

RESOLUTION 2008-361

**A RESOLUTION OF ST. JOHNS COUNTY, FLORIDA, APROVING HE TERMS, AND AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A SUB-GRANT AGREEMENT WITH THE STATE OF FLORIDA IN THE AMOUNT OF \$45,360.00 FOR THE RETROFITTING OF DURBIN CREEK ELEMENTARY SCHOOL, BUILDING-2.**

**WHEREAS**, the County has agreed to accept State funding for the retrofitting of buildings with window/door protection systems on the exterior windows/doors; and

**WHEREAS**, the State of Florida, has provided a contract for these funds in the amount of \$45,360.00 and these funds are to be used for the retrofitting of Durbin Creek Elementary School, Building 2, 4100 Race Track Road, St. Johns, FL 32259; and

**WHEREAS**, the Board of County Commissioners can authorize the County Administrator by Resolution to execute said contract.

**NOW THEREFORE, BE IT RESOLVED**, by the Board of County Commissioners of St. Johns County, Florida, that:

1. The above recitals are hereby adopted as legislative findings of fact and incorporated herein.
2. The Board of County Commissioners approves the terms, conditions, provisions, and requirements of a Sub-grant Agreement between the State of Florida, Division of Emergency Management, and St. Johns County, Florida, and authorizes the County Administrator, or designee to execute the attached and incorporated Sub-grant Agreement on behalf of the County.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, State of Florida, this 16<sup>th</sup> day of December, 2008.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: Cyndi Stevenson  
Cyndi Stevenson, Chair

ATTEST: CHERYL STRICKLAND, CLERK

By: Pam Halterman  
Deputy Clerk

RENDITION DATE 12/18/08

### STATE-FUNDED SUBGRANT AGREEMENT

THIS AGREEMENT is entered into by and between the State of Florida, Division of Emergency Management, with headquarters in Tallahassee, Florida (hereinafter referred to as the "Division"), and St. Johns County, (hereinafter referred to as the "Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

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

B. WHEREAS, 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 hereinafter set forth; and

C. WHEREAS, the Division has authority pursuant to Florida law to disburse the funds under this Agreement.

D. WHEREAS, funds used for emergency shelter or critical facility projects are contingent on certification by the Division 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; and

E. WHEREAS, the Division has authority pursuant to the General Appropriations Act, for the State Fiscal Year 2007-2008, Specific Appropriation 1621X, to disburse the funds under this Agreement to eligible recipients under the Local Emergency Management Needs.

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

(1) SCOPE OF WORK.

The Recipient shall 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 Division 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 July 1, 2007, and shall end June 30, 2010, 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 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.

(5) RECORDKEEPING

(a) The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement, and the compliance of all subcontractors or consultants to be paid from funds provided 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 Chief Financial Officer, or Auditor General access to such records upon request. The Recipient shall ensure that audit working papers are made available to the Division or its designee, the Chief Financial Officer, 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) 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 supporting 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.

(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 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 all reasonable times for inspection, review, or audit by state personnel and other personnel duly authorized by the Division. "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 Division 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., it shall comply with the following:

In the event that the Recipient expends a total amount of State financial assistance equal to or in excess of \$500,000 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 Chief Financial Officer; 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 Division 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 Division, 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 this Paragraph 6(d) above, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Fla. Stat. This includes submission of a reporting package as defined by Section 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 \$500,000 in State financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Fla. Stat., is not required. In the event that the Recipient expends less than \$500,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 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). Additional information on the Florida Single Audit Act may be found at the following website: <http://www.state.fl.us/fsaa/statutes.html>.

(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 6 shall be submitted by or on behalf of the Recipient directly to each of the following:

The Division of Community Affairs at each of the following addresses:  
Division of Community Affairs  
Office of Audit Services  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100  
**[an electronic copy shall also be submitted to [aurilla.parrish@dca.state.fl.us](mailto:aurilla.parrish@dca.state.fl.us)]**  
and

Division of Emergency Management  
Bureau of Policy and Budget  
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 Division or the Department of Community Affairs 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 Division or the Department of Community Affairs 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) 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 Division of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty (30) days after the Division has notified the Recipient of such non-compliance.

(g) The Recipient shall have all audits completed in accordance with Section 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. The audit must be submitted to the Division no later than nine (9) months from the end of the Recipient's fiscal year.

(7) REPORTS

(a) At a minimum, the Recipient shall provide the Division with quarterly reports, and with a close-out 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 such other information as requested by the Division.

(b) Quarterly reports are due to be received by the Division 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 March 31, June 30, September 30 and December 31.

