BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: August 18, 2004 Division: Public Safety

Bulk Item: Yes X No ___ Department: Emergency Management

AGENDA ITEM WORDING:
Approval of a Federally Funded Subgrant Agreement with Florida Department of Community Affairs for the revision of the County's Local Mitigation Strategy (LMS) document. The County further waives the Policy Requirement for Monroe County venue and consents to venue being in Leon County.

ITEM BACKGROUND:
Monroe County shall prepare and submit a revised Local Mitigation Strategy (LMS) document that is in compliance with the local hazard mitigation requirements of the Disaster Mitigation Act of 2000, thereby ensuring continuing eligibility to receive hazard mitigation funding.

PREVIOUS REVELANT BOCC ACTION: Not applicable

CONTRACT/AGREEMENT CHANGES: This is a new contract.

STAFF RECOMMENDATIONS: Approval

TOTAL PROJECT COST: $26,667.00 **BUDGETED:** Yes ___ No X_
FEDERAL MATCH: $20,000.00 General Revenue
LOCAL MATCH: $6,667.00 **SOURCE OF FUNDS:** Fund Reserves-Ad Valorem

REVENUE PRODUCING: Yes ___ No X **AMOUNT PER MONTH**___ **Year** ___

APPROVED BY: County Atty YES OMB/Purchasing YES Risk Management YES

DEPARTMENT DIRECTOR APPROVAL: W A Wagner Jr.
William A. Wagner, Jr.

DIVISION DIRECTOR APPROVAL: 8/2/2004
James R. "Reggie" Paros

DOCUMENTATION: Included X To Follow___ Not Required___

DISPOSITION:_____ **AGENDA ITEM #** C18

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: Florida DCA

Contract #04HS- L+-11-54-01-

Effective Date: July1, 2002

Expiration Date: May 19, 2005

Contract Purpose/Description:

This Department of Community Affairs Grant is provided to revise the Monroe County Local Mitigation Strategy Plan to meet the current FEMA requirements for a Multi-Hazard Mitigation Plan as required by the Disaster Mitigation Act of 2002 (sec. 322) and federal regualtion (Interim Final Rule, 44CFR, Part 201).

Contract Manager: Jerald L. O'Cathey (Name) 6012 (Ext.) Stop #14 (Department/Stop #)

for BOCC meeting on August 18 & 19, 2004 Agenda Deadline: August 3, 2004

CONTRACT COSTS

Total Dollar Value of Contract: $ 26,667.00 Current Year Portion: $ 26,667.00

Budgeted? Yes ☐ No ☒ Account Codes: 125-13509-530490-9E0404-X00004

Grant: $ 20,000.00

County Match: $ 6,667.00

ADDITIONAL COSTS

Estimated Ongoing Costs: $____/yr For:

(Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	7/29/04	Yes ☐ No ☒	[signature]	7/30/04
Risk Management	7-12-04	Yes ☐ No ☒	[signature]	7-12-04
O.M.B./Purchasing	7/15/04	Yes ☐ No ☒	[signature]	7/20/04
County Attorney	7/22/04	Yes ☐ No ☒	[signature]	7/27/04

Comments: Approval by BOCC requires waiver of County Policy that venue be in Monroe County.

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

" Dedicated to making Florida a better place to call home"

JEB BUSH
Governor

Thaddeus L. Cohen, AIA
Secretary

June 11, 2004

Mr. Jerald O'Cathey
Emergency Management Administrator
Monroe County
490 63 Street, Ocean, Suite #150
Marathon, Florida 33050

Re: FEMA Project Number 1345-17rr
Local Mitigation Strategy

Dear Mr. O'Cathey:

The Department of Community Affairs (DCA) is pleased to inform you that the Federal Emergency Management Agency has approved the obligation of Hazard Mitigation Grant Program funds for the project number(s) listed above. Please note that this is an eligible cost-reimbursement contract, and as such, the subgrantee must make other funding arrangements to complete this project. However, the subgrantee may submit periodic requests for payment throughout the project process, consistent with the terms of the contract.

