# Agenda Item No. 388-

# PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date: May	4, 2010	[×]	Consent	]	]	Regular
Department:		[.]	Ordinance	1	]	Public Hearing
Submitted By: Submitted For:			<u>Sheriff's Office</u> Sheriff's Office			

# I. <u>EXECUTIVE BRIEF</u>

**Motion and Title: Staff recommends motion to: A) Accept** on behalf of the Palm Beach County Sheriff's Office, a FY09 State Homeland Security grant in the amount of \$504,428, for the period of October 1, 2009 through April 30, 2012; **B) Approve** a budget amendment in the amount of \$504,428 in the Sheriff's Grant Fund.

**Summary:** On October 30, 2009 the Palm Beach County Sheriff's Office (PBSO) received an award from the State of Florida, Division of Emergency Management. These funds and related equipment will be used for direct Homeland Security Initiatives. There is no match associated with this award. No additional positions are needed and no additional County funds are required. <u>Countywide</u> (DW)

**Background and Justification:** The State Homeland Security Grant Program (SHSP) supports the implementation of the State Homeland Security Strategy to address the identified planning, equipment, training, and exercise needs for acts of terrorism. In addition, SHSP supports the implementation of the National Preparedness Goal, the National Incident Management System, and the National Response Plan. The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 97.067 and the contract number is 10DS-39-10-60-23-337.

# Attachments:

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- 1. Budget Amendment
- 2. Award Letter
- 3. Sub-Grant Agreement

RECOMMENDED BY		
	DEPARTMENT DIRECTOR	DATE
APPROVED BY:	Shanan R. Ba ASSISTANT COUNTY ADMINISTRATOR	5/3/10 DATE

# A. Five Year Summary of Fiscal Impact:

Fiscal Years Capital Expenditures Operating Costs	<b>2010</b> 458,140 46,288	2011	2012	2013	2014	
External Revenues Program Income (County)	(504,428)					
In-Kind Match (County)	0				,	
Net Fiscal Impact	* 0					
# Additional FTE Positions (Cumulative)	0					
Is Item Included in Current Budget: YES NOX						
Budget Account No.: Fund	1152 Agency	160 0	Org <u>2179</u>	Object	3129	
F	Reporting Categ	IORV				

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

**OFMB Fiscal and/or Contract Administration Comments:** 

The FY09 State Homeland Security Grants is funded by the State of Florida, Department of Emergency Management. There is no match associated with this award. No additional positions are needed and no additional County funds are required. <u>Countywide</u> (DW)

FY09 State Homeland Security Grant Total Program Budget

<u>\$504,428</u> \$504.428

Contra¢t Administr

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# III REVIEW COMMENTS

\* No fiscal impact DEMB 4/20/10 (

B. Legal Sufficiency:

Α.

Assistant County Attorney

C. Other Department Review:

Department Director

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

A Hachment

# BOARD OF COUNTY COMMISSIONERS PALM BEACH COUNTY, FLORIDA BUDGET AMENDMENT

# Page 1 of 1

# FUND 1152 - Sheriff's Grants Fund

Use this form to provide budget for items not anticipated in the budget.

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBEREC	REMAINING BALANCE
<u>Revenues</u>								
FY09 State Homeland S								
160-2179-3129	Federal Grant - Other Public Safety	0	0	504,428		504,428		•
	TOTAL REVENUES	805,938	\$7,669,508	\$504,428	\$0	\$8,173,936	•	
<b>Expenditures</b>								
<u>FY09 State Homeland S</u> 160-2179-9498	<u>ecurity</u> Transfer to Sheriff's Grant Fund	0	0	504,428		504,428		
	TOTAL EXPENDITURES	805,938	\$7,669,508	\$504,428	\$0	\$8,173,936		
			_		· ·			
Palm Beach County She	riff's Office	Signatures		Date			By Board of County At Meeting of May	
INITIATING DEPARTME	ENT/DIVISION	K		- 				
Administration/Budget	Department Approval						Deputy Clerk to the Board of County Co	
OFMB Department - Po	sted		· · · · · · · · · · · · · · · · · · ·					



