

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Agreement between the State of Florida Department of Community Affairs and Seminole County for Public School Window Protection (Contract #05-SR-2V-06-69-01-)

DEPARTMENT: Public Safety **DIVISION:** Emergency Management *JMc*

AUTHORIZED BY: K. M. Roberts *KMR* **CONTACT:** Joseph H. McCluan EXT. 5131

Agenda Date: 8/10/04 **Regular** **Consent X** **Work Session** **Briefing**
Public Hearing – 1:30 **Public Hearing – 7:00**

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute School Window Protection Agreement between the State Department of Community Affairs and Seminole County. (Contract #05-SR-2V-06-69-01-) (Joe McCluan, Manager)

BACKGROUND:

During emergency evacuations caused by natural or manmade disasters, our residents and evacuees from surrounding counties seek shelter in our public schools for protection from a crisis. Due to the amount of evacuees that could potentially seek shelter at various public schools throughout the State of Florida, the Department of Community Affairs (DCA) is working to increase the amount of shelter spaces. In an effort to increase the safety of our citizens and visitors to Seminole County, DCA is offering grant funding to install window protection at three of our public schools that could be utilized for emergency sheltering. This agreement is a collaborative effort between DCA, Seminole County School Board and the Department of Public Safety/Emergency Management Division. Seminole County has been awarded a total of \$780,394.00 for Bentley Elementary School, Lake Brantley High School and Winter Springs High School for this project.

Reviewed by:
Co Atty: *[Signature]*
DFS: *[Signature]*
Other: _____
DCM: *[Signature]*
CM: *[Signature]*
File No. CPSEM01

Contract Number: 05-SR-2V-06-69-01-

CSFA Number: 52.024

STATE-FUNDED SUBGRANT AGREEMENT

THIS AGREEMENT is entered into by and between the State of Florida, Department of Community Affairs, with headquarters in Tallahassee, Florida (hereinafter referred to as the "Department") and the Seminole County Board of County Commissioners (hereinafter referred to as the "Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS:

A. WHEREAS, the Recipient has been awarded funds for a project(s) which has been evaluated for consistency with criteria established by the Governor and Legislature;

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

C. WHEREAS, funds used for emergency shelter or critical facility projects are contingent on certification by the Department that the emergency shelter or critical facility complies with, or will comply with upon project completion, the structural considerations of ARC 4496, Standards for Hurricane Evacuation Shelter Selection;

D. WHEREAS, the Department has authority pursuant to the General Appropriations Act, for the State Fiscal Year 2004-2005, Specific Appropriation 1467, to disburse the funds under this Agreement to eligible recipients under the Local Emergency Management Needs; and

E. WHEREAS, the Department 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 hereinafter set forth.

NOW, THEREFORE, the Department and the Recipient do mutually agree as follows:

(1) SCOPE OF WORK.

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

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

Both the Recipient and the Department shall be governed by applicable State and Federal laws, rules and regulations, including but not limited to those identified in Attachment B.

(3) PERIOD OF AGREEMENT.

This Agreement shall begin upon execution by both parties and shall end June 30, 2005, unless terminated earlier in accordance with the provisions of paragraph (9) of this Agreement.

(4) MODIFICATION OF CONTRACT; REPAYMENTS.

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

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

Department of Community Affairs
Cashier
Finance and Accounting
2555 Shumard Oak Boulevard
Tallahassee FL 32399-2100

In accordance with § 215.34(2), Fla. Stat., if a check or other draft is returned to the Department for collection, the Department must add to the amount of the check or draft a service fee of Fifteen Dollars (\$15.00) or Five Percent (5%) of the face amount of the check or draft, whichever is greater.

(5) RECORDKEEPING

(a) The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued, and shall allow the Department or its designee, Comptroller, or Auditor General access to such records upon request. The Recipient shall ensure that audit working papers are made available to the Department or its designee, Comptroller, or Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department, with the following exceptions:

1. If any litigation, claim or audit is started before the expiration of the five year period and extends beyond the five year period, the records will be maintained 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 of acquisition shall be retained for five years after final disposition.

3. Records relating to real property acquisition shall be retained for five years after closing of title.

(b) All records, including supporting documentation of all program costs, shall be 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.

(c) 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 Department, its employees, and agents. "Reasonable" shall be construed according to the circumstances but ordinarily shall 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 Department.

(6) REPORTS.

(a) At a minimum, the Recipient shall provide the Department with quarterly reports, and with a close-out report.