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

(d) If all required reports and copies, prescribed above, 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 such other action as set forth 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 such additional program updates or information as may be required by the Division.

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

(8) MONITORING.

The Recipient shall monitor its performance under this Agreement, as well as that of its subcontractors, subrecipients and consultants who are paid from funds provided under this Agreement, to ensure that time schedules are met, the Budget and Scope of Work is accomplished within the specified time periods, and other performance goals stated in this Agreement are achieved. Such review shall be

made for each function or activity set forth in Attachment A to this Agreement, and reported in the quarterly report.

In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised and Section 215.97, Fla. Stat. (see Paragraph (6) AUDIT REQUIREMENTS, above ), monitoring procedures may include, but not be limited to, on-site visits by Division 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 all monitoring procedures/processes deemed appropriate by the Division. In the event that the Division determines that a limited scope audit of the Recipient is appropriate, the Recipient agrees to comply with any additional instructions provided by the Division 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 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) 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 hold the Division 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 Division, 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 Division, 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.



(10) DEFAULT.

If any of the following events occur ("Events of Default"), all obligations on the part of the Division to make any further payment of funds hereunder shall, if the Division so elects, terminate and the Division may, at its option, exercise any of its remedies set forth in Paragraph (11), but the Division 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:

(a) If any warranty or representation made by the Recipient in this Agreement or any previous Agreement with the Division 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 obligations, terms or covenants contained in this Agreement or any previous agreement with the Division and has not cured such in timely fashion, or is unable or unwilling to meet its obligations thereunder;

(b) If any material adverse change shall occur in the financial condition of the Recipient at any time during the term of this Agreement, 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 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 in timely fashion any of its obligations under this Agreement.

(11) REMEDIES.

Upon the happening of an Event of Default, then the Division may, at its option, upon thirty (30) calendar days prior written notice to the Recipient and upon the Recipient's failure to cure within said thirty (30) day period, 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 (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 (13) herein;

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

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

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

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

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

(e) Require that the Recipient return to the Division any funds which were used for ineligible purposes under the program laws, rules and regulations governing the use of funds under this program;

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

(g) The pursuit of any one of the above remedies shall not preclude the Division from pursuing any other remedies contained herein or otherwise provided at law or in equity. No waiver by the Division 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 Division hereunder, or affect the subsequent exercise of the same right or remedy by the Division for any further or subsequent default by the Recipient.

(12) TERMINATION.

(a) The Division may terminate this Agreement for cause upon thirty (30) days written notice. 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.

(b) The Division may terminate this Agreement for convenience or when it determines, in its sole discretion, that the continuation of the Agreement would not produce beneficial results commensurate with the further expenditure of funds, by providing the Recipient with thirty (30) calendar days prior written notice.

(c) The parties may agree to terminate this Agreement for their mutual convenience as evidenced by written amendment of this Agreement. The amendment shall establish 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 the date of receipt of notice of the termination will be disallowed. Notwithstanding the above, the Recipient shall not be relieved of liability to the Division by virtue of any breach of Agreement by the Recipient. The Division 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 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 identified below at the address set forth below and said notification attached to the original of this Agreement.

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

Wendy Stewart  
2555 Shumard Oak Blvd.  
Tallahassee, Florida 32399-2100  
Telephone: 850-922-7447  
Fax: 850-488-7842  
Email: [wendy.stewart@em.myflorida.com](mailto:wendy.stewart@em.myflorida.com)

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

E. R. Ashton  
4455 Avenue A, Suite-102  
St. Augustine, Florida 32095  
Telephone: 904-824-5550  
Fax: 904-824-9920  
Email: [rashton@sjcfl.us](mailto:rashton@sjcfl.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 (13)(a) above.

(14) SUBCONTRACTS

If the Recipient subcontracts any or all of the work required under this Agreement, a copy of the unsigned subcontract must be forwarded to the Division for review and approval prior to execution of the subcontract 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. Each subcontractor's progress in performing its work under this Agreement shall be documented in the quarterly report submitted by the Recipient.

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, Fla. Stat.

(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 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 – Justification of Advance

Attachment D – Warranties and Representations

(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 **\$45,360** subject to the availability of funds.

(b) Any advance payment under this Agreement is subject to Section 216.181(16), Fla. Stat., 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 (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 Attachment E. Attachment E will specify the amount of advance payment needed and provide an explanation of the necessity for and proposed use of these funds.

1. \_\_\_\_\_ 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.

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 Chief Financial Officer or the Office of Management and Budgeting, all obligations on the part of the Division to make any further payment of funds hereunder shall terminate, and the Recipient shall submit its closeout report within thirty (30) days of receipt of notice from the Department.