Enclosed are four copies of the proposed contract between Monroe County and DCA. The official representative, as listed below, will need to sign both the signature page (Page 20) and the Lobbying Agreement (Attachment C-1). All four (4) copies of the contract should then be sent to DCA for full execution no later than ninety (90) days after receipt of this letter for final execution. One fully executed contract will be returned to Monroe County for its files.

Official Representatives:

County:	Chairman of the Board of Commissioners
City:	Mayor
Indian Tribe:	Chief or President
Water Management District:	Chairman
Non-Profit:	Chairman of the Board

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Internet address: http://www.dca.state.fl.us

CRITICAL STATE CONCERN FIELD OFFICE
2796 Overseas Highway, Suite 212
Marathon, FL 33050-2227
(305) 289-2402

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-2356

EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7956

Mr. Jerald O'Cathey
June 8, 2004
Page Two

If there is an official that is not listed above who is authorized to sign the contracts for your organization, please provide a copy of the organization's resolution or charter that specifically identifies the person or position that is authorized to sign.

If you have questions regarding this contract or who is authorized to sign it, please call Miles Anderson at 922-4442.

Respectfully,

Frank Kostuk for

W. Craig Fugate, Director
Division of Emergency Management

WCF:mah

Enclosures

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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June 11, 2004

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2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7956

Contract Number: 04HS-L+-11-54-01-

CFDA Number: 97.039

FEDERALLY 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 **Monroe County,** (hereinafter referred to as the "Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS:

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 Department has received these funds from the United States of America, and has the authority to sub-grant these funds to the Recipient upon the terms and conditions hereinafter set forth; and

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

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

(1) SCOPE OF WORK.

The Recipient shall fully perform the obligations in accordance with the Payment Information, Attachment A of this Agreement, and the Scope of Work and Schedule of Payments, Attachment B 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.

(3) PERIOD OF AGREEMENT.

This Agreement shall cover the period from July 1, 2002, to May 19, 2005, unless terminated prior to the ending date 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 that 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 Scope of Work and Schedule of Payments - Attachment B - and all 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) If all required reports and copies are not sent to the Department or are not completed in a manner acceptable to the Department, the Department may withhold payment 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 Payment Information (Attachment A) and the Scope of Work and Schedule of Payments (Attachment B).

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

(7) MONITORING.

The Recipient shall constantly monitor its performance under this Agreement to ensure that time schedules are being met 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 Attachments A and B 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, Florida Statutes (see paragraph 12, "AUDIT REQUIREMENTS"), 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 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 there under;

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 Attachment A (Payment Information) and Attachment B (Scope of Work and Schedule of Payments) attached hereto.

(b) Upon the happening of an Event of Default, 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 that 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 that 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:

Mr. Miles Anderson, Planning Manager
Division of Emergency Management
Bureau of Recovery and Mitigation
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

Mr. Jerald O'Cathey
Emergency Management Administrator
Monroe County
490 63rd Street, Ocean, Suite #150,
Marathon, Florida 33050
Telephone: (305) 289-6012
Fax: (305) 289-6333

(b) In the event that a different contact person, address or telephone number is designated by the Recipient after execution of this Agreement, notice to the Department is required within 30 days and shall include the new contact's name, address, telephone number and E-mail address.

(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.

(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 State or local government or a non-profit organization as defined in OMB Circular A-133, as revised, and in the event that the Recipient expends $500,000 or more in Federal awards in its fiscal year, the Recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Attachment F to this Agreement indicates Federal resources awarded through the Department by this Agreement. In determining the Federal awards expended in its fiscal year, the Recipient shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the Recipient

conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this paragraph.

In connection with the audit requirements addressed in Paragraph 12 (d) above, the Recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

If the Recipient expends less than $500,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the Recipient expends less than $500,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the audit must be paid from non-Federal resources (i.e., the cost of such audit must be paid from Recipient resources obtained from other than Federal entities).