#### **DIVISION OF EMERGENCY MANAGEME** CHARLIE CRIST RUBEN D. ALMAGUERI IntermDir N

October 30, 2009

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Subgrantee: Palm Beach County Sheriff's Office

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Issue Number	Project Title	Final Allocation
#2	Gap- Explosive Trace Detector	\$11,000.00
#2	Gap- Fiber Optic System	\$29,000.00
#2	Gap- Handheld Thermal Imaging Unit	\$20,000.00
#2	Gap- PVS-14 Night Vision Scopes	\$14,000.00
#2	Gap-Remote Detonation System (1 transmitter and 5 receivers)	\$9,000.00
#2	Gap- Universal Night Sight (for counter snipers)	\$45,000.00
#2	GAP-Large Vehicle Bomb Water Based Explosive Mitigation System wit	\$12,000.00
#2	Management and Administration	\$4,200.00
#14	EDICS Trailer Repairs	\$5,000.00
#14	Maintenance contract or costs for EDICS	\$15,000.00
#14	Satellite and VOIP services for EDWARDS packages.	•
#16	E-BOX metal storage/transport cases	\$7,000.00
#16	Gorilla Ladder System	\$3,640.00
#16	Kevlar gloves	\$300.00
#16	Management and Administration	\$420.00
#16	Nikon D300 camera outfit	\$967.80
#16	Panasonic Toughbook	\$7,500.00
#16		\$2,000.00
#16	Replacement respirator filters	\$1,600.00
#38	UltraRadic Personal Radiation Monitors	\$16,800.00
	FIS SOFTWARE	\$150,000.00
#40	GUIDESTAR SOFTWARE	\$150,000.00
Grant Period:	October 1, 2009 – April 30, 2012 Total Amount of Award: \$504	,427.80

#### Federal Grant No.: 2009-SS-T9-0081

In accordance with the provisions of Federal Fiscal Year 2009 State Homeland Security Grant Program, the Florida Division of Emergency Management hereby awards to the foregoing Subgrantee a grant in the amount shown above. The CFDA number is

97.067 and Florida Division of Emergency Management federal grant number is 2009-SS-T9-0081.

<u>Payment of Funds</u>: The original signed copy of this Award must be signed by the Official Authorized to Sign in the space below and returned to the Florida Division of Emergency Management before execution of your agreement. The subgrantee should not expend any funds until they receive a fully executed agreement from the Florida Division of Emergency Management and all Special Conditions are satisfied. Grant funds will be disbursed to subgrantees (according to the approved project budget) upon receipt of evidence that funds have been invoiced and products received and/or that funds have been expended (i.e., invoices, contracts, itemized expenses, etc.).

Supplantation: The Act requires that subgrantees provide assurance that subgrant funds will not be used to supplant or replace local or state funds or other resources that would otherwise have been available for homeland security activities. In compliance with that mandate, I certify that the receipt of federal funds through Florida Division of Emergency Management shall in no way supplant or replace state or local funds or other resources that would have been made available for homeland security activities.

<u>Conditions:</u> I certify that I understand and agree that funds will only be expended for those projects outlined in the funding amounts as individually listed above. I also certify that I understand and agree to comply with the general and fiscal terms and conditions of the grant including special conditions; to comply with provisions of the Act governing these funds and all other federal laws; that all information is correct; that there has been appropriate coordination with affected agencies; that I am duly authorized to commit the applicant to these requirements; and that all agencies involved with this project understand that all federal funds are limited to a thirty-month (30) period.

 FLORIDA RECOVERY OFFICE • DIVISION READQUARTERS • STATE LOGISTICS RESPONSE CENTER

 36 Skyline Drive
 2555 Shumard Oak Boulevard
 2702 Directors Row

 Lake Mary, FL 32746-6201
 Tallahassee, FL 32399-2100
 Orlando, FL 32809-5631

 Tel: 850-413-9969 • Fax: 850-488-1016
 WWW. FloridaDisaster.org



Attachment 2

State Agreement No.: Provided upon execution



# **DIVISION OF EMERGENCY MANAGEMENT**

CHARLIE CRIST Governor

RUBEN D. ALMAGUER Interim Director

#### SPECIAL CONDITIONS

The grantee and any subgrantee shall comply with the most recent version of the Administrative Requirements, Cost Principles, and Audit Requirements. A non-exclusive list of regulations commonly applicable to DHS grants are listed below:

