



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Unfinished Business

---

I.1.

12/10/2019

---

### Subject:

Time Certain @ 6:00 P.M. Re: Discussion Re: Sea Ray Drive Bridge over Sykes Creek - District 2

### Fiscal Impact:

The estimated cost of the permanent repair of Sea Ray Bridge is \$2.79 Million while estimated cost of the replacement option is \$4.99 Million. Fiscal Impact will be determined on Board direction.

### Dept/Office:

Public Works Department/Finance and Contracts Administration

### Requested Action:

It is requested the Board of County Commissioners discuss and direct staff on alternatives (repair or replacement) pertaining to the Sea Ray Drive Bridge Over Sykes Creek. It is further requested the Board direct staff to pursue the most favorable funding options and approve Notice to Proceed to the consultant to perform the design build criteria package and any necessary Budget Change Requests associated with this action.

### Summary Explanation and Background:

Between September 10-11, 2017 Hurricane Irma inflicted damage upon Brevard County including scouring of the Sea Ray Bridge over Sykes Creek. The Bridge provides support for critical water and sewer mains between mainland and coastal communities. Given the public health and safety threat that was posed by the compromised structural integrity of the Bridge, the State supported Brevard County's request for U.S. Army Corps of Engineers (USACE) Direct Federal Assistance (DFA) mission to perform temporary repairs to the Bridge to stabilize the critical water and sewer mains which remain, to this day, attached to the bridge.

By letter dated September 27, 2017 (See attached letter), the State requested an Emergency Resolution by the Board of County Commissioners, that upon completion of USACE DFA mission the County would conduct:

- The necessary repairs to restore the Bridge to its pre-disaster function
- The necessary repairs to restore the nearby subaqueous main to its pre-disaster function
- Any additional repairs needed to address damages or deterioration not caused by a disaster

In special session on September 28, 2017, the Board of County Commissioners adopted Emergency Resolution No. 17-191E (See attached Resolution) regarding rehabilitation and restoration work to Sea Ray Drive Bridge over Sykes Creek upon completion of the USACE DFA mission obligating the County to complete a permanent restorative and rehabilitative solution for the bridge. In the months following the storm, the USACE commenced with emergency stabilization work on the Sea Ray Drive Bridge. The DFA mission was completed 323

by the USACE in April 2018 at a cost of approximately \$3 Million dollars. Those costs were borne by the USACE without contribution by Brevard County.

In accordance with the attached Resolution 17-191E, the County commenced with preparations for the preliminary survey, investigation and design work upon completion of the DFA mission as required in the Resolution (4a). The County determined that a Design-Build approach would be utilized for the permanent work. The County successfully entered into the Professional Services Contract with Kisinger Campo and Associates, Corp. (KCA) to prepare the Design Criteria Package. The County issued a task order to KCA to prepare a Feasibility Report which included Alternatives Analysis.

On September 23, 2019, Brevard County received the FEMA Public Assistance Eligibility Determination letter (See attached letter) in which FEMA determined the Bridge work (repair or replacement) is ineligible for Public Assistance funding. The FEMA denial is based on their assessment the damage claimed cannot be demonstrated to be the direct result of the major disaster but was pre-existing.

As such, the County's request for Public Assistance support for \$2,000,000 to repair the bridge, or alternatively \$4,000,000 to replace the Bridge was denied by FEMA. Staff sought and obtained Board Direction regarding appealing the FEMA determination. The appeal has been submitted in a timely manner. Ultimately, the appeal may be rejected in which case FEMA will make no repair reimbursement to the County. At this point, staff recommends proceeding with the Board bearing the full cost of the Bridge work to repair or replace the Sea Ray Drive Bridge. The repairs to the Bridge should be considered separately from any potential FEMA reimbursement. It is FEMA's directive for each applicant to proceed with repairs as if FEMA funding was not available.

In light of the pending need to expedite the Bridge repair, coupled with the County's assurances to the Florida Department of Transportation and the Florida Division of Emergency Management, staff seeks Board Direction choosing which repair alternative to use as outlined below.

#### Alternative 1 - Bridge Repair

- Crutch Bents - Includes new piling and reinforced concrete caps supporting transverse beams to carry the entire Bridge loading
- Shoreline Protection - Includes rubble riprap and filter fabric to restrict erosion of the Bridge abutments and approach roadways
- Other repairs - Include concrete restoration, fence replacement, deck sealing, and joint repair to improve the existing remaining bridge service life

#### Alternative 2A - Bridge Replacement In-Kind Florida Slab Beam

- Entire removal of existing Bridge structure - the 528 bridge has crutch piling repairs which would be removed upon Bridge replacement in the future
- Reconstruction of the Bridge utilizing a developmental design standard and requires Florida Department of Transportation (FDOT) approval
- Keeps the current span arrangement and similar clearances of existing Bridge
- Keeps the current approach roadway transition into the Bridge structure

#### Alternative 2B - Bridge Replacement Florida I-Beam

- Entire removal of existing Bridge structure
- Reconstruction of Bridge in accordance with current design standards
- Match span length and clearances of the adjacent proposed State Road 528 bridges
- Some approach roadway reconstruction to transition the existing roadway profile into the bridge structure

Alternative	Estimated Cost *	Permitting	Construction	Design Life
Repair	\$2,792,046	3 Months	12 Months	21 Years
Replacement (In-Kind)	\$4,990,776	12 Months	18 Months	75 Years
Replacement (Florida I-Beam)	\$4,967,631	12 Months	18 Months	75 Years

\* Note: Utility costs not included

In considering which option to direct staff to pursue, the Board may wish to consider the following items:

- Staff believes repair costs are likely estimated on the low side, there will likely be a higher delta between estimated and actual repair costs. ACOE repairs/bottom armoring may intensify costs of permanent repairs.
- This Bridge repair/replacement is not analogous to other road repairs/reconstruction due to:
  - FDOT recommended the Bridge remain closed for traffic after the temporary repairs were completed due to safety considerations
  - By the Emergency Resolution, the County firmly committed to work expeditiously towards a permanent restorative and rehabilitative solution for the Bridge. Failure to honor our express commitments to FDOT and FDEM may harm the County’s ability to work with these agencies on future projects.
- Bridge replacement could encourage FDOT to more seriously consider raising the parallel portion of State Road 528 bridge and also result in:
  - improved water circulation for the lagoon
  - navigation improvement
- The Bridge repair alternative will further restrict water flow impacting the Lagoon due to addition of crutch pilings that must be added. This will leave flow reduced from existing levels.
- The Bridge repair option doesn’t improve the current life expectancy of the Bridge (21 years) whereas options 2A and 2B extend the bridge life expectancy to 75 years.