(e) Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by subparagraph (d) above shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, 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 Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320(d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

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

(f) Pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any management letter issued by the auditor, to the Department 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

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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.
audit report shall include all management letters and the Recipient's response to all findings, including corrective actions to be taken.

(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 or 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.

(b) This Agreement has the following attachments:

Attachment A – Payment Information
Attachment B - Scope of Work and Schedule of Payments
Attachment C - Request for Payment
Attachment D - In Kind Service Labor Summary Record
Attachment E - FEMA/State Score Sheet and Crosswalk
Attachment F – Funding Sources

(16) FUNDING/CONSIDERATION.

This is a fixed fee agreement. As consideration for performance of work rendered under this Agreement, the Department agrees to pay a fixed fee of up to $20,000. Payment will be made in accordance with the provisions of Attachment A (Payment Information). An invoice shall be submitted with each deliverable which is in detail sufficient for a proper pre-audit and post-audit thereof.

(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) 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.

(c) 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.

(d) 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)LOBBYING PROHIBITION.

(a) 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.

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

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

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

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

(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 that 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 that 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:

_____ _____
Signature Date

_____
Typed Name of Signatory and Title

FEID# _____

STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS

_____ _____
Signature Date

W. Craig Fugate, Director, Division of Emergency Management
Typed Name of Signatory and Title

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 7/27/04

Attachment A

PAYMENT INFORMATION

A. Upon execution of this Agreement, and submission of the deliverables after the start date of this agreement, the Recipient shall be compensated for tasks completed in accordance with the Scope of Work and Schedule of Payments, which are incorporated in this Agreement as Attachment B, except as provided herein.

B. The payment process shall be initiated by the Department upon receipt of an acceptable Request for Payment form (Attachment C) accompanied by the appropriate deliverable as defined in attachment B. The Department will release the payment for each deliverable only upon a determination that the work product is complete and acceptable. The Recipient's authorized official shall sign the Request for Payment (Attachment C). No request will be processed until the Request for Payment is correct and supported by the product that meets the requirements of this Agreement.

C. If the Department finds that the Recipient is not in compliance with the terms of this Agreement, or is not in compliance with any other grant program administered by the Department, then without waiving its right to terminate this Agreement, the Department may, with written notice, withhold payment until the Recipient is in compliance with and is performing satisfactorily under this Agreement or the applicable requirement of any other grant program administered by the Department. The notice will be sent by Certified Mail, with return receipt requested, to the designated contact person. Noncompliance under this section includes, but is not limited to, the Recipient's failure to submit timely, accurate and complete products required under this Agreement.

D. Funding Requirements: 75% federal funds; 25% local match (local match may be cash or in-kind services in accordance with 44 CFR 13.24or any combination of the two).

E. This is a fixed-fee contract. The Department will pay the federal share agreed to for each deliverable upon receipt of that deliverable and a finding by the Department that the deliverable meets the criteria referred to above. Each invoice for payment must be accompanied by the deliverable and documentation of the local match. For cash match, acceptable documentation will be a copy of the journal entry or a cancelled check. For in-kind match acceptable documentation will be a completed copy of the Florida Division of Emergency Management In-Kind Service Labor Summary Record (Attachment D) The final deliverable shall be an updated, revised and compiled LMS document. Recipient shall provide 3 copies of each deliverable in both hard copy and electronic format.

Attachment B

Scope of Work and Schedule of Payments

Purpose

The Recipient shall submit a revised Local Mitigation Strategy (LMS) document for **Monroe County, Florida,** (hereafter referred to as the "Plan") that is in compliance with the local hazard mitigation requirements of Section 322 of the Disaster Mitigation Act of 2000 (DMA2K) as implemented in the Interim Final Rule (44CFR, Part 201).

First-Deliverable

Timeframe: Due by July 31, 2004.