A. Administrative Requirements

- 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 2 CFR Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of . Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A-110)

**B.** Cost Principles

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- 2 CFR Part 225, Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A-87)
- 2 CFR Part 220, Cost Principles for Educational Institutions (OMB Circular A-21)
- 2 CFR Part 230, Cost Principles for Non-Profit Organizations (OMB Circular A-122)
- Federal Acquisition Regulations (FAR), Part 31.2 Contract Cost Principles and Procedures, Contracts with Commercial Organizations

C. Audit Requirements

- OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations
- Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of FEMA.
- The recipient agrees that all allocations and use of funds under this grant will be in accordance with the FY 2009 Homeland Security Grant Program guidance and application kit.
- The recipient shall not undertake any project having the potential to impact Environmental or Historical Preservation (EHP) resources without the prior approval of FEMA, including but not limited to communications towers, physical security enhancements, new construction, and modifications to buildings, structures and objects that are 50 years old or greater. Recipient must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the recipient must ensure monitoring of ground disturbance, and if any potential archeological resources are discovered, the recipient will immediately cease construction in that area and notify FEMA and the appropriate State Historic Preservation Office. Any construction activities that have been initiated without the necessary EHP review and approval will result in a non-compliance finding and will not be eligible for FEMA funding.

ACCEPTANCE OF THE SUBGRANTEE:

09 DEC - 7 PH 2:33 52 FISCAL ¢QQ 0 Signature of State Administrative Agent

Signature of Official Authorized to Sign for County 12/3/09

 

 FLORIDA RECOVERY OFFICE • DIVISION HEADQUARTERS • STATE LOGISTICS RESPONSE CENTER

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Contract Number: 10DS-39-10-60-23-337 CFDA Number: 97.067

## FEDERALLY-FUNDED SUBGRANT AGREEMENT

THIS AGREEMENT is entered into by the State of Florida, Division of Emergency Management, with headquarters in Tallahassee, Florida (hereinafter referred to as the "Division"), and Palm Beach County Sheriff's, (hereinafter referred to as the "Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

A. The Recipient represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein; and

B. The Division has received these grant funds from the State of Florida, and has the authority to subgrant these funds to the Recipient upon the terms and conditions below; and

C. The Division has statutory authority to disburse the funds under this Agreement.

THEREFORE, the Division and the Recipient agree to the following:

(1) SCOPE OF WORK.

The Recipient shall perform the work in accordance with the Budget and Scope of Work, Attachment A of this Agreement.

(2) INCORPORATION OF LAWS, RULES, REGULATIONS AND POLICIES

The Recipient and the Division shall be governed by applicable State and Federal laws, rules and regulations, including those identified in Attachment B.

(3) PERIOD OF AGREEMENT.

This Agreement shall begin October 1, 2009 and shall end April 30, 2012, unless terminated earlier in accordance with the provisions of Paragraph (12) of this Agreement.

(4) MODIFICATION OF CONTRACT

Either party may request modification of the provisions of this Agreement. Changes which are agreed upon shall be valid only when in writing, signed by each of the parties, and attached to the original of this Agreement.

(5) <u>RECORDKEEPING</u>

(a) As applicable, Recipient's performance under this Agreement shall be subject to the federal OMB Circular No. A-102, Common Rule: Uniform Administrative Requirements for State and Local Governments" or OMB Circular No. A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations," and either OMB Circular No. A-87, "Cost Principles for State and Local Governments," OMB Circular No. A-21, "Cost Principles for Educational Institutions," or OMB Circular No. A-122, "Cost Principles for Nonprofit Organizations." If this Agreement is made with a commercial (for-profit)

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Altachment 3

organization on a cost-reimbursement basis, the Recipient shall be subject to Federal Acquisition Regulations 31.2 and 931.2.

