provision or clause hereof shall in no way effect the validity or enforceability of any other clause or provision hereof.

13. Waiver and Delay

No waiver or delay of any provision of this Agreement at any time will be deemed a waiver of any other provision of this Agreement at such time or will be deemed a waiver of such provision at any other time.

14. Assignment; Binding Agreement

Neither party shall assign this Agreement without the written consent of the other party, which consent shall not be unreasonably withheld or delayed. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

15. Governing Law and Venue

This Agreement shall be construed in accordance with the laws of the State of Florida. Any dispute arising with respect to this Agreement is subject to the laws of Florida, venue in Palm Beach County, Florida.

Term and Termination

16. The term of this Agreement shall commence on the date of execution and continue for five years, unless terminated earlier by either party. This Agreement may be terminated without cause by either party to the Agreement upon one hundred eighty (180) days written notice to the other party, but in no event shall the Agreement terminate during any hurricane season.

IN WITNESS WHEREOF, the SCHOOL BOARD has caused this Agreement to be executed by its Chairman and Superintendent, and the COUNTY has caused the Agreement to be executed by its Board of County Commissioners.

SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

By: William G. Graham  
Chairman William G. Graham

By: \_\_\_\_\_  
Chairperson Addie L. Greene

Attest:

Attest:

Sharon R. Bock, Clerk & Comptroller

By: [Signature]  
Superintendent

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

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By: [Signature] 6/19/07  
School Board Attorney

By: \_\_\_\_\_  
County Attorney

APPROVED AS TO TERMS AND CONDITIONS

By: [Signature]  
Department Director