To fund the option selected by the Board, staff is requesting that the Board allow staff to seek and utilize the most favorable financing approach available. This approach would be consistent with recent discussions with Citizen Budget Review Committee members who encouraged staff to seek financing alternatives that would allow additional funds to be allocated for repaving, reconstruction or related road infrastructure improvements throughout the County.

Currently, staff has identified approximately \$5.3 Million of Constitutional Gas Tax and LOGT funding in reserve that can be utilized throughout Brevard County for road and bridge infrastructure improvements. If the Board follows the similar allocation of these funds by District as occurred in 2018, approximately \$1.2 Million would be available for the Sea Ray Bridge project with the remaining funds distributed to other Districts. (See attached table).

Since Sea Ray Drive Bridge is within the MIRA redevelopment district and provides an economic benefit to the district; staff is recommending that in partnership with MIRA, 20% of MIRA’s General Fund tax increment funds, up to a maximum of \$275,000 per year, could be reduced by the County annually for up to the next 10 years and utilized to repay the financing undertaken to complete any Sea Ray project the Board directs staff to pursue. This approach is permitted under a 2019 amendment to Florida Statutes, Section 163.387(1)(a)2., which allows the Board to, by Ordinance, determine the amount of funding annually, but not less than 50 percent of the calculated tax increment funding. The Bridge is located within MIRA’s strategic area.

Any additional funds needed to finance the loan amount needed for the Sea Ray Bridge project could be allocated from the general fund with proportionate amounts being allocated from future general fund budgets to provide continued proportionate

---

funding by district for road infrastructure improvements as the Board directs.

Considering the maximum delta of approximately \$2.2 M between repair alternative (1) and replacement alternatives (2A) or (2B) coupled with obtaining up to \$2.75M from MIRA TIF revenues that would be reallocated, would effectively reduce or eliminate County funds required to replace the Bridge beyond those funds required to repair the Bridge. Under Alternative (2A) or (2B) bridge lifespan would be over tripled; flow would be improved in the lagoon; navigation would benefit and FDOT might consider the elevation in designing the nearby section of SR 528 amplifying these benefits in a wider area without expending any countywide taxpayer funds over and above those needed for the repair option which the County is obligated, at a minimum to undertake.

### **Clerk to the Board Instructions:**



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

**April 13, 2020**

**MEMORANDUM**

**TO:** Frank Abbate, County Manager

**RE:** Item I.1., Discussion of the Sea Ray Drive Bridge Over Sykes Creek

**This is to correct memorandum dated December 11, 2019.** The Board of County Commissioners, in regular session on **December 10, 2019,** discussed the alternatives to repair or replace the Sea Ray Drive Bridge Over Sykes Creek; directed staff to pursue the most favorable funding options for Alternative 2B – Bridge Replacement Florida I-Beam, to partner with Merritt Island Redevelopment Agency (MIRA), to include 20 percent of MIRA's General Fund Tax Increment Financing funds up to \$275,000 per year; to take any necessary action to ensure the MIRA operating and administrative expenditures budget would not be impacted by this reduction; **adopted** Exhibit A for distribution of gas tax funds and any additional funding required coming from the General Fund proportionately distributed among districts; granted permission to draft and bring forward any ordinances needed for the changes to MIRA; directed you to pursue discussions with MIRA if it has the ability to add more funds and if MIRA has its board approval to add more funds; approved Notice to Proceed to the consultant to perform the design build criteria package; and authorized for any necessary budget changes. Enclosed is Exhibit A.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*  
Tammy Rowe, Deputy Clerk

/ds

Encl. (1)

**cc:** County Attorney  
Public Works Interim Director  
Contracts Administration  
Finance  
Budget



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

December 11, 2019

MEMORANDUM

TO: Frank Abbate, County Manager

RE: Item I.1., Discussion of the Sea Ray Drive Bridge Over Sykes Creek

The Board of County Commissioners, in regular session on December 10, 2019, discussed the alternatives to repair or replace the Sea Ray Drive Bridge Over Sykes Creek; directed staff to pursue the most favorable funding options for Alternative 2B – Bridge Replacement Florida I-Beam, to partner with Merritt Island Redevelopment Agency (MIRA), to include 20 percent of MIRA's General Fund Tax Increment Financing funds up to \$275,000 per year; to take any necessary action to ensure the MIRA operating and administrative expenditures budget would not be impacted by this reduction; to utilize Exhibit A for distribution of gas tax funds and any additional funding required coming from the General Fund proportionately distributed among districts; granted permission to draft and bring forward any ordinances needed for the changes to MIRA; directed you to pursue discussions with MIRA if it has the ability to add more funds and if MIRA has its board approval to add more funds; approved Notice to Proceed to the consultant to perform the design build criteria package; and authorized for any necessary budget changes. Enclosed is Exhibit A.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*for* *Denna Scott*  
Tammy Rowe, Deputy Clerk

/ds

Encl. (1)

cc: County Attorney  
Public Works Interim Director  
Contracts Administration  
Finance  
Budget

# \$5.3 Million Proposed Allocation

District	Total Paved Roadway Center Miles	Percent of Total	Proportionate Share of \$5.3 Million to be allocated
1	382.59	34%	\$ 1,797,773.76
2	256.44	23%	\$ 1,205,000.40
3	118.24	10%	\$ 555,604.61
4	232.07	21%	\$ 1,090,486.83
5	138.57	12%	\$ 651,134.40
<b>Total</b>	<b>1127.91</b>	<b>100%</b>	<b>\$ 5,300,000.00</b>

**VERBATIM TRANSCRIPT FOR ITEM I.1., SEA RAY DRIVE BRIDGE OVER SYKES CREEK  
DECEMBER 10, 2019 BCC MEETING**

Lober: Okay, we have a whole bunch of cards. I did want, if the Commissioners are okay with it just to have Mr. Abbate introduce the Item, then we'll do, kind of see where folks are at, invite public commentary if they still wish to speak, and then we'll go from there. Is that okay with everyone? All right, Mr. Abbate.