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

(c) The close-out report is due 30 days after termination of this Agreement or upon completion of the activities contained in this Agreement.

(d) If all required reports and copies, prescribed above, are not sent to the Department or are not completed in a manner acceptable to the Department, the Department may withhold further payments until they are completed or may take such other action as set forth in paragraph (9). The Department may terminate the Agreement with a Recipient if reports are not received within 30 days after written notice by the Department. "Acceptable to the Department" means that the work product was completed in accordance with generally accepted principles and is consistent with the Budget and Scope

of Work.

(e) Upon reasonable notice, the Recipient shall provide such additional program updates or information as may be required by the Department.

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

(7) MONITORING.

The Recipient shall constantly monitor its performance under this Agreement to ensure that time schedules are being met, the Budget and Scope of Work is being accomplished within specified time periods, and other performance goals are being achieved. Such review shall be made for each function or activity set forth in Attachment A to this Agreement. In addition, the Department will monitor the performance and financial management by the Recipient throughout the contract term to ensure timely completion of all tasks.

In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised and Section 215.97, Fla. Stat. (see "AUDIT REQUIREMENTS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the Recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department. In the event that 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 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 Comptroller or Auditor General. In addition, the Department will monitor the performance and financial management by the Contractor throughout the contract term to ensure timely completion of all tasks.

(8) LIABILITY.

(a) Unless Recipient is a State agency or subdivision, as defined in Section 768.28, Fla. Stat., the Recipient shall be solely responsible to parties with whom it shall deal in carrying out the terms of this Agreement, and shall save the Department harmless against all claims of whatever nature by third

parties arising out of the performance of work under this Agreement. For purposes of this Agreement, Recipient agrees that it is not an employee or agent of the Department, but is an independent contractor.

(b) Any Recipient who is a state agency or subdivision, as defined in Section 768.28, Fla. Stat., agrees to be fully responsible to the extent provided by Section 768.28, Fla. Stat., for its negligent acts or omissions or tortious acts which result in claims or suits against the Department, and agrees to be liable for any damages proximately caused by said acts or omissions. 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.

(9) DEFAULT; REMEDIES; TERMINATION.

(a) If the necessary funds are not available to fund this Agreement as a result of action by Congress, the state Legislature, the Office of the Comptroller or the Office of Management and Budgeting, or if any of the following events occur ("Events of Default"), all obligations on the part of the Department to make any further payment of funds hereunder shall, if the Department so elects, terminate and the Department may, at its option, exercise any of its remedies set forth herein, but the Department may make any payments or parts of payments after the happening of any Events of Default without thereby waiving the right to exercise such remedies, and without becoming liable to make any further payment:

1. If any warranty or representation made by the Recipient in this Agreement or any previous Agreement with the Department shall at any time be false or misleading in any respect, or if the Recipient shall fail to keep, observe or perform any of the terms or covenants contained in this Agreement or any previous agreement with the Department and has not cured such in timely fashion, or is unable or unwilling to meet its obligations thereunder;

2. If any material adverse change shall occur in the financial condition of the Recipient at any time during the term of this Agreement from the financial condition revealed in any reports filed or to be filed with the Department, and the Recipient fails to cure said material adverse change within thirty (30) days from the time the date written notice is sent by the Department;

3. If any reports required by this Agreement have not been submitted to the

Department or have been submitted with incorrect, incomplete or insufficient information;

4. If the Recipient has failed to perform and complete in timely fashion any of the services required under the Budget and Scope of Work attached hereto as Attachment A.

(b) Upon the happening of an Event of Default, then the Department may, at its option, upon thirty (30) calendar days prior written notice to the Recipient and upon the Recipient's failure to timely cure, exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of the following remedies shall not preclude the Department from pursuing any other remedies contained herein or otherwise provided at law or in equity:

1. Terminate this Agreement, provided that the Recipient is given at least thirty (30) days prior written notice of such termination. The notice shall be effective when placed in the United States mail, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address set forth in paragraph (10) herein;

2. Commence an appropriate legal or equitable action to enforce performance of this Agreement;

3. Withhold or suspend payment of all or any part of a request for payment;

4. Exercise any corrective or remedial actions, to include but not be limited to, requesting additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance, issuing a written warning to advise that more serious measures may be taken if the situation is not corrected, advising the Recipient to suspend, discontinue or refrain from incurring costs for any activities in question or requiring the Recipient to reimburse the Department for the amount of costs incurred for any items determined to be ineligible;

5. Exercise any other rights or remedies which may be otherwise available under law.

(c) The Department may terminate this Agreement for cause upon such written notice as is reasonable under the circumstances. Cause shall include, but not be limited to, misuse of funds; fraud; lack of compliance with applicable rules, laws and regulations; failure to perform in a timely manner; and refusal by the Recipient to permit public access to any document, paper, letter, or other material subject to

disclosure under Chapter 119, Fla. Stat., as amended.