(b) The Recipient shall retain sufficient records to show its compliance with the terms of this Agreement, and the compliance of all subcontractors or consultants paid from funds under this Agreement, for a period of five years from the date the audit report is issued, and shall allow the Division or its designee, the State Chief Financial Officer or the State Auditor General access to the records upon request. The Recipient shall ensure that audit working papers are available to them upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Division. The five year period may be extended for the following exceptions:

1. If any litigation, claim or audit is started before the five year period expires, and extends beyond the five year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

2. Records for the disposition of non-expendable personal property valued at \$5,000 or more at the time it is acquired shall be retained for five years after final disposition.

3. Records relating to real property acquired shall be retained for five years after the closing on the transfer of title.

(c) The Recipient shall maintain all records for the Recipient and for all subcontractors or consultants to be paid from funds provided under this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives of the Budget and Scope of Work - Attachment A - and all other applicable laws and regulations.

(d) The Recipient, its employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to the Division, its employees, and agents. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the Division.

(6) AUDIT REQUIREMENTS

(a) The Recipient agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.

(b) These records shall be available at reasonable times for inspection, review, or audit by state personnel and other personnel authorized by the Department or the Division. "Reasonable" shall ordinarily mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(c) The Recipient shall provide the Department with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.

(d) If the Recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised, and in the event that the Recipient expends \$500,000 or more in Federal awards in its fiscal year, the Recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Agreement shows the Federal resources awarded through the Division by this Agreement. In determining the Federal awards expended in its fiscal year, the Recipient shall consider all sources of Federal awards, including Federal resources received from the Division. The determination of amounts of Federal

awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the Recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this paragraph.

In connection with the audit requirements addressed in this Paragraph 6 (d) above, the Recipient shall fulfill the requirements for auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

If the Recipient expends less than \$500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the Recipient expends less than \$500,000 in Federal awards in its fiscal year and chooses to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal funds.

(e) Send copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by subparagraph (d) above, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the Recipient to: The Division at each of the following addresses:

Department of Community Affairs Office of Audit Services 2555 Shumard Oak Boulevard Tallahassee, Florida 32399-2100 [also send an electronic copy to aurilla.parrish@dca.state.fl.us]

and

Division of Emergency Management Finance and Administration 2555 Shumard Oak Boulevard Tallahassee, Florida 32399-2100

Send the Single Audit reporting package and Form SF-SAC to the Federal Audit Clearinghouse by submission online at

http://harvester.census.gov/fac/collect/ddeindex.html

And to any other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

(f) Pursuant to Section .320 (f), OMB Circular A-133, as revised, the Recipient shall send a copy of the reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any management letter issued by the auditor, to the Division at the following addresses:

Department of Community Affairs Office of Audit Services 2555 Shumard Oak Boulevard Tallahassee, Florida 32399-2100 [also send an electronic copy to aurilla.parrish@dca.state.fl.us]

and

Division of Emergency Management Finance and Administration 2555 Shumard Oak Boulevard Tallahassee, Florida 32399-2100

(g) By the date due, send any reports, management letter, or other information required to be submitted to the Division pursuant to this Agreement in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

(h) Recipients should state the date that the reporting package was delivered to the Recipient when submitting financial reporting packages to the Division for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General,

(i) If the audit shows that all or any portion of the funds disbursed were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to the Division of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty days after the Division has notified the Recipient of such non-compliance.

(j) The Recipient shall have all audits completed by an independent certified public accountant (IPA), either a certified public accountant or a public accountant licensed under Chapter 473, <u>Fla. Stat</u>. The IPA shall state that the audit complied with the applicable provisions noted above. The audit must be received by the Division no later than nine months from the end of the Recipient's fiscal year.

(7) <u>REPORTS</u>

(a) The Recipient shall provide the Division with quarterly reports and a closeout report. These reports shall include the current status and progress by the Recipient and all

subrecipients and subcontractors in completing the work described in the Scope of Work and the expenditure of funds under this Agreement, in addition to any other information requested by the Division.

(b) Quarterly reports are due to the Division no later than 30 days after the end of each quarter of the program year and shall be sent each quarter until submission of the administrative close-out report. The ending dates for each quarter of the program year are March 31, June 30, September 30 and December 31.