Abbate: Thank you, Commissioner. This Item deals with the Sea Ray Drive Bridge. As you'll recall, during Hurricane Irma we had a problem there with the bridge. One of the important issues that arose at that time was a waterline which provided service on beachside to Patrick Air Force Base, the Port, and other areas, so it's a critically important bridge; and with that waterline attached to it, because of that and other problems we're having with the only other access to water, for beachside, also having been compromised during the storm, we've reached out to the Army Corp of Engineers through FEMA and the State to see if we could get emergency repairs, temporary emergency repairs done to the bridge. The State came back to us and told us that they would be willing to support that initiative under the condition that we come back to the Board and ask the Board to pass an emergency resolution that would assure the State, give them the assurances that they wanted, that we would conduct the permanent repairs that were necessary to that bridge for the long-term. The Board held an emergency session during September of 2017. That resolution was passed, and the Army Corp then moved forward after the State supported that action in making those temporary repairs to the bridge. That included armoring underneath the area of the bridge. We were anticipating at that time that, that would be somewhere in the area of \$500,000 to a million perhaps worth of work to be done. In fact, when the Army Corp went out for a contract on that, the cost was close to \$5 million. Rather than move forward in that way, the Army Corp did that work in house at a cost to the Army Corp of approximately \$3 million. That was not money that was paid by the County that was paid by them; however, what we had at that point was an obligation to move forward with either the repair or the replacement of the bridge in the future, and reasonable foreseeable future, as we committed to the State. In fact, we moved forward with that, we dealt with Florida Department of Transportation who had a number of concerns about, you know, how that would move forward. We did that. We got a consultant onboard, and we came up with three options. Those three options are part of this Agenda request. Those options range anywhere from \$2.79 million to \$4.9 million. The \$2.79 million option is a repair. There are certain, and you'll see that in the Agenda Report in detail, the certain observations that staff has made concerning that repair . . . some of them . . . first we believe that the costs could be substantially higher, even though that's an estimate that we had, it's almost like the same kind of estimate that occurred with the Army Corp when you get there, because of the armor that's been done underneath it and other steps there, it could be significantly higher, so we noted that in the Agenda Report. We also noted that there are certain disadvantages by doing a temporary repair, because the bridge already currently has crutches on that near the pilings, you may have to add that if you do that, that can have a negative impact to navigation. It could also have a negative impact because of the water flow would be further restricted to the Lagoon, and so those are potential problems, not problems, challenges that are brought up, and problems perhaps, with that type of repair. If we move forward with, instead of a repair, replacement of the bridge that would have some positive aspects. Of course, that's a \$4.9 million expenditure, that's what the estimate would be. There's two estimates between \$4.7 and \$4.9 million. We wouldn't have the crutches anymore, there would be an improvement to navigation, you'd also have an improvement to water flow and the Lagoon because the crutches wouldn't be there, and you also have the potential in the longer term that there would be advantages as it relates to FDOT, perhaps at the 528 portion of that. The bridge that's close to ours, the height would be, might be higher of that particular

replaced bridge so that when they replace their section on 528 they very well might be, if that occurs, we can move forward in a way that would encourage them to raise the bridge well, and that would be further help to navigation. Cost, and that's a big part of where we moving forward, in . . . because of, we already had a \$3 million expenditure by the State and Army Corp, that we weren't responsible for, there are certain dollars, and we put it in the Agenda Report, that are available Countywide that we identified. There's about \$5.3 million worth of funding. If we looked at a bridge replacement at a \$4.9 million cost, that's the higher of the two, what we looked at was if the Board chose to redistribute the \$5.3 million that we have identified that were in Reserves and Public Works, and these are available funds that would be available throughout the County, all the piecemeal stuff that we could identify and we brought forward to the Board, if you chose to distribute that allowing you, and we talked about the Citizens Budget Review Committee also suggesting that we try to find additional funding through low-cost interest currently there in financing, that we make more funds available for re-paving, re-construction, and capacity issues. We move forward and put a proposal before you that would allow us to distribute that \$5.3 million based on mileage that you have in your Districts. That's something that the Board chose to do in 2018. That would be the Board's option to do that now. That would provide about \$1.2 million worth of funding for District 2 as it relates to the bridge. In addition to that monies we are looking at something that we've done with a lot of CRAs. As you know we have a lot of interlocal agreements out there now with various CRAs that we looked at infrastructure related improvements. The suggestions we've put forth as one of the ideas here in this Agenda is that MIRA has the ability because of what occurred, and you are the governing body, State statute made a change saying that you can reallocate as long as you leave 50 percent of TIF funding within a CRA, you can allocate a portion of future TIF dollars. You can take that back if in fact you did that and took 20 percent, and we looked at a 20 percent number, which would be up to a maximum of \$275,000, and you did it for a 10-year period, that funding could be used and would cover the difference between a repair of the bridge and replacement of the bridge. We also looked at what other funding might be available if we did this through some kind of financing, and what we've put in the Agenda request is that if additional funds were needed outside of the funds I've already specified, we could look at that through General Fund or other allocations where if the Board gave the direction, we would do it consistent with the proportionate distribution that we, that I've mentioned about having for the additional Districts. I think I've covered most of what is in the Agenda request, but there is some more details in there for anyone who is interested.

Lober: Thank you so much for that thorough job, Mr. Abbate. Ms. Pritchett, Commissioner Pritchett.

Pritchett: Thank you, sir. Let me preface this by saying, Commissioner Lober, you kind of inherited this when you came in. This has been a big topic, a very expensive topic, for a while, so I know this is something we had to put together, because I know you need to get this done; and let me also preface this by saying when I read this, I hear a little bit of you in it, so I have a feeling that, and we're not allowed to break Sunshine Law, but I'm learning how you speak.

Lober: I'm in trouble.

Pritchett: So, it also, due to the fact that MIRAs been introduced in this, I have a feeling you've gotten comfortable with this. So, let me jump into this, I'm comfortable probably with whatever you're going to choose to do. I think just from reading through it, I'm thinking you're going to go with replacement.

Lober: Yes, the less expensive of the two, yes ma'am.