(d) Suspension or termination constitutes final agency action under Chapter 120, Fla. Stat., as amended. Notification of suspension or termination shall include notice of administrative hearing rights and time frames.

(e) In addition to any other remedies, the Recipient shall return to the Department any funds which were used for ineligible purposes under the program laws, rules, and regulations governing the use of the funds under the program.

(f) This Agreement may be terminated by the written mutual consent of the parties.

(g) Notwithstanding the above, the Recipient shall not be relieved of liability to the Department by virtue of any breach of Agreement by the Recipient. The Department may, to the extent authorized by law, withhold any payments to the Recipient for purpose of set-off until such time as the exact amount of damages due the Department from the Recipient is determined.

(10) 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 identified below at the address set forth below and said notification attached to the original of this Agreement.

(b) The Department designates Debbie Boyette, Division of Emergency Management, as the Department's Contract Manager. All communications, written or oral, relating to this Agreement shall be directed to her at:

Department of Community Affairs
Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100
Telephone: 850/413-9972
Fax: 850/488-7842
Email: debbie.boyette@dca.state.fl.us

The Project Officer for this Agreement is Dean Griffin. He can be contacted for technical assistance relating to this Agreement at the above address, telephone 850/413-9954, or e-mail dean.griffin@dca.state.fl.us.

(c) The name and address of the Representative of the Recipient responsible for the

administration of this Agreement is:

Mr. Joe McCluan
Manager of Emergency Management
Seminole County
150 Bush Boulevard
Sanford, Florida 32773
Phone: 407/665-5131
Fax: 407/665-5036
Email: jmccluan@co.seminole.fl.us

(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 rendered as provided in (10)(a) above.

(11) OTHER PROVISIONS.

(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 subsequent submission or response to Department request, or in any submission or response to fulfill the requirements of this Agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall, at the option of the Department and with thirty (30) days written notice to the Recipient, cause the termination of this Agreement and the release of the Department 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 lie in Leon County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this Agreement.

(c) No waiver by the Department of any right or remedy granted hereunder or failure to insist on strict performance by the Recipient shall affect or extend or act as a waiver of any other right or remedy of the Department hereunder, or affect the subsequent exercise of the same right or remedy by the Department for any further or subsequent default by the Recipient. Any power of approval or disapproval granted to the Department under the terms of this Agreement shall survive the terms and life of this Agreement as a whole.

(d) The 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 et seq.), if applicable, which prohibits discrimination by public and private entities on the basis of disability in the areas of employment, public accommodations, transportation, State and local government services, and in telecommunications.

(f) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory 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 Category Two for a period of 36 months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide 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 award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

(12) 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 all reasonable times for inspection, review, or audit by state personnel and other personnel duly authorized by the Department. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(c) The Recipient shall also 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 nonstate entity as defined by Section 215.97, Fla. Stat., and in the event that the Recipient expends a total amount of State financial assistance equal to or in excess of \$300,000 in any fiscal year of such Recipient, the Recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Fla. Stat.; applicable rules of the Executive Office of the Governor and the Comptroller; and Chapters 10.550 (local government entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this Agreement indicates State financial assistance awarded through the Department by this Agreement. In determining the State financial assistance expended in its fiscal year, the Recipient shall consider all sources of State financial assistance, including State funds received from the Department, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

In connection with the audit requirements addressed in Paragraph 12(d) above, the Recipient shall ensure that the audit complies with the requirements of §215.97(7), Fla. Stat. This includes submission of a reporting package as defined by §215.97(2)(d), Fla. Stat. and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

If the Recipient expends less than \$300,000 in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of §215.97, Fla. Stat., is not required. In the event that the Recipient expends less than \$300,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of §215.97, Fla. Stat., the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the Recipient's resources obtained from other than State entities).

(e) Report Submission.

1. The annual financial audit report shall include all management letters and the

Recipient's response to all findings, including corrective actions to be taken.

2. The annual financial audit report shall include a schedule of financial assistance specifically identifying all Agreement and other revenue by sponsoring agency and Agreement number.