Estimated Cost: **$ 6,667.00**
Federal Share: **$ 5,000.00**
Local Match: **$ 1,667.00**

By the due date, the Recipient shall provide the Department with the First Contract Period Deliverable consisting of:

1. Documentation that the public is being given an opportunity to comment on the plan.

2. Documentation that neighboring communities, local and regional agencies involved in hazard mitigation activities, agencies that have the authority to regulate development, businesses, academia and other private and non-profit interests are being invited and encouraged to actively participate in the planning process.

3. Documentation, where appropriate, that existing plans, studies, reports, and technical information were or are being reviewed and are being incorporated into the plan. This documentation must include FMA and CRS plans, if applicable

4. A description of the planning process that is being used to develop the plan, including how it is being prepared, who is involved in the process, and how the public is involved.

Second Deliverable

Timeframe: Due by October 31, 2004

Estimated Cost: **$ 6,667.00**
Federal Share: **$ 5,000.00**
Local Match: **$ 1,667.00**

By the due date, the Recipient shall provide the Department with the Second Contract Period Deliverable consisting of:

1. A description of the type of all natural hazards that can affect the jurisdiction. At a minimum the Plan must address the following hazards: Earthquakes; Tsunamis; Coastal and Riverine Erosion; Landslides/Sinkholes; Hurricanes and Coastal Storms; Severe Storms/Tornadoes; Floods; Wildfires; Dam/Levee Failure; Drought/Heat Wave; and Winter Storms/Freezes. The description must document how any additional hazards were identified. If any of the above hazards are excluded, the Plan must document why they were excluded from the jurisdiction's hazard analysis.

2. A description of the location and extent of each identified hazard that can affect the jurisdiction. The plan shall include information on previous occurrences of hazard events and on the probability of future hazard events for each identified hazard. When appropriate, the hazard analysis should also identify on a map the areas affected by each identified hazard.

3. A description of the jurisdiction's vulnerability to each identified hazard. The description shall include an overall summary of each identified hazard and its impact on the community.

4. A description of vulnerability in terms of the types and numbers of existing buildings, infrastructure, and critical facilities located in each identified hazard area. A rationale for designating a facility as critical shall be included in this section. In the first update of the plan the vulnerability description should also include a discussion of future buildings infrastructure and critical facilities, and the potential human and economic impact that each identified hazard would have on the jurisdiction.

5. A description of vulnerability in terms of an estimate for each identified hazard of the potential dollar losses to vulnerable structures identified and a description of the methodology used to prepare the estimates.

6. A general description of land uses and development trends within the jurisdiction so that mitigation options can be considered in future land use decisions.

7. An assessment of each jurisdiction's risks where they vary from the risks facing the entire planning area for each identified hazard.

Third Deliverable

Timeframe: Due by December 31, 2004

Estimated Cost: **$ 6,667.00**
Federal Share: **$ 5,000.00**
Local Match: **$ 1,667.00**

By the due date, the Recipient shall provide the Department with the Third Contract Period Deliverable consisting of:

1. A mitigation strategy that provides the jurisdiction's blueprint for reducing the potential losses identified in the risk assessment based on existing authorities, policies, programs and resources, and its ability to expand on and improve these existing tools. The Mitigation Strategy shall address FEMA's Floodplain Map Modernization Program and Repetitive Loss Initiative including: prioritization of mitigation measures towards repetitive loss properties; fulfillment of CRS planning requirements, and FEMA's on-going field and database verification projects for repetitive loss properties.

2. A description of mitigation goals to reduce or avoid long-term vulnerabilities to the identified hazards.

3. A plan section that identifies, evaluates, and analyzes a comprehensive range of specific mitigation actions and projects being considered to reduce the effects of each hazard identified, with particular emphasis on new and existing buildings and infrastructure.