(18) REPAYMENTS

All refunds or repayments to be made to the Division 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 Section 215.34(2), Fla. Stat., if a check or other draft is returned to the Division for collection, Recipient shall pay to the Division an additional service fee of Fifteen Dollars (\$15.00) or Five Percent (5%) of the face amount of the returned check or draft, whichever is greater.

(19) VENDOR PAYMENTS.

Pursuant to Section 215.422, Fla. Stat., the Division 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 Division 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) 413-5516.

(20) STANDARD 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 subsequent submission or response to Division 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 Division and with thirty (30) 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 lie in the Circuit Court of 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) Any power of approval or disapproval granted to the Division 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 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.

(g) 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.

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

(k) The Division 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.

(l) 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 Department'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 Department.

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

(21) STATE LOBBYING PROHIBITION. No funds or other resources received from the Division 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.

(22) 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 Division 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 Division shall then, under Paragraph (b), have the right to all patents and copyrights which accrue during performance of the Agreement.

(23) PROPERTY MANAGEMENT.

(a) Title to equipment acquired by a Recipient with State funds shall vest in the Recipient, subject to conditions of this section. The Recipient must continue the operation, maintenance, repair and administration of any equipment or other personal property purchased under this Agreement in accordance with the purposes for which the funds were originally appropriated and for the period of time expressly specified in the Agreement or, failing to do so, the Recipient must return to the Division the subgrant funds used to purchase the property.

(b) The Recipient shall not use equipment acquired with State funds to provide services to non-State outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Florida statute, for as long as the State retains an interest in the equipment.

(c) The Recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by State funds and shall not encumber the property without approval of the Division. When no longer needed for the original project or program, the Recipient shall use the equipment in connection with its other State-sponsored activities, in the following order of priority: (i) Activities sponsored by the Division, then (ii) activities sponsored by other State agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the Recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by the Division; second preference shall be given to projects or programs sponsored by other State agencies. If the equipment is owned by the State of Florida, use on other activities not sponsored by the State of Florida shall be permissible if authorized by the Division. User charges shall be treated as program income.

(e) When acquiring replacement equipment, the Recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of the Division.

(f) The Recipient's property management standards for equipment acquired with State and State-owned equipment shall include all of the following.

(1) Equipment records shall be maintained accurately and shall include the following information.

(i) A description of the equipment.

(ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment, including the award number.

(iv) Whether title vests in the Recipient or the State of Florida.

(v) Acquisition date (or date received, if the equipment was furnished by the State of Florida) and cost.

(vi) Information from which one can calculate the percentage of State participation in the cost of the equipment (not applicable to equipment furnished by the State of Florida).

(vii) Location and condition of the equipment and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a Recipient compensates the Division for its share.

(2) Equipment owned by the State of Florida shall be identified to indicate State ownership.

(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The Recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the State of Florida, the Recipient shall promptly notify the Division.

(5) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(6) Where the Recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the Recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards. For equipment with a current per unit fair market value of \$5000 or more, the Recipient may retain the equipment for other uses provided that

compensation is made to the Division. The amount of compensation shall be computed by applying the percentage of State participation in the cost of the original project or program to the current fair market value of the equipment. If the Recipient has no need for the equipment, the Recipient shall request disposition instructions from the Division. The Division shall determine whether the equipment can be used to meet the Division's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported to the Department of Management Services by the Division to determine whether a requirement for the equipment exists in other State agencies. The Division shall issue instructions to the Recipient no later than 120 calendar days after the Recipient's request and the following procedures shall govern.

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Recipient's request, the Recipient shall sell the equipment and reimburse the Federal awarding agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Recipient shall be permitted to deduct and retain from the State share \$500 or ten percent of the proceeds, whichever is less, for the Recipient's selling and handling expenses.

(2) If the Recipient is instructed to ship the equipment elsewhere, the Recipient shall be reimbursed by the State of Florida by an amount which is computed by applying the percentage of the Recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the Recipient is instructed to otherwise dispose of the equipment, the Recipient shall be reimbursed by the Division for such costs incurred in its disposition.

(4) The Division may reserve the right to transfer the title to the State of Florida or to a third party named by the State when such third party is otherwise eligible under existing statutes. Such transfer shall be subject to the following standards.

(i) The equipment shall be appropriately identified in the award or otherwise made known to the Recipient in writing.

(ii) The Division shall issue disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory shall list all equipment acquired with grant funds and federally-owned equipment. If the Division fails to issue disposition instructions within the 120 calendar day period, the Recipient shall apply the standards of this section, as appropriate.