3. Copies of financial reporting packages required under this Paragraph 12 shall be submitted by or on behalf of the Recipient directly to each of the following:

The Department of Community Affairs at each of the following addresses:

Department of Community Affairs
Office of Audit Services
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

Department of Community Affairs
Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

The Auditor General's Office at the following address:

Auditor General's Office
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

4. Any reports, management letter, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted timely 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.

5. Recipients, when submitting financial reporting packages to the Department 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, should indicate the date that the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.

(f) The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued, and shall allow

the Department, or its designee, the Comptroller, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department, or its designee, the Comptroller, or Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

(g) In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to the Department of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty (30) days after the Department has notified the Recipient of such non-compliance.

(h) The Recipient shall retain all financial records, supporting documents, statistical records, and any other documents pertinent to this contract for a period of five years after the date of submission of the final expenditures report. However, if litigation or an audit has been initiated prior to the expiration of the five-year period, the records shall be retained until the litigation or audit findings have been resolved.

(i) The Recipient shall have all audits completed in accordance with § 215.97, Fla. Stat., by an independent certified public accountant (IPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Fla. Stat. The IPA shall state that the audit complied with the applicable provisions noted above.

(13) SUBCONTRACTS.

(a) If the Recipient subcontracts any or all of the work required under this Agreement, a copy of the executed subcontract must be forwarded to the Department within thirty (30) days after execution of the subcontract. The Recipient agrees to include in the subcontract that (i) the subcontractor is bound by all applicable state and federal laws and regulations, and (ii) the subcontractor shall hold the Department 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.

(14) TERMS AND CONDITIONS.

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

(15) ATTACHMENTS.

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

(b) In the event of any inconsistencies or conflict between the language of this Agreement and the attachments hereto, the language of such attachments shall be controlling, but only to the extent of such 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 and Regulations

Attachment C - Certification Regarding Debarment, Suspension, Ineligibility and
Voluntary Exclusion Reports

Attachment D - Copyright, Patent and Trademark

Attachment E - Warranties and Representations Financial Management

Attachment F - Reports

(16) 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 \$780,394 subject to the availability of funds, and in accordance with the project(s) referenced in the General Appropriations Act, Specific Appropriation 1467.

(b) Any advance payment under this Agreement is subject to Section 216.181(16), Fla. Stat. The amount which may be advanced may not exceed the expected cash needs of the Recipient within the first three (3) months of the contract term. If an advance payment is requested, the budget data on which the request is based and a justification statement shall be included in this Agreement as an Attachment. This Attachment will specify the amount of advance payment needed and provide an explanation of the necessity for and proposed use of these funds.

1. X No advance payment is requested.

2. _____ 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.

(17) STANDARD CONDITIONS.

The Recipient agrees to be bound by the following standard conditions:

(a) 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, Fla. Stat., or the Florida Constitution.

(b) If otherwise allowed under this Agreement, the Agreement may be renewed for a period that may not exceed two (2) years or the term of the original contract, whichever period is longer, specifying the terms under which the cost may change as determined in the pertinent statutes or regulations.

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

(d) If otherwise allowed under this Agreement, all bills for any travel expenses shall be submitted in accordance with Section 112.061, Fla. Stat.

(e) The Department of Community Affairs reserves the right to unilaterally cancel this Agreement for refusal by the Recipient to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Fla. Stat., and made or received by the Recipient in conjunction with this Agreement.

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

(g) 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 Department 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 Department.

(18) STATE LOBBYING PROHIBITION.

No funds or other resources received from the Department in connection with this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(19) 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 brings to the performance of this Agreement 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 arises or is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected herewith, the Recipient shall refer the discovery or invention to the Department for a determination whether patent protection will be sought in the name of the State of Florida. Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to the State of Florida. In the event that any books, manuals, films, or other copyrightable material are produced, the Recipient shall notify the Department. Any and all copyrights accruing under or in connection with the performance under this Agreement are hereby transferred by the Recipient to the State of Florida.

(c) Within thirty (30) days of execution of this Agreement, the Recipient shall disclose all intellectual properties relevant 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 so disclosed. Failure to disclose will indicate that no such property exists. The Department shall then, under Paragraph (b), have the right to all patents and copyrights which occur during performance of the Agreement.

(20) LEGAL AUTHORIZATION.

The Recipient certifies with respect to this Agreement that it possesses the legal authority to receive the funds to be provided under this Agreement and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this Agreement with all covenants and assurances contained herein. The Recipient also certifies that the undersigned possesses the authority to legally execute and bind Recipient to the terms of this Agreement.