Pritchett: I'm getting to know you a little bit, and I'm good with that because you know, let me tell you, three years when we got on this Commission and we had the roads fund laid out, and Commissioner Isnardi brought up that she needed a little extra funds at the time, so we shifted around some numbers so she could get a very important project done in her District, and then we've evened out; and what you've done in here is you've done the same thing. You're going to have a little bit more upload but you're going to end up getting it all back equitably to the rest of the Districts. And so for you to do this, I know it has to be an important project, so I'm going to support what you choose to do on this, Sir. You've found the funding for it, and you're making all of the necessary sacrifices to get done what you need to get done for your District.

Lober: I appreciate that, and before we get to public comment, there are three that I'm fairly confident that will speak, as I anticipate they will. There's one who make speak against it, I'm not sure, but I certainly would invite public comment in a moment, but before I do that, I just do want to . . . Commissioner Tobia.

Tobia: Thank you, Mr. Chair.

Lober: Sure.

Tobia: And this may help with some of the comment, as you know these folks are potentially counting votes. I want to thank you for the creative ways that you looked to solve this problem, because many times, myself included, we bring issues up here, but we lack solutions; and here you've brought a funding model forward for an issue that centers in your District but certainly has other folks that use that bridge that don't exclusively live in your District. So, you took the brunt of this and I greatly appreciate you making that sacrifice. So initially I looked at this skeptically in all honesty, but I could not have found a more equitable way to do this, and I greatly appreciate it. I will be strongly supporting this.

Lober: Thank you, sir, and just making sure there are no more lights here before I continue. So, just to kind of jump on with respect to this, and I'm not going to talk too much because Mr. Abbate did a stellar job, better than I could in terms of presenting this Item. There was a lot of work that was done on the staff side to basically turn over every rock. I did a lot of work trying to turn over rocks, that . . . or even things that looked like rocks to figure out what we could try to do to fund this. I met with EDT to see if there was any federal options in terms of grants. I reached out to the Port, spoke with them. I spoke with MIRA staff. There were a lot of rocks that were kicked over, over a long period of time. Looking at this and looking again both at the impact on the Lagoon, the impact on navigability, and the slim but potential that FDOT may consider the height of the bridge in designing 528, which is on a hold at the moment, that coupled with the life span increase on this going from a design life of 21 years to repair it where we would leave the Lagoon worse off and leave navigability no better off, to going to over three times, almost four times the life span even for the less expensive of the two replacements, it just strikes me that looking at the costs it's a no-brainer. Obviously to say it's a no-brainer is easy enough, but to figure out how to pay for it is a little tougher. MIRA, in my individual discussions with the folks that are on the board, I see Ms. Ellis is here from MIRA as is Larry Lallo the Executive Director, they were very understanding. I can tell you that when I broached the topic some of the concerns that I heard from MIRA from the various individuals that I had spoken with were, well, if we're paying just to repair it, we're not really keeping with the function of the purpose of MIRA to improve the District. We'd actually be leaving it worse off than we found it, and in the sense that we would harm flow and we'd harm navigability, that's certainly true. I think that this is something that really benefits everyone in the area. I certainly am happy to

hear from the folks, and if you're here to speak in support of it, you can certainly take your full three minutes, and if you don't want to, seeing as it seems fairly clear here, you know, no one's going to hold you to it; but I really appreciate the work that staff's put in on this. And I think, I don't want to take more credit than is owed, but I've done everything that I could to try to find a way to make this work, and I appreciate the recognition that this is really a good option for everyone. So with that I'll go ahead and call public comment. If you want to come up, you're welcome to. If you want to waive your time, you're welcome to do that as well, but I'm not by any means suggesting that's what you do. Larry Rockliff from Merritt Island. I'll just save you . . . unless I neglect to mention your name or your city, if you just start up, you can get the full three minutes.

Rockliff: Larry Rockliff, 3255 Spartina Avenue, Merritt Island. I put my name down, in fact to support, to support the issue at hand, but I think that I'll keep it very short simply to say that as a resident north of the Barge Canal, my wife and I happen to be one of probably the minority who are very much in favor of progress versus keeping the status quo on that side. This issue of the Sykes Creek Bridge or Sea Ray Drive Bridge has now been over two years, and I think that which staff has done, which, the work forward to try and get it repaired all sounds extremely positive. My position on it would be that although it's an inconvenience, it's not an insurmountable inconvenience, but that after two years of stagnation something has to be done either to have it closed permanently or put back into a condition where it can become a functional artery. Having said that, the Port is growing, the Space Center is growing, Cape Canaveral is growing, so any access to and from the north part of Merritt Island is going to be a plus. And so to that end, I would encourage you to vote in favor of progressing with the permanent fix so that this can be an additional artery to support also 528. Thank you.

Lober: Thank you, Sir. All right, next up we have Wayne Stratford from Melbourne. Welcome, Sir.

Stratford: Good evening, Commissioners, my name is Wayne Stratford, live at 593 Spring Lake Drive, in Melbourne. First of all, I'm very encouraged to hear that you're considering the replacement option. I think that's outstanding. Although I live locally in Suntree, I am a customer of Harbortown Marina. I keep a boat there and I have for the last 21 years. Over the course of that time, it's given me the opportunity to see unfortunately the economic impact that closure of Sea Ray Drive has had on the local businesses, Harbortown Marina, Sea Ray Yachts, Merritt Island Boat Works, Ocean Alexander, the cruise parking, so the focus of my message tonight is, please accelerate to the greatest extent that you can, the full replacement of this Bridge. It's important that we get that moving, because as the previous speaker said, it has been dormant for two years. We do need to move on. In addition to the adverse effect on economic viability of those businesses, there's also the safety aspect. We have emergency vehicles that need to get to those businesses, police, fire, ambulances, and they can easily be stymied if they are not familiar with that Bridge being closed, if they inadvertently approach it from the wrong end. We also have a large homeless population. I think one thing that everyone can agree on is that as a country we need to humanely address the homeless population. Unfortunately, this homeless camp, which resides between the closed Bridge and Harbortown Marina where the road is closed, that population is encouraged to increase because it gets no traffic down there. So, we need to keep that in mind as we move forward. I think we need to open that road back up again. I'm painfully aware of funding restrictions and budget realities, but I think, I applaud your efforts in finding a way to replace this Bridge. I agree that the temporary fix is not appropriate and it be more detrimental in the long run. And so finally I'll close by saying, you know, this is a piece of key infrastructure in our County and I would

encourage you to accelerate the replacement of this Bridge and let that be your legacy here for this Commission. Okay. So, thank you.