(iii) When the Division exercises its right to take title, the equipment shall be subject to the provisions for State-owned equipment.

(24) 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.

(25) ASSURANCES.

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

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

**Recipient: ST. JOHNS COUNTY**

By: \_\_\_\_\_

Name and title: Michael D. Wanchick, County Administrator

Date: December 09, 2008

SAMAS # \_\_\_\_\_ FID# 596000825

**STATE OF FLORIDA  
DIVISION OF EMERGENCY MANAGEMENT**

By: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT – 1**

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

None

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:

NOTE: If the resources awarded to the recipient represent more than one State project, provide the same information shown below for each State project and show total state financial assistance awarded that is subject to Section 215.97, Florida Statutes.

Specific Appropriation 1621X  
CSFA: 52.024  
\$ 45,360

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-19, Florida Administrative Code
7. Funding under this Grant is limited to projects for the installation of window and door protection and other types of structural projects.

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**

<b>Category</b>	<b>Anticipated Expenditure Amount</b>
Salary and Benefits	
Other Personal / Contractual Services	
Administrative Expenses (limited to 5%)	
Expenses	
Operating Capital Outlay	
Fixed Capital Outlay	
<b>Total Expenditures</b>	

**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, 2010.**

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.

<u>School Name/Building Identification</u>	<u>Funds Provided</u>
Durbin Creek Elementary School, Bldg 2	\$45,360.00
<b>Total</b>	<b>\$45,360.00</b>

**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 2007 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 \$45,360.00 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. **During the 1st Reporting Quarter**--The Recipient shall provide to the Department a description of shutter/window protection system selected.
4. **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 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 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. **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. **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. **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. Section 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-19, Florida Administrative Code

**Attachment C**

**JUSTIFICATION OF ADVANCE PAYMENT**

**RECIPIENT:**

Indicate by checking one of the boxes below, if you are requesting an advance. If an advance payment is requested, budget data on which the request is based must be submitted. Any advance payment under this Agreement is subject to s. 216.181(16)(a)(b), Florida Statutes. The amount which may be advanced shall not exceed the expected cash needs of the recipient within the initial three months.

**NO ADVANCE REQUESTED**

No advance payment is requested. Payment will be solely on a reimbursement basis. No additional information is required.

**ADVANCE REQUESTED**

Advance payment of \$ \_\_\_\_\_ is requested. Balance of payments will be made on a reimbursement basis. These funds are needed to pay staff, award benefits to clients, duplicate forms and purchase start-up supplies and equipment. We would not be able to operate the program without this

**ADVANCE REQUEST WORKSHEET**

If you are requesting an advance, complete the following worksheet

	DESCRIPTION	(A) FFY 2006	(B) FFY 2007	(C) FFY 2008	(D) Total
1	INITIAL CONTRACT ALLOCATION				
2	FIRST THREE MONTHS CONTRACT EXPENDITURES <sup>1</sup>				
3	AVERAGE PERCENT EXPENDED IN FIRST THREE MONTHS (Divide line 2 by line 1.)				

<sup>1</sup> First three months expenditures need only be provided for the years in which you requested an advance. If you do not have this information, call your consultant and they will assist you.

**MAXIMUM ADVANCE ALLOWED CALCULATION:**

$$\text{Cell D3} \times \$ \text{DCA Award (Do not include any match)} = \text{MAXIMUM ADVANCE}$$

**REQUEST FOR WAIVER OF CALCULATED MAXIMUM**

- Recipient has no previous DCA contract history. Complete Estimated Expenses chart and Explanation of Circumstances below.
- Recipient has exceptional circumstances that require an advance greater than the Maximum Advance calculated above. Complete estimated expenses chart and Explanation of Circumstances below. Attach additional pages if needed.

**ESTIMATED EXPENSES**

<b>BUDGET CATEGORY</b>	<b>2008-2009 Anticipated Expenditures for First Three Months of Contract</b>
<b>ADMINISTRATIVE COSTS (Include Secondary Administration.)</b>	
<b>PROGRAM EXPENSES</b>	
<b>TOTAL EXPENSES</b>	

*Explanation of Circumstances:*

## Attachment D

### 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 project or program
- (2) Records that identify adequately the source and application of funds for all activities. These records shall contain information pertaining to grant 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 expenditures with budget amounts for each Request For Payment. Whenever appropriate, financial information should be related to performance and unit cost data.
- (5) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable cost principles and the terms and conditions of this grant.
- (6) 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 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 public grant 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 subcontracts. 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.

#### 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.