(21) VENDOR PAYMENTS.

Pursuant to Section 215.422, Fla. Stat., the Department shall issue payments to vendors within 40 days after receipt of an acceptable invoice and receipt, inspection, and acceptance of goods and/or services provided in accordance with the terms and conditions of the Agreement. Failure to issue the warrant within 40 days shall result in the Department paying interest at a rate as established pursuant to Section 55.03(1) Fla. Stat. The interest penalty shall be paid within 15 days after issuing the warrant.

Vendors experiencing problems obtaining timely payment(s) from a state agency may receive assistance by contacting the Vendor Ombudsman at (850) 488-2924 or by calling the State Comptroller's Hotline at 1-800-848-3792.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed by their undersigned officials as duly authorized.

Recipient

Seminole County
Board of County Commissioners

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

BY: _____

BY: _____

Name: Daryl McLain

W. Craig Fugate, Director

Title: Chairman of the Seminole
County Board of County Commissioners

Division of Emergency Management

Date: _____

Date: _____

SAMAS # _____

FEID # 59-6000856

EXHIBIT – 1

FEDERAL RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

None

COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

None

STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

MATCHING RESOURCES FOR FEDERAL PROGRAMS:

None

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:

Special Appropriation 1467
CSFA: 52.024
\$780,394

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

1. Sections 215.555(7)(c) and 215.559, Florida Statutes
2. Chapter 252, Florida Statutes
3. Chapter 287, Florida Statutes
4. Chapter 119, Florida Statutes
5. Chapter 60A-1, Florida Administrative Code
6. Chapter 9G, Florida Administrative Code
7. Funding under this Grant are limited to projects for the installation of window and door protection and other types of structural projects listed in the 2003 Shelter Retrofit Report.
8. Projects may not have received other federal, state or local funding (i.e., HMGP, Special Appropriations, etc.).

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.

Attachment A

Budget and Scope of Work

A. Proposed Budget

| Category | Anticipated Expenditure Amount |
|---|---------------------------------------|
| Salary and Benefits | |
| Other Personal / Contractual Services | |
| Administrative Expenses (limited to 5%) | |
| Expenses | |
| Operating Capital Outlay | |
| Fixed Capital Outlay | |
| Total Expenditures | \$780,394.00 |

NARRATIVE EXPLANATION AND JUSTIFICATION OF LINE ITEMS:

Agreement funds will be used for the retrofitting of buildings with window/door protection systems on the exterior windows/doors. Upon written request (U.S. Mail, facsimile, e-mail) by the Recipient and written authorization by the Department, surplus funds may be used for:

- retrofitting of buildings located on the same campus
- the purchase/installation of a generator(s)
- pre-wiring for emergency power

At closeout, the Recipient shall provide a breakdown of the actual funds used for each building, the actual costs and building/location of pre-wiring, and the actual costs and serial numbers of each portable generator purchased, if applicable.

B. Scope of Work

The Recipient shall retrofit the following buildings with window/door protection systems on the exterior windows/doors and other types of structural projects, as provided in Paragraph A of this Scope of Work. Funds provided under this Agreement shall be used to purchase and install those systems. **Purchase and/or installation and vendor invoicing shall be completed no later than June 30, 2005.**

The following standards shall apply:

- All glazed opening products or protective systems purchased and installed as part, or in whole, of this grant have been tested and certified to meet or exceed the minimum performance standards of the SSTD 12, and/or ASTM Standards E 1886 and E 1996. Glazed opening includes, but is not limited to, windows, skylights, and glass block. As an alternative, building opening protective systems and products that have been tested and certified to meet or exceed the minimum performance standards of the most recent editions of the South Florida Building Code for wind resistance structural loads, windborne debris impact, and cyclical loading (Testing Protocols PA 201, PA 202, and PA 203) are acceptable. All glazed opening products and protective systems to be utilized up to and including 30 feet in height above finish grade shall be tested and certified to meet or exceed the large missile impact testing procedures.
- Each of the buildings listed below complies with, or will comply with (after completion of grant activities), the hazard vulnerability standards established in the American Red Cross' supplement *Standards for Hurricane Evacuation Shelter Selection* (ARC 4496, January 2002) prior to utilization of funds. Failure to supply the above-referenced ARC 4496 documentation, or disapproval of this documentation by the Department, shall result in denial of funding.