(c) The close-out report is due 60 days after termination of this Agreement or 60 days after completion of the activities contained in this Agreement, whichever first occurs.

(d) If all required reports and copies are not sent to the Division or are not completed in a manner acceptable to the Division, the Division may withhold further payments until they are completed or may take other action as stated in Paragraph (11) REMEDIES. "Acceptable to the Division" means that the work product was completed in accordance with the Budget and Scope of Work.

(e) The Recipient shall provide additional program updates or information that may be required by the Division.

(f) The Recipient shall provide additional reports and information identified in Attachment D.

(8) MONITORING.

The Recipient shall monitor its performance under this Agreement, as well as that of its subcontractors and/or consultants who are paid from funds provided under this Agreement, to ensure that time schedules are being met, the Schedule of Deliverables and Scope of Work are being accomplished within the specified time periods, and other performance goals are being achieved. A review shall be done for each function or activity in Attachment A to this Agreement, and reported in the quarterly report.

In addition to reviews of audits conducted in accordance with paragraph (6) above, monitoring procedures may include, but not be limited to, on-site visits by Division staff, limited scope audits, and/or other procedures. The Recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Division. In the event that the Division or the Department determines that a limited scope audit of the Recipient is appropriate, the Recipient agrees to comply with any additional instructions provided by the Division or the Department to the Recipient regarding such audit. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Florida Chief Financial Officer or Auditor General. In addition, the Division will monitor the performance and financial management by the Recipient throughout the contract term to ensure timely completion of all tasks.

#### (9) <u>LIABILITY</u>

(a) Unless Recipient is a State agency or subdivision, as defined in Section 768.28, <u>Fla. Stat.</u>, and the Recipient is solely responsible to parties it deals with in carrying out the terms of this Agreement, and shall hold the Division harmless against all claims of whatever nature by third parties arising from the work performance under this Agreement. For purposes of this Agreement, Recipient agrees that it is not an employee or agent of the Division, but is an independent contractor.

(b) Any Recipient which is a state agency or subdivision, as defined in Section 768.28, <u>Fla. Stat.</u>, agrees to be fully responsible for its negligent or tortious acts or omissions which result in claims or suits against the Division, and agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in Section 768.28, <u>Fla. Stat.</u> Nothing herein is intended to serve as a waiver of sovereign immunity by any Recipient to which sovereign immunity applies. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

#### (10) DEFAULT.

If any of the following events occur ("Events of Default"), all obligations on the part of the Division to make further payment of funds shall, if the Division elects, terminate and the Division has the option to exercise any of its remedies set forth in Paragraph (11). However, the Division may make payments or partial payments after any Events of Default without waiving the right to exercise such remedies, and without becoming liable to make any further payment:

(a) If any warranty or representation made by the Recipient in this Agreement or any previous agreement with the Division is or becomes false or misleading in any respect, or if the Recipient fails to keep or perform any of the obligations, terms or covenants in this Agreement or any previous agreement with the Division and has not cured them in timely fashion, or is unable or unwilling to meet its obligations under this Agreement;

(b) If material adverse changes occur in the financial condition of the Recipient at any time during the term of this Agreement and the Recipient fails to cure this adverse change within thirty days from the date written notice is sent by the Division.

(c) If any reports required by this Agreement have not been submitted to the Division or have been submitted with incorrect, incomplete or insufficient information;

(d) If the Recipient has failed to perform and complete on time any of its obligations under this Agreement.

# (11) <u>REMEDIES</u>.

If an Event of Default occurs, then the Division may, after thirty calendar days written notice to the Recipient and upon the Recipient's failure to cure within those thirty days, exercise any one or more of the following remedies, either concurrently or consecutively:

(a) Terminate this Agreement, provided that the Recipient is given at least thirty days prior written notice of the termination. The notice shall be effective when placed in the United States, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address in paragraph (13) herein;

(b) Begin an appropriate legal or equitable action to enforce performance of this Agreement;

(c) Withhold or suspend payment of all or any part of a request for payment;

(d) Require that the Recipient refund to the Division any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.