Lober: Thank you so much, Sir. All right, next up we have Jan Chnupa. Thank you for giving me the phonetic on here as well. And you're from Merritt Island.

Chnupa: Yes. 4325 Randon Lane, Merritt Island. And, I just, my husband and I moved here about a year and a half ago, we always worked in the area, and I just love it here. I love all the waterways, it's a very beautiful area to live, and I love where I live; and, I really thank you for all of the work that you've put into it and look forward to what comes ahead with it. And thank you, I really appreciate it.

Lober: Thank you so much, Ma'am. All right, looks like last but not least, Wendy Ellis. Thank you so much for coming.

Ellis: Thank you Mr. Chairman, Commissioners. I'm Wendy Ellis, I'm with the Merritt Island Redevelopment Agency, 3400 South Tropical Trail, Merritt Island, Florida. This is a project that needs to be done. This project is in our redevelopment area, it is not in our redevelopment plan because this occurred after our plan was formed. We, this will be a very good economic development project for the businesses on Sea Ray Drive, for the Port land on Sea Ray Drive, and I'm very much in support of the project. We want to thank Commissioner Lober for, you know, finding a creative solution to work this thing out, and we want to be good partners with the County and we just appreciate your support. So, thank you very much.

Lober: Thank you so much, Wendy. All right, I don't have any further cards on that. Just a few comments with respect to that before we get a motion, because there are a couple of things that I would ask that whoever makes the motion contemplate including in there. First off, as far as the amount, and I'm just . . . let me call your attention to 325 in the packet, roughly three-quarters or four-fifths of the way down where it starts out, since Sea Ray Drive Bridge is within the MIRA redevelopment district. It talks about withholding up to \$200 . . . I'm sorry, up to \$275,000 per year, or 20 percent of MIRA's General Fund Tax Increment. That, I have no problem with that by any means, I think that's a reasonable number but I, I would ask a couple, a couple considerations with that, that if MIRA's board requests to pay more than that, and I don't know that that will ever happen, either to pay it off earlier, that we permit staff to withhold more if their board is okay with that.

Pritchett: 20 percent.

Lober: Right, so 20 percent, or with their boards approval more up to 275 or with MIRA's board's approval more. The other thing that I do want to call your attention to, because this is something that instantaneously may become a problem if we don't address it on the front-end, is the administrative costs for MIRA are based on a percentage of what they bring in TIF, and I don't want to put them in a position where they have, they basically are punished for doing the right thing in working with us to the extent that they can with this. So, I would ask that we allow staff to withhold a greater amount than the 275. Also, we could say and/or in addition to what we just mentioned, if MIRA requests it so that we can give them back the difference that would bring them level to where they are for administrative costs. Now, I'm not looking to give them more than what they are bringing in currently for admin costs, but I am looking at making sure that we don't hurt them and punish them for doing the right thing. So, if for instance, the lower TIF that they get isn't sufficient and it won't necessarily be sufficient to cover the three employees who are on staff in MIRA, if they ask us, their board asks us, to withhold something

more than the 275 for the purpose of returning some of that, or paying directly the staff costs, I'd like to do that so that we don't hurt them. So, those are the two considerations. Other than that, I just want to call the Board's attention to the fact that I probably will at some point, if any of the local businesses requests me to do it, I probably will bring some item in front of us on signage to basically waive some of the Code rules for folks that don't have the ability to advertise, because the area where they advertise is inaccessible at present. So, that's something for the future, but I just wanted to put that out there for now. It is not anything that I want to throw in to jumble up today, but just to give you all the heads up. Mr. Abbate.

Abbate: Two additional items. If you could also include one, the issue about the distribution of the funds, get the board's approval, because that wasn't necessarily in the requested action. There is an attachment that shows how it would be distributed, and then we'd work with each District on how you, how you would allocate those funds; and then finally, the, we need you to tell us which of the Alternatives, I would assume it is either Alternative 2A or 2B, Commissioner that you were going to ask for.

Lober: My preference is the lower of the two replacement costs, so the Florida I-Beam which is at just over \$4.9 million. That's what my preference would be. It's the cheaper of the two, and frankly, even if they were the same cost I would still prefer it. Commissioner Pritchett.

Pritchett: Yes, I'd like to make a motion, and I'm going to need you to help me, County Manager, that we go ahead and move forward with the Florida I-Beam . . .

Lober: Yes, Ma'am.

Pritchett: . . . Option, and that we go ahead and include the 20 percent withholding from MIRA, and if MIRA has a voted board approval to add more funds, they'll have that ability to do so also; and, Mr. Abbate, I, you're going to have to help me and I'm on this one page, I think 342, you're going to have to tell me how you're doing the funding? We talked about it yesterday.

Abbate: We would be, we'd ask the Board to adopt Attachment A to distribute, to distribute the funding, and then also at the end of the Agenda it references that if the Board approves, and I'd be asking for that approval, that if we needed the additional funding, if it came from the General Fund in the future that we would do it in a proportionate distribution.

Pritchett: That's my motion.

Lober: I apologize. I know the Clerks are certainly going to have their hand full typing this one up for the minutes. Ms. Bentley, do you think we need to do anything else?

Bentley: May we also get permission to, or authorization to draft ordinances and bring forward as necessary regarding the changes to MIRA?

Pritchett: Can we . . . oh yes, for that purpose.

Bentley: Thank you.

Pritchett: Okay.

Lober: All right. I'll happily second it. This is one of those speak now or forever hold your peace moments. Anything else?

Isnardi: Does the Clerk need clarity? Anymore clarity? Okay.

Pritchett: We can make Frank say it again.

Isnardi: They are okay.

Pritchett: Okay.

Lober: And if there's anything that needs to come back, obviously, I think this is kind of the big lift, and.

Pritchett: We're recorded.

Abbate: And to expedite this, if you authorize us to move forward with the notice to proceed and any budget changes that we would need.

Pritchett: I make a motion in that, that we would go ahead and allow them to proceed and any budget changes.