| School Name/Building Identification | Funds Provided |
|--|-----------------------|
| Bentley ES, Building 1 | \$101,313.00 |
| Lake Brantley HS, Building 6 | \$138,478.00 |
| Lake Brantley HS, Building 7 | \$150,664.00 |
| Lake Brantley HS, Building 8 | \$158,404.00 |
| Winter Springs HS, Building 5 | \$69,344.00 |
| Winter Springs HS, Building 6 | \$52,855.00 |
| Winter Springs HS, Building 7 | \$109,336.00 |
| Total | \$780,394.00 |

C. Funding Compliance Requirements

1. Funding under this Grant is limited to projects for the installation of window and door protection and other types of structural projects, as provided in Paragraph A of this Scope of Work, for projects listed in the 2003 Shelter Retrofit Report.
2. Administrative Expenses are limited to 5% of the total Agreement amount.
3. If the Recipient succeeds in acquiring products or services for less than the budgeted amount, then it shall notify the Department and request authorization to apply the surplus funds to the project, identifying the proposed use of the surplus funds. If the surplus funds can be applied to enhance the project through acquisition of additional equipment or services that will provide the same benefit as the approved project, then the Department may approve the use of the surplus funds, as provided in Paragraph A of this Scope of Work.

D. Reports and Reimbursement

1. A Quarterly Progress Report, Attachment F-1, is due to be received by the Department no later than 30 days after the end of each quarter of the program year and shall continue to be submitted quarterly until submission of the administrative Final/Close-Out Report. The ending dates for each quarter of the program year are September 30, December 31, March 31, and June 30. The Quarterly Progress Report shall provide the status of documentation requirements in accordance with the Reporting Schedule in Paragraph E. below, as well as a discussion of significant events or milestones, circumstances affecting completion dates, and any special issues that should be reported on.
2. **Reimbursement may be, and is encouraged to be, requested on a quarterly basis or as needed**, and will be based on expenses as reported and indicated by the submission of the Quarterly Progress Report required by Paragraph 6.(b) and Attachment F-1, and the submission of an approved Financial Report/Reimbursement Request for payment (Attachment F-2). Funds are to be expended in accordance with the Budget and Scope of Work.
3. A full accounting for the expenditures of \$780,394 will be contained in the Final/Close-Out Report (Attachment F-3), which is due 30 days after termination of this Agreement or upon completion of the activities contained in this Agreement. The Final/Close-Out Report shall provide a breakdown of actual funds used for each building, the actual costs and building/location of pre-wiring, and the actual costs and serial numbers of each portable generator purchased, if applicable. Additionally, the Final/Close-Out Report shall indicate the dates and amounts of all reimbursement requests submitted by the Recipient to the Department during the period of the Agreement, the total amount of funds the Recipient received for this project under the Agreement, and the balance of unused funds, if any, that will not be used by the Recipient for this project Agreement and may be deobligated from this project Agreement by the Department.

E. Reporting Schedule

1. **Upon acceptance of contract or vendor bid(s)** associated with accomplishing this Agreement's Scope of Work--The Recipient shall forward a copy of the accepted bid(s) to the Department via expedient means (i.e., e-mail, facsimile, mail).
2. **Within 15 days of the acceptance of all necessary bid(s)**--The Recipient shall forward to the Department a revised timeline and budget via expedient means (i.e., e-mail, facsimile, mail).
3. **On or before 9/30/04, or during the 1st Reporting Quarter**--The Recipient shall provide to the Department a description of shutter/window protection system selected.
4. **On or before 9/30/04, or during the 1st Reporting Quarter**--The Recipient shall demonstrate that all glazed opening products or protective systems purchased and installed as part, or in whole, of this grant have been tested and certified to meet or exceed the minimum performance standards of the SSTD 12, and/or ASTM Standards E 1886 and E 1996. Glazed opening includes, but is not limited to, windows, skylights, and glass block. As an alternative, building opening protective systems and products that have been tested and certified to meet or exceed the minimum performance standards of the most recent editions of the South Florida Building Code for wind resistance structural loads, windborne debris impact, and cyclical loading (Testing Protocols PA 201, PA 202, and PA 203) are acceptable. All glazed opening products and protective systems to be utilized up to and including 30 feet in height above finish grade shall be tested and certified to meet or exceed the large missile impact testing procedures.
5. **During each reporting quarter, as appropriate**--The Recipient shall provide to the Department copies of all pertinent building permits.
6. **On or Before 6/30/05, upon completion of project and prior to final disbursement of funds**--The Recipient shall demonstrate that each of the buildings listed in the Scope of Work complies with, or will comply with (after completion of grant activities), the hazard vulnerability standards established in the American Red Cross' supplement *Standards for Hurricane Evacuation Shelter Selection* (ARC 4496, January 2002) prior to utilization of funds. Failure to supply the above-referenced ARC 4496 documentation, or disapproval of this documentation by the Department,

shall result in denial of funding.