(e) Exercise any corrective or remedial actions, to include but not be limited to:

1. request additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance,

2. issue a written warning to advise that more serious measures may be taken if the situation is not corrected,

3. advise the Recipient to suspend, discontinue or refrain from incurring costs for any activities in question or

4. require the Recipient to reimburse the Division for the amount of costs incurred for any items determined to be ineligible;

(f) Exercise any other rights or remedies which may be available under

law.

(g) Pursuing any of the above remedies will not stop the Division from pursuing any other remedies in this Agreement or provided at law or in equity. If the Division waives any right or remedy in this Agreement or fails to insist on strict performance by the Recipient, it will not affect, extend or waive any other right or remedy of the Division, or affect the later exercise of the same right or remedy by the Division for any other default by the Recipient.

(12) TERMINATION.

(a) The Division may terminate this Agreement for cause after thirty days written notice. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws and regulations, failure to perform on time, and refusal by the Recipient to permit public access to any document, paper, letter, or other material subject to disclosure under Chapter 119, <u>Fla. Stat.</u>, as amended.

(b) The Division may terminate this Agreement for convenience or when it determines, in its sole discretion that continuing the Agreement would not produce beneficial results in line with the further expenditure of funds, by providing the Recipient with thirty calendar day's prior written notice.

(c) The parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of the Agreement.

(d) In the event that this Agreement is terminated, the Recipient will not incur new obligations for the terminated portion of the Agreement after the Recipient has received the notification of termination. The Recipient will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed. The Recipient shall not be relieved of liability to the Division because of any breach of Agreement by the Recipient. The Division may, to the extent authorized by law, withhold payments to the Recipient for the purpose of set-off until the exact amount of damages due the Division from the Recipient is determined.

(13) NOTICE AND CONTACT.

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, or first class, certified mail, return receipt requested, to the representative named below, at the address below, and this notification attached to the original of this Agreement.

is:

(b) The name and address of the Division contract manager for this Agreement

Carolyn Washington, Community Assistance Consultant Florida Division of Emergency Management Bureau of Finance Grants Section 2555 Shumard Oak Boulevard Tallahassee, Florida 32399-2100 Telephone: (850) 410-1271 Fax: (850) 488-7842 Email: <u>carolyn.washington@em.myflorida.com</u>

(c) The name and address of the Representative of the Recipient responsible for the administration of this Agreement is:

Janet Cid

Section Manager-Grants & Contracts Palm Beach County Sheriff's Office Telephone: (561) 688-3257 Fax: (561) 688-4330 Email: cidj@pbso.org

(d) In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title and address of the new representative will be provided as outlined in (13)(a) above.

# (14) SUBCONTRACTS

If the Recipient subcontracts any of the work required under this Agreement, a copy of the unsigned subcontract must be forwarded to the Division for review and approval before it is executed by the Recipient. The Recipient agrees to include in the subcontract that (i) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Division and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Recipient shall document in the quarterly report the subcontractor's progress in performing its work under this Agreement.

For each subcontract, the Recipient shall provide a written statement to the Division as to whether that subcontractor is a minority vendor, as defined in Section 288.703, <u>Fla. Stat.</u>

# (15) TERMS AND CONDITIONS

This Agreement contains all the terms and conditions agreed upon by the parties.

(16) ATTACHMENTS

(a) All attachments to this Agreement are incorporated as if set out fully.

(b) In the event of any inconsistencies or conflict between the language of this Agreement and the attachments, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

(c) This Agreement has the following attachments:

Exhibit 1 - Funding Sources

Attachment A - Budget and Scope of Work

Attachment B – Program Statutes, Regulations and Special Conditions

Attachment C – Justification of Advance

Attachment D- Warranties and Representations

Attachment E - Certification Regarding Debarment

Attachment F - Statement of Assurances

# (17) FUNDING/CONSIDERATION

(a) This is a cost-reimbursement Agreement. The Recipient shall be reimbursed for costs incurred in the satisfactory performance of work hereunder in an amount not to exceed **\$504,427.80** subject to the availability of funds.