Lober: How about if we just, is it all right if we include that with your existing motion?

Pritchett: Yes.

Lober: All right. Are we good? Thank you. Okay, and then I'll maintain the second on that very, very happily. Anything further? No. All right, seeing no further discussion all in favor, please say Aye.

Pritchett, Lober, Tobia, Smith, Isnardi: Aye.

Lober: Any opposed? It passes unanimously. I'm thrilled to see that. Thank you guys so much for coming out, who came to speak on this. Congratulations.

**WATERLINE TO SOUTH PATRICK COMPROMISED DURING HURRICANE IRMA SYKES  
CREEK BRIDGE**

**LOBER:**

Withholding up to \$275,000 per year, or 20 percent of MIRA's General Fund tax increment. If MIRA asks to pay that off earlier we permit staff to withhold more if their board is okay with that, so 20% with their board's approval. Up to \$275,000 or with MIRA board approval more

Allow staff to withhold the great amount of \$275,000 , and/or in addition to what was just mentioned

3 MIRA staffers

Abbate:

Distribution of funds and work with each District on how to allocate those funds

Tell which alternative, he assumes 2A or 2B

Lober:

Preference I-Beam just over \$4.9 million

Pritchett:

Motion - move with Florida I-Beam option, include the 20% withholding from MIRA, and if MIRA has its board approval to add more funds they will have that ability to do also,

Abbate:

Adopt attachment A to distribute the funds and also at the end of the Agenda, it references that if the Board approves, that additional funding comes from the General Fund in future and done in a proportionate distribution

Pritchett:

That's my Motion

Bentley:

Get permission to draft ordinances and bring forward as necessary, regarding the changes to **MIRA.**

Pritchett:

Yes

Lober:

Seconded

Abbate:

And to expedite this if we move forward with a notice to proceed and any budget changes needed

Pritchett:

Motion on that, that we go ahead and allow them to proceed in budget changes

Lober:

Is it alright to include that with your existing Motion?

Pritchett:

Yes

Lober:

Maintains the second

Passes unanimously.



## **FloridaDisaster**

Florida Division of Emergency Management

September 27, 2017

To: Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

Re: Sea Ray Drive Bridge Over Sykes Creek

Dear Commissioners:

At 9:10 a.m. on September 10, 2017, Hurricane Irma made landfall near Cudjoe Key as a Category 4 Hurricane with maximum sustained winds of 130 mph. At 3:35 p.m. that same day, Hurricane Irma made a second landfall at Marco Island as a Category 3 Hurricane with maximum sustained winds of 115 mph (and with a reported gust of 130 mph). From there, Hurricane Irma continued north up the Florida peninsula before finally exiting the State as a Tropical Storm on September 11.

During its run up the peninsula, Hurricane Irma raked the State with high winds and torrential rains, left over half the State without power, and caused record flooding on the St. Johns River. Additionally, many of the communities impacted by Hurricane Irma are still recovering from the damage inflicted last year by Hurricane Hermine and Hurricane Matthew.

On the same day that Hurricane Irma made landfall, the President granted the Governor's request for a major disaster declaration and declared DR-4337 with an incident period start date of September 4. In addition to authorizing Direct Federal Assistance ("DFA"), the DR-4337 declaration established the following cost shares:

- 100% Federal cost share for Category B for the first 30 days, with a 75% Federal cost share thereafter; and,
- 75% Federal cost share for Category and Categories C through G.

Recently, officials from Brevard County reached out to the State Emergency Response Team ("SERT") and requested a DFA mission to stabilize the Sea Ray Drive Bridge Over Sykes Creek ("the Bridge"). According to those officials, the Bridge sustained damage as a result of Hurricane Irma in the form of scouring. Because the

Bridge provides support for critical water and sewer mains between the mainland and coastal communities, and because a nearby subaqueous main sustained damage as a result of Hurricane Irma, Brevard officials requested the U.S. Army Corps of Engineers ("USACE") perform stabilization repairs under Category B (Emergency protective measures) of the Federal Emergency Management Agency's ("FEMA") Public Assistance Program.

The FEMA Public Assistance Program and Policy Guide ("PAPPG") defines Category B emergency protective measures as those that:

- Eliminate or lessen immediate threats to lives, public health, or safety; or,
- Eliminate or lessen immediate threats of significant additional damage to improved public or private property in a cost-effective manner.

With regard to stabilization as an emergency protective measure, the PAPPG draws a clear distinction between temporary repairs and complete restoration to pre-disaster function:

Temporary emergency repair or stabilization of an eligible facility is eligible as Emergency Work if it eliminates or lessens an immediate threat. Work performed under an exigent circumstance that restores the pre-disaster design and function of the facility in accordance with codes and standards is Permanent Work, not Emergency Work.

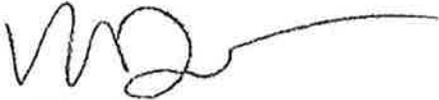
Given the public health and safety threat posed by the compromised structural integrity of the Bridge, the State supports Brevard County's request for a USACE DFA mission to perform temporary repairs to the Bridge to stabilize the critical water and sewer mains.

To meet the Department's obligation of delineating between emergency protective measures and permanent work, the State is respectfully requesting a formal emergency resolution stating that, after the completion of the USACE DFA mission, the County will conduct:

- The necessary repairs to restore the Bridge to its pre-disaster function (which may include FEMA reimbursement);
- The necessary repairs to restore the nearby subaqueous main to its pre-disaster function (which may include FEMA reimbursement); and,
- Any additional repairs needed to address damages or deterioration not caused by a disaster (which would not include FEMA reimbursement).

The emergency resolution should contain a project timeline for the restoration work. Once the State receives those assurances (written commitment and project timeline), the State will authorize the USACE DFA mission.