7. **On or Before 6/30/05, upon completion of project and prior to final disbursement of funds**—The Recipient shall provide to the Department a copy of the Certificate of Occupancy/Completion provided by the local building inspector.
8. **On or Before 6/30/05, upon completion of project and prior to final disbursement of funds**—The Recipient shall provide to the Department photos of work performed, to include installed shutters and/or other structural retrofit and portable generator(s) and/or pre-wiring, if applicable.
9. **On or Before 7/31/05, within 30 days after termination of this Agreement**—The Recipient shall provide to the Department copies of final vendor(s) invoices and payments made to vendor(s) on retrofits done and the final Financial Report/Reimbursement Request.
10. **On or Before 7/31/05, within 30 days after termination of this Agreement**—The Recipient shall provide to the Department the Final/Close-Out Report. The Final/Close-Out Report shall provide a breakdown of actual funds used for each building, the actual costs and building/location of pre-wiring, and the actual costs and serial numbers of each portable generator purchased, if applicable. Additionally, the Final/Close-Out Report shall indicate the dates and amounts of all reimbursement requests submitted by the Recipient to the Department during the period of the Agreement, the total amount of funds the Recipient received for this project under the Agreement, and the balance of unused funds, if any, that will not be used by the Recipient for this project Agreement and may be deobligated from this project Agreement by the Department.

Attachment B

Program Statutes and Regulations

1. Sections 215.555(7)(c) and 215.559, Florida Statutes
2. Chapter 252, Florida Statutes
3. Chapter 287, Florida Statutes
4. Chapter 119, Florida Statutes
5. Chapter 60A-1, Florida Administrative Code
6. Chapter 9G, Florida Administrative Code

Attachment C

**Certification Regarding
Debarment, Suspension, Ineligibility
And Voluntary Exclusion**

Subcontractor Covered Transactions

(1) The prospective subcontractor of the Recipient, Seminole County Board of County Commissioners, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the Recipient's subcontractor is unable to certify to the above statement, the prospective subcontractor shall attach an explanation to this form.

| | |
|----------------------|----------------------|
| _____ | Seminole County BOCC |
| Subcontractor's Name | Recipient's Name |
| _____ | 05-SR-2V-06-69-01- |
| Title | DCA Agreement Number |
| _____ | |
| Firm | |
| _____ | |
| Street Address | |
| _____ | |
| City, State, Zip | |
| _____ | |
| Date | |

Attachment D

Copyright, Patent and Trademark

(a) If the Recipient brings to the performance of this Agreement 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 arises or is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected herewith, the Recipient shall refer the discovery or invention to the Department for a determination whether patent protection will be sought in the name of the State of Florida. Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to the State of Florida. In the event that any books, manuals, films, or other copyrightable material are produced, the Recipient shall notify the Department. Any and all copyrights accruing under or in connection with the performance under this Agreement are hereby transferred by the Recipient to the State of Florida.

(c) Within thirty (30) days of execution of this Agreement, the Recipient shall disclose all intellectual properties relevant 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 so disclosed. Failure to disclose will indicate that no such property exists. The Department shall then, under Paragraph (b), have the right to all patents and copyrights which occur during performance of the Agreement.

Attachment E

Warranties And Representations Financial Management

Recipient's financial management system shall provide for the following:

- (1) Accurate, current and complete disclosure of the financial results of this federally-sponsored project or program in accordance with the reporting requirements set forth in Section ____52 of OMC Circular A-110.
- (2) Records that identify adequately the source and application of funds for all federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
- (3) Effective control over and accountability for all funds, property and other assets. Recipient shall adequately safeguard all such assets and assure that they are used solely for authorized purposes.
- (4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.
- (5) Written procedures to minimize the time elapsing between the transfer of funds to the Recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."
- (6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.
- (7) Accounting records, including cost accounting records that are supported by source documentation.

Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The Recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the Recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the Recipient. Any and all bids or offers may be rejected when it is in the Recipient's interest to do so.

Codes Of Conduct.

The Recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the Recipient shall neither solicit nor accept gratuities,

favors, or anything of monetary value from contractors, or parties to subagreements. However, Recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Recipient.