(b) Any advance payment under this Agreement is subject to Section 216.181(16), <u>Fla.Stat.</u>, and is contingent upon the Recipient's acceptance of the rights of the Division under Paragraph (12)(b) of this Agreement. The amount which may be advanced may not exceed the expected cash needs of the Recipient within the first three months of the contract term. For a federally funded contract, any advance payment is also subject to federal OMB Circulars A-87, A-110, A-122 and the Cash Management Improvement Act of 1990. If an

advance payment is requested below, the budget data on which the request is based and a justification statement shall be included in this Agreement as Attachment C. Attachment C will specify the amount of advance payment needed and provide an explanation of the necessity for and proposed use of these funds.

\_\_\_\_\_An advance payment of \$\_\_\_\_\_\_is requested (c) After the initial advance, if any, payment shall be made on a reimbursement basis as needed. The Recipient agrees to expend funds in accordance with the Budget and Scope of Work, Attachment A of this Agreement.

If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the federal Office of Management and Budgeting, the State Chief Financial Officer or under subparagraph (19)(h) of this Agreement, all obligations on the part of the Division to make any further payment of funds shall terminate, and the Recipient shall submit its closeout report within thirty days of receiving notice from the Division.

## (18) <u>REPAYMENTS</u>

All refunds or repayments due to the Division under this Agreement are to be made payable to the order of "Department of Community Affairs" and mailed directly to the following address:

> Department of Community Affairs Cashier Fiscal Management 2555 Shumard Oak Boulevard Tallahassee FL 32399-2100

In accordance with Section 215.34(2), <u>Fla. Stat.</u>, if a check or other draft is returned to the Division for collection, Recipient shall pay the Division a service fee of \$15.00 or 5% of the face amount of the returned check or draft, whichever is greater.

(19) MANDATED CONDITIONS

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this Agreement, in any later submission or response to a Division request, or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations, and materials is incorporated by reference. Additional special conditions are listed on Attachment B. The inaccuracy of the submissions or any material changes shall, at the option of the Division and with thirty days written notice to the Recipient, cause the termination of this Agreement and the release of the Division from all its obligations to the Recipient.

(b) This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall be in the Circuit Court of Leon County. If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then the provision shall be null and void to the extent of the conflict, and shall be severable, but shall not invalidate any other provision of this Agreement.

(c) Any power of approval or disapproval granted to the Division under the terms of this Agreement shall survive the term of this Agreement.

(d) This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(e) The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 <u>et seq.</u>), which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, State and local government services, and telecommunications.

(f) Those who have been placed on the <u>convicted</u> vendor list following a conviction for a public entity crime or on the <u>discriminatory</u> vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit 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 of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of \$25,000.00 for a period of 36 months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

(g) Any Recipient which is not a local government or state agency, and which receives funds under this Agreement from the federal government, certifies, to the best of its knowledge and belief, that it and its principals:

1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;

2. have not, within a five-year period preceding this proposal been convicted of or had a civil judgment rendered against them for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offenses enumerated in paragraph 19(g)2. of this certification; and

4. have not within a five-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

If the Recipient is unable to certify to any of the statements in this certification, then the Recipient shall attach an explanation to this Agreement.

In addition, the Recipient shall send to the Division (by email or by facsimile transmission) the completed "Certification Regarding Debarment, Suspension, Ineligibility And Voluntary Exclusion" (Attachment E) for each intended subcontractor which Recipient plans to fund under this Agreement. The form must be received by the Division before the Recipient enters into a contract with any subcontractor.

(h) The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with Chapter 216, <u>Fla. Stat.</u> or the Florida Constitution.

(i) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

(j) Any bills for travel expenses shall be submitted in accordance with Section 112.061, <u>Fla. Stat.</u>

(k) The Division reserves the right to unilaterally cancel this Agreement if the Recipient refuses to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, <u>Fla. Stat.</u>, which the Recipient created or received under this Agreement.

(I) If the Recipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to the Division or be applied against the Division's obligation to pay the contract amount.

(m) The State of Florida will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA")]. The Division shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the Division.