Sincerely,



Mike Dew  
Secretary,  
Florida Dept. of Transportation



Wes Maul  
Interim Director,  
Florida Div. of Emergency Management

**RESOLUTION No. 2017-191 E**

**RESOLUTION OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS  
REGARDING REHABILITATION AND RESTORATION WORK  
TO SEA RAY DRIVE BRIDGE OVER SYKES CREEK,  
UPON COMPLETION OF THE  
U.S. ARMY CORPS OF ENGINEER DIRECT FEDERAL ASSISTANCE MISSION**

**WHEREAS**, between September 10-11, 2017, Hurricane Irma inflicted damage upon Brevard County, including scouring of the Sea Ray Drive Bridge Over Sykes Creek ("the Bridge"); and

**WHEREAS**, Hurricane Season (June 1 to November 30) is continuing with more damaging weather-related events possible; and

**WHEREAS**, under the authority of the Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq), the President of the United States declared a major disaster for the State of Florida (FEMA-4337-DR) authorizing direct federal assistance in Brevard County with a 100% Federal cost share for Category B (emergency protective measures) for the first 30 days, and a 75% Federal cost share thereafter; and

**WHEREAS**, the Bridge provides support for critical water and sewer mains between the mainland and coastal communities, and a nearby sub-aqueous water main also sustained damage as a result of Hurricane Irma, and the compromised structural integrity of the Bridge poses an immediate public health and safety threat; and

**WHEREAS**, Brevard officials contacted the State Emergency Response Team (SERT) and requested the U.S. Army Corps of Engineers (USACE) perform emergency stabilization repairs under Category B (emergency protective measures) of the Federal Emergency Management Agency's (FEMA) Public Assistance Program; and

**WHEREAS**, FEMA and the State of Florida support Brevard County's request for a USACE Direct Federal Assistance (DFA) mission to perform temporary emergency repairs to the Bridge to stabilize the critical water and sewer mains and reduce immediate threat of failure; and

**WHEREAS**, the USACE is prepared to immediately perform the DFA mission at the Bridge to lessen the immediate threat to lives, public health and safety;

**WHEREAS**, to delineate between emergency protective measures and permanent work, the State of Florida requests a formal emergency resolution from the Brevard County Board of Commissioners that after completion of the USACE DFA mission, the county will conduct certain follow-on permanent restorative or rehabilitative work;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, in emergency session duly assembled, that Brevard County firmly commits to work expeditiously towards a permanent restorative and rehabilitative solution for the Bridge, as follows:

- (1) To restore or rehabilitate the Bridge to its pre-disaster function (which may include FEMA reimbursement);
- (2) To continue working in a collaborative and supportive manner with the City of Cocoa as it makes necessary repairs to restore a nearby key sub-aqueous water main to its pre-disaster function (which may include FEMA reimbursement); and
- (3) To address pertinent damages or deterioration to the Bridge not caused by a disaster (which would not include FEMA reimbursement); and
- (4) Brevard County agrees to give best efforts to meet the following project timelines:
  - (a) To begin preliminary survey, investigation and design work as soon as possible but not later than 30 days after completion of the USACE DFA mission; and
  - (b) To begin construction within six months, subject to compliance with required procurement regulations, permitting regulations and Florida Department of Transportation reviews; and
  - (c) To complete construction within 12 to 18 months of construction initiation.

DONE, ORDERED AND RESOLVED, in Emergency Session by the Board of County Commissioners of Brevard County, this 28th day of September, 2017 A.D.

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

*Auto Patchett*  
By: Vice Chair  
for CURT SMITH, CHAIRMAN  
As approved by the Board on Sept. 28, 2017

ATTEST:

*Scott Ellis*  
SCOTT ELLIS, CLERK

Federal Emergency Management Agency  
FEMA-4337-DR-FL  
Florida Recovery Office  
6021 South Rio Grande Ave.  
Orlando, FL 32809



**FEMA**

Region IV - Recovery

September 7, 2019

Mr. Jared Moskowitz, Director  
Director  
Florida Division of Emergency Management  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100

**RECEIVED**

**SEP 23 2019**

**BUDGET OFFICE**

Ms. Jane Toliver  
Administrative Assistant  
Brevard County  
2725 Judge Fran Jamieson Way, Building C-303  
Viera, Florida 32940

Re: FEMA Public Assistance Eligibility Determination - Brevard County, PA ID 009-99009-00,  
FEMA-4337-DR-FL, Project 20858

Dear Mr. Moskowitz and Ms. Toliver:

The Department of Homeland Security's Federal Emergency Management Agency (FEMA) has determined that the work is ineligible for Public Assistance funding. Please see the enclosed FEMA Public Assistance Determination Memorandum for detailed information.

Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and applicable regulations, the Brevard County (Applicant) is entitled to appeal this eligibility determination. The Applicant may appeal this determination to the FEMA Region 4 Regional Administrator pursuant to Title 44 Code of Federal Regulations § 206.206. The appeal must: (1) contain documented justification supporting the Applicant's position, (2) specify the monetary figure in dispute, and (3) cite the provisions in federal law, regulation, or policy with which the Applicant believes the initial action was inconsistent. The Applicant should also include a current email address to receive electronic correspondence. The Applicant must submit the appeal to the Florida Division of Emergency Management (Recipient) within 60 days of the Applicant's receipt of this determination. The Recipient must then transmit the appeal, with a written recommendation, to Region 4 within 60 days of receiving the Applicant's appeal.

Lastly, the Applicant must submit all relevant supporting information with its first appeal. For reference, a current index of documents relevant to this determination is enclosed.

Mr. Moskowitz and Ms. Toliver  
September 7, 2019  
Page 2

If you have any questions, please contact Allison McLeary, Florida Division of Emergency Management Appeals Officer, 850-815-4417 or email [Allison.McLeary@em.myflorida.com](mailto:Allison.McLeary@em.myflorida.com).