4. An action plan describing how the actions identified will be prioritized, implemented, and administered by the local jurisdiction. This Section shall include the implementation timeline; the funding sources or other resources that will be used to implement the strategy, when possible; and the agency or personnel responsible for carrying out these actions. For FEMA program funding these mitigation measures must be cost effective, environmentally sound and technically feasible. The local jurisdiction and the State must prioritize the measures based on these criteria.

5. Individual action items for each jurisdiction requesting FEMA approval of or credit for the plan. For FEMA program funding these mitigation measures must be cost effective, environmentally sound and technically feasible. The local jurisdiction and the State must prioritize the measures based on these criteria.

6. A plan section describing the method and schedule of monitoring, evaluating and updating the mitigation plan within a five-year cycle.

7. A description of the process by which local jurisdictions incorporate the requirements of the mitigation plan into other planning mechanisms such as comprehensive or capital improvement plans, when appropriate.

8. A discussion on how the community will continue public participation in the ongoing mitigation planning process.

Fourth Deliverable

Timeframe: Due by February 28, 2005

Estimated Cost: **$ 6,666.00**
Federal Share: **$ 5,000.00**
Local Match: **$ 1,666.00**

By the due date, the Recipient shall provide the Department with the Fourth Contract Period Deliverable consisting of:

1. Documentation that at a minimum one public meeting after the completion of the draft and prior to the plan's approval were conducted to solicit formal comments on the plan. In addition the Plan must document the community's efforts to solicit comments from those residents who did not attend the public meetings.

2: The final revised Local Mitigation Strategy (LMS) ready for submission to FEMA for review and approval that fulfills all the requirements for local hazard mitigation plans. A FEMA/State Score Sheet and Crosswalk (Attachment E) with the page numbers of the appropriate sections of the LMS filled in next to each criterion must accompany the LMS.

Please note that the Interim Final Rule requirement for formal adoption by each participating jurisdiction set forth below is outside the scope of this contract. LMS Working Groups may want to delay presenting the plan to the jurisdictions for adoption until FEMA approves the substance of the plan.

> 44 CFR 201.6(c)(5)- Multi-jurisdictional Plans shall include a copy of the executed resolution formally adopted by the governing bodies of each of the jurisdictions requesting approval of the plan.

Funding Requirements

75% federal funds; 25% local match (local match may be cash or in-kind services or any combination of the two). Please provide a project cost breakdown and specify how the Recipient intends to meet the local match. It is understood that this local match breakout is for planning purposes only and the actual relationship of cash to in-kind services may vary due to circumstance.

Total Project Cost	**$ 26,667.00**
Federal Share	**$ 20,000.00**
Local Match	**$ 6,667.00**
Cash	**$ 0.00**
In-kind	**$ 6,667.00**

Attachment C

FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF EMERGENCY MANAGEMENT

Request for Payment under the Hazard
Mitigation Grant Program (CFDA #83-548)

SUBGRANTEE NAME: Monroe County

Hazard Mitigation Grant
Program - FY 2002

ADDRESS: 490 63rd Street, Ocean Suite #150

CITY, STATE, ZIP CODE: Marathon, Florida 33050

PAYMENT No:_____

DCA Agreement No: 04HS-L+-11-54-01-

FEMA Tracking Number: 1345-17

Eligible Amount 100%	Obligated FEMA 75%	Obligated Local Match 25%	Previous Payments	Current Request	DCA Use Only	
					Approved	Comments

TOTAL CURRENT REQUEST $

I certify that to the best of my knowledge and belief the above accounts are correct, and that all disbursements were made in accordance with all conditions of the DCA agreement and payment is due and has not been previously requested for these amounts.

SUBGRANTEE SIGNATURE: _____

NAME AND TITLE: _____ DATE: _____

TO BE COMPLETED BY DEPARTMENT OF COMMUNITY AFFAIRS

APPROVED PROJECT TOTAL $

ADMINISTRATIVE COST $ _____

GOVERNOR'S AUTHORIZED REPRESENTATIVE

APPROVED FOR PAYMENT $

DATE