(n) The Recipient is subject to Florida's Government in the Sunshine Law (Section 286.011, <u>Fla. Stat.</u>) with respect to the meetings of the Recipient's governing board or the meetings of any subcommittee making recommendations to the governing board. All of these meetings shall be publicly noticed, open to the public, and the minutes of all the meetings shall be public records, available to the public in accordance with Chapter 119, <u>Fla. Stat.</u>

(o) All unmanufactured and manufactured articles, materials and supplies which are acquired for public use under this Agreement must have been produced in the United States as required under 41 U.S.C. 10a, unless it would not be in the public interest or unreasonable in cost.

## (20) LOBBYING PROHIBITION

(a) No funds or other resources received from the Division under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) The Recipient certifies, by its signature to this Agreement, that to the best of his or her knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying."

3. The Recipient shall require that this certification be included in the award documents for all subawards (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

# (21) COPYRIGHT, PATENT AND TRADEMARK

ANY AND ALL PATENT RIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY RESERVED TO THE STATE OF FLORIDA. ANY AND ALL COPYRIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY TRANSFERRED BY THE RECIPIENT TO THE STATE OF FLORIDA.

(a) If the Recipient has a pre-existing patent or copyright, the Recipient shall retain all rights and entitlements to that pre-existing patent or copyright unless the Agreement provides otherwise.

(b) If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected with it, the Recipient shall refer the discovery or invention to the Division for a determination whether the State of Florida will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films, or other copyrightable material are produced, the Recipient shall notify the Division. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the Recipient to the State of Florida.

(c) Within thirty days of execution of this Agreement, the Recipient shall disclose all intellectual properties relating to the performance of this Agreement which he or she knows or should know could give rise to a patent or copyright. The Recipient shall retain all rights and entitlements to any pre-existing intellectual property which is disclosed. Failure to disclose will indicate that no such property exists. The Division shall then, under Paragraph (b), have the right to all patents and copyrights which accrue during performance of the Agreement.

# (22) LEGAL AUTHORIZATION.

The Recipient certifies that it has the legal authority to receive the funds under this Agreement and that it's governing body has authorized the execution and acceptance of this Agreement. The Recipient also certifies that the undersigned person has the authority to legally execute and bind Recipient to the terms of this Agreement.

# (23) ASSURANCES.

The Recipient shall comply with any Statement of Assurances incorporated as Attachment F.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

RECIPIENT: PALM BEACH COUNTY SHERIFF'S By: Name and title: Ric L. Brodchaw, Sheriff 251 Date: 59-6000-786 FID#

STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT

By: Angela Peter

A Name and Title: David Halstead, Interim Director

Date:\_329.10

# EXHIBIT - 1

THE FOLLOWING FEDERAL RESOURCES ARE AWARDED TO THE RECIPIENT UNDER THIS AGREEMENT:

NOTE: If the resources awarded to the Recipient are from more than one Federal program, provide the same information shown below for each Federal program and show total Federal resources awarded.

### Federal Program

Federal agency: Department of Homeland Security – State Homeland Security Grant Program (SHSHP)

Catalog of Federal Domestic Assistance title and number: **97.067** Award amount: **\$504,427.80** 

THE FOLLOWING COMPLIANCE REQUIREMENTS APPLY TO THE FEDERAL RESOURCES AWARDED UNDER THIS AGREEMENT:

NOTE: If the resources awarded to the Recipient represent more than one Federal program, list applicable compliance requirements for each Federal program in the same manner as shown below.

#### Federal Program:

List applicable compliance requirements as follows:

- 1. Recipient is to use funding to perform the following eligible activities as identified in the United States Department of Homeland Security, Federal Emergency Management Agency, National Preparedness Directorate Fiscal Year 2009-10 State Homeland Security Grant Program (SHSGP), consistent with the Department of Homeland Security State Strategy.
- 2. Recipient is subject to all administrative and financial requirements as set forth in this Agreement, or will be in violation of the terms of the Agreement.

NOTE: Section .400(d) of OMB Circular A-133, as revised, and Section 215.97(5)(a), Florida Statutes, require that the information about Federal Programs and State Projects included in Exhibit 1 be provided to the Recipient.