

Agenda Item #: 3X6

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: October 21, 2014

☒ Consent
☐ Ordinance

☐ Regular
☐ Public Hearing

Department: Department of Public Safety
Submitted By: Department of Public Safety
Submitted For: Division of Emergency Management

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to: **APPROVE** an interlocal agreement with the School Board of Palm Beach County for the payment of regular and overtime pay for School Board employees which includes school law enforcement personnel working at hurricane shelters beginning October 21, 2014 and will remain in effect unless terminated by either party.

Summary: Due to the manner in which the American Red Cross reimburses hurricane shelter costs, the School Board does not obtain reimbursement for school police or 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 personnel costs, which includes regular and overtime pay, directly associated with facility operation for the School Board staff. School Board staff operating the facility could include administrative, cafeteria, custodial, and police officers. Therefore, it is anticipated that these hourly rate ranges will be from \$7.87 to \$70.75. However, the County will seek reimbursement of all costs using the Federal Emergency Management Agency (FEMA) reimbursement protocol.

(PGE) (Countywide)

Background and Justification: On August 21, 2007 the first Hurricane Shelter Interlocal Agreement with the School Board was approved with a term of five years. Prior to that signed agreement, the American Red Cross had historically reimbursed the School Board for these costs. Under the American Red Cross agreement, the School Board would only be reimbursed for actual current per hour straight time rate for custodial and food service staff and does not reimburse for regular salary and overtime costs, so the School Board could not recoup these costs. Recognizing the need to open shelters, an agreement was developed to address this issue for any future opening of shelters.

Attachments:

1. Interlocal Agreement with School Board of Palm Beach County

Recommended by:

Department Director

Date

Approved by:

Assistant County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact

Fiscal Years	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
Net Fiscal Impact	<u>0 * See below</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

ADDITIONAL FTE

POSITIONS (Cumulative)

Is Item Included In Proposed FY 2014 Budget? Yes No X
 Budget Account Exp No.: Fund 0001 Department 660 Unit 7150 Object 3401
 Rev No.: Fund Department Unit Source

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

The fiscal impact is indeterminable at this time. The County will be responsible for reimbursing the School Board for personnel costs, which includes regular and overtime pay; directly associated with facility operation for the School Board staff. These costs will be absorbed through the Public Safety Department's operating budget during periods of activation. However, the Public Safety Department will seek reimbursement of those costs from the Federal Emergency Management Agency.

C. Departmental Fiscal Review: Stephanie Segnore

III. REVIEW COMMENTS

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

Susan Niang 9/29/14
 OFMB AM
9/29/14

D. J. Jacobson 10/6/14
 Contract Administration
10-2-14 B Wheeler

B. Legal Sufficiency:

Kimberly Eide 10/7/14
 Assistant County Attorney

C. Other Department Review:

 Department Director

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

**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 _____ between the Board of County Commissioners, Palm Beach County, Florida, hereafter 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 the 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. Recitals

The parties agree that the foregoing recitals are true and correct and are incorporated herein by this reference.

2. Purpose

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.

3. Staffing

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.

4. Reimbursement

The 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. It is anticipated that these hourly rate ranges will be from \$7.87 to \$70.75. Invoices received from SCHOOL BOARD pursuant to this Agreement will be reviewed and approved by the COUNTY'S representative, indicating that services have been rendered in conformity with the Agreement. Approved invoices will be sent to the County's Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.

5. Liability

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 are 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.

6. 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 i) a waiver of any right or defense that the governmental entities have under section 768.28, Florida Statute, or any other statute; ii) an agreement by any party hereto to indemnify the other; or iii) a consent to be sued by third parties. 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.

7. 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.

8. Non-Discrimination

The Parties shall not unlawfully discriminate against any individual on the basis of his or her race, age, religion, ancestry, color, ethnicity, gender, national origin, marital status, familial status, disability, sexual orientation, genetic information, or gender identity or expression with respect to any activity occurring or under this Agreement.

9. Modifications

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

10. 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.

11. 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.

12. Notices

All 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, addresses as follows:

If to County to:	County Administrator 301 N. Olive Avenue, 11th Floor West Palm Beach, FL 33401
With Copy to:	Assistant County Administrator 20 South Military Trail West Palm Beach, FL 33415
If to School Board to:	Superintendent of Schools 3360 Forest Hill Boulevard West Palm Beach, FL 33406

13. 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.

14. 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.

15. Assignment; Binding Agreement

Neither party shall assign this Agreement or any interest herein 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.

16. 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.

17. Term and Termination

The term of this Agreement shall commence on the date of execution this Agreement will remain in effect unless terminated 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 this Agreement terminate during any hurricane season.

18. Access and Audits

The SCHOOL BOARD shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Agreement. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the SCHOOL BOARD'S place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 – 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County agreements, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the SCHOOL BOARD, its officers, agents, employees, and lobbyists in order to ensure compliance with agreement requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 – 2-440,

and punishment pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

19. Public Records

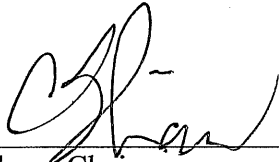
The COUNTY and SCHOOL BOARD shall comply with Florida's public records laws, and specifically agree to: 1) keep and maintain public records that ordinarily and necessarily would be required in accordance with the applicable records retention schedule, 2) provide the public with access to public records at a cost that does not exceed the cost provided in Chapter 119, F.S., and 3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by laws.

20. School Board Inspector General


The COUNTY agrees and understands, that except as restricted by law, that the School District's Office of Inspector General shall have immediate, complete, and unrestricted access to all financial and performance-related records and property or equipment purchased with School Board funds. The COUNTY shall furnish the Inspector General with requested records for the purpose of conducting an audit per Policy 1.092.

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
Corporate body politic existing under the
Laws of the State of Florida

By: 
Chuck Shaw, Chairman

Attest:
School District of Palm Beach County

By: 
Superintendent

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By:  4/2/14
School Board Attorney

PALM BEACH COUNTY BOARD
OF COUNTY COMMISSIONERS
political subdivision of the State of
Florida

By: _____
Priscilla A. Taylor, Mayor

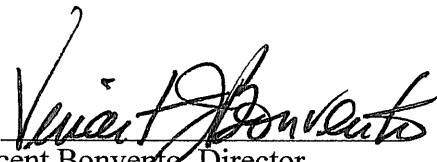
Attest:
Sharon R. Bock, Clerk & Comptroller

By: _____
Clerk & Comptroller

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By: 
Vincent Bonverio, Director
Department of Public Safety