Business Hours.

The Recipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site, from at least 9:00 am to 5:00 pm, Monday through Friday.

Licensing and Permitting.

All subcontractors or employees hired by the Recipient shall have all current licenses and permits required for all of the particular work for which they are hired by the Recipient.

Reports

Attachment F-1

Department of Community Affairs
 Division of Emergency Management
 2555 Shumard Oak Boulevard
 Tallahassee, Florida 32399-2100

Quarterly Progress Report

For Quarter Ending (Date): _____ Reporting Quarter: ___ First ___ Fifth
 County: Seminole ___ Second ___ Sixth
 Recipient: Seminole County BOCC ___ Third ___ Seventh
 Agreement #: 05-SR-2V-06-69-01- ___ Fourth ___ Eighth

Note: Quarterly progress reporting comments should be thorough and include, but not be limited to, a discussion of significant events or milestones (both success and problems), circumstances affecting completion dates, and any special issues that should be reported on. Provide documentation below and include attachments as appropriate to justify request for reimbursement of funds expended during reporting quarter.

| Category/Item to be Provided | Date or Quarter if Completed | Status if not completed |
|---|------------------------------|-------------------------|
| 1. Copy of the accepted vendor bid(s). | | |
| 2. Revised timeline and budget. | | |
| 3. Description of shutter/window protection system selected. | | |
| 4. Documentation that window/door protective systems selected and that all glazed opening products or protective systems purchased and installed as part, or in whole, of this grant have been tested and certified to meet or exceed the minimum performance standards of the SSTD 12, and/or ASTM Standards E 1886 and E 1996. [A copy of a Notice of Approval/Acceptance (NOA) showing the product has been tested and meets the Dade County requirements, or a letter from a laboratory or structural engineer stating the product has been tested and meets the requirements as listed in this Agreement's Scope of Work.] | | |
| 5. Copies of all pertinent building permits. | | |
| 6. Documentation that each of the buildings listed in the Scope of Work complies with, or will comply with (after completion of grant activities) the hazard vulnerability standards established in the American Red Cross' supplement <i>Standards for Hurricane Evacuation Shelter Selection</i> (ARC 4496, January 2002). | | |

| Category/Item to be Provided | Date or Quarter if Completed | Status if not completed |
|--|------------------------------|-------------------------|
| 7. Copy of the Certificate of Occupancy/Completion provided by the local building inspector. | | |
| 8. Photos of work performed, to include installed shutters and/or other structural retrofit and portable generator(s) and/or pre-wiring, if applicable. | | |
| 9. Copies of final vendor(s) invoices and payments made to vendor(s) on retrofits done and the final Financial Report/Reimbursement Request. | | |
| 10. Final/Close-Out Report that includes breakdown of actual funds used for each building, the costs and building/location of pre-wiring, and the costs and serial numbers of each portable generator purchased, if applicable, as well as the financial history of the Agreement. | | |
| <i>Provide other documentation below as appropriate to justify request for reimbursement of funds expended during reporting quarter.</i> | | |
| 11. | | |
| 12. | | |
| 13. | | |

[Attach additional sheet(s) if necessary]

Attachment F-3(a)

Department of Community Affairs
 Division of Emergency Management
 2555 Shumard Oak Boulevard
 Tallahassee, Florida 32399-2100

Final/Closeout Report

Date Report Submitted: _____ Report Due Date: July 31, 2005
 Grantee: Seminole County BOCC Agreement Amount: \$780,394.00
 Agreement #: 05-SR-2V-06-69-01- Agreement Period: - 6/30/05

| Funds Received (Corresponds with Recipient's Invoices) | |
|--|--------------|
| (A) | (B) |
| Date/ Grantee's Invoice # | Amount |
| 1 | |
| 2 | |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | Total |

| FINANCIAL STATUS | |
|--|--------------|
| Agreement Amount | \$780,394.00 |
| Less Total Funds Received Under This Agreement (column B, line 7) | |
| Balance of Agreement (Funds Unused by Grantee/Funds to be Deobligated) † | |

I hereby certify that the costs are true and valid costs incurred in accordance with the project Agreement, and that the matching funds, in-kind or cash, were utilized toward the project in this Agreement.

† The above Balance of Agreement, if applicable, will not be used by the Grantee for this project Agreement and can be deobligated from this project Agreement by the Department.

 Signature of Grantee Contract Manager or Financial Officer

 Date

[Complete and Attach Expenditures Detail (Attachment F-3(b))]