Sincerely,

ANGELA D  
GILLMAN

Digitally signed by  
ANGELA D GILLMAN  
Date: 2018.09.18  
09:56:07 -0400

Angela Gillman Green  
Infrastructure Branch Director  
Federal Emergency Management Agency  
FEMA 4337-DR-FL

Enclosures:  
FEMA PA Eligibility Determination Memorandum  
Index of Documents

**ELIGIBILITY DETERMINATION MEMORANDUM**  
**Brevard County**

FEMA-4337-DR-FL

PA ID 009-99009-00

Applicant Type		<input type="checkbox"/> State Agency <input checked="" type="checkbox"/> Local Government <input type="checkbox"/> Tribe <input type="checkbox"/> Private Nonprofit	
<b>Grants Manager:</b> <i>Only fill out this section if the project is in Grants Manager.</i>		<b>EMMIE:</b> <i>Only fill out this section if the project worksheet is in EMMIE.</i>	
Project No.	20858	EMMIE Project Worksheet No.	
Version No.	0	Version No.	
Damage Inventory No.	align="center">68015	EMMIE Project Cost	
		Total Amount Obligated	
Project Title		Searay Bridge	
Project Size	<input checked="" type="checkbox"/> Large <input type="checkbox"/> Small <i>(Potentially subject to Net Small Project Overrun appeal)</i>	Category of Work	C. Roads and Bridges

**Issue(s):** Are the costs of replacement or repair of the County's bridge eligible for FEMA Public Assistance support?

Amount at Issue	\$4,000,000	Eligibility Issue Type(s)	<input type="checkbox"/> Applicant Eligibility <input type="checkbox"/> Facility Eligibility <input checked="" type="checkbox"/> Work Eligibility <input type="checkbox"/> Cost Eligibility
Amount Denied	\$4,000,000		
Issue Keyword(s)	Deferred Maintenance Direct Result of Disaster		

**Project Description:**

Hurricane Irma caused strong winds, torrential rain and tidal surge which resulted in extensive damage throughout Florida. The incident period for this disaster is September 04, 2017, through October 18, 2017. The widespread damage resulted in a major disaster declaration (FEMA-4337-DR-FL) on September 10, 2017. This disaster declaration, as amended, authorized Public Assistance (PA) in all Florida counties.

Brevard County, Fl. owns and operates the Sea Ray Bridge over Sykes Creek connecting the City of Cocoa to a barrier island - Merrick Island, Fl. According to documentation provided by the County, Sea Ray Bridge is a "scour critical" bridge.<sup>1</sup> The major disaster caused scouring around 28 bridge pilings up to 10.3 feet (ft) on the south side of and 8.3 ft on the north side of Bent 4, which threatened the stability of the Bridge.<sup>2</sup> The Bridge had an attached water main to

<sup>1</sup> A scour critical bridge is a bridge that is predicted to fail from a certain magnitude flood either from analysis or observation. U.S. DOT Federal Highway Administration Publication No. FHWA-HF-12.003, Hydraulic Engineering Circular No. 18. April 2012, p2.15.

<sup>2</sup> WO 6415 DR4337FL SI Field Notes

provide water from the City to customers on the Island. The United States Army Corps of Engineers performed temporary repairs to fill scour holes and stabilize the water main pending the County's completion of permanent repairs to the Bridge.<sup>3</sup>

An inspection conducted after the disaster determined the Bridge to be "structurally deficient" and it was closed to all traffic between the City of Cocoa and the barrier island.<sup>4</sup> The County has announced plans for a Design-Build project to either repair or replace the Bridge. The County reports the replacement option would be approximately \$4 million while a repair option would be about \$2 million. The County has requested FEMA Public Assistance (PA) for whichever option the County chooses.<sup>5</sup>

To be eligible for FEMA PA for these costs, applicants must demonstrate work is required as a direct result of the major disaster, not the responsibility of another Federal agency and is not the result of deferred maintenance.<sup>6</sup>

**Issue:**

Are the costs of replacement or repair of the County's bridge eligible for FEMA Public Assistance support?

**Applicable Statutes, Regulations, and Policies in Effect as of the Declaration of the Emergency or Disaster:**

- **The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, Pub. L. No. 93-288.**

**§ 102. Definitions (42 U.S.C. 1522)**

As used in this Act:

**(10) PUBLIC FACILITY** – "Public Facility" means the following facilities owned by a State or local government:

**(B)** Any non-Federal-aid street, road or highway.

**§ 406, 42 U.S.C. § 5172, - Repair, Restoration, Replacement**

**(a) Contributions –**

**(1) In General. –**

**(A)** to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by the government.

<sup>3</sup> [20858] Sea Ray Bridge News Release 8-28-18.

<sup>4</sup> Searay Bridge Inspection Report 2017 Post Irma.

<sup>5</sup> 20828 Sea Ray Bridge Email Cost Estimate, June 14, 2019.

<sup>6</sup> 44 C.F.R. § 206,223 (a)(1); 44 C.F.R. § 206.226 (a); PAPPG II, p19.

- **Title 44 of the Code of Federal Regulations (C.F.R.):**

**§ 206.201 Definitions Used in this Subpart**

(c) *Facility* means any publicly or privately-owned building, works, system, or equipment, built or manufactured, or an improved and maintained natural feature. Land used for agricultural purposes is not a facility.

(i) *Permanent work* means restorative work that must be performed through repairs or replacement, to restore an eligible facility on the basis of its pre-disaster design and current applicable standards.

**§ 206.223 General Work Eligibility**

(a) General. To be eligible for financial assistance, an item of work must:

- (1) Be required as a result of the emergency or major disaster event;
- (2) Be located within the designated area of a major disaster
- (3) Be the legal responsibility of an eligible applicant.

**§ 206.226 Restoration of Damaged Facilities**

Work to restore eligible facilities on the basis of the design of such facilities as they existed immediately prior to the disaster and in conformity with the following is eligible:

- a) *Assistance under other Federal agency (OFA) program.* (1) Generally, disaster assistance will not be made available under the Stafford Act when another Federal agency has specific authority to restore facilities damaged or destroyed by an event which is caused by a major disaster.

- **FEMA Public Assistance Program and Policy Guide, FP 104-019-2 (April 2018)(PAPPG):**

**CHAPTER 2: Public Assistance Policy**

**Section III: Facility Eligibility (A) Public Facility**

An eligible public facility is one that a State, Territorial, Tribal, or local government owns or has legal responsibility for maintaining, including any:

- Flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development or airport facility
- Non-federal-aid street, road or highway;
- Other public building, structure, or system, including those used for educational, recreational, or cultural purposes; and,
- Park.

**Section IV: General Work Eligibility (B) Minimum Work Eligibility Criteria**

**1. Result of the Declared Incident**

For temporary repairs, mold remediation, and Permanent Work, the Applicant must demonstrate that damage was caused directly by the declared incident, FEMA does not provide PA funding for repair of damage by:

- Deterioration
- Deferred maintenance
- The Applicant's failure to take measures to protect a facility for further damage
- Negligence. (PAPPG II, pp19-20)

## **Section VII: Permanent Work Eligibility**

### **1. Road and Bridges (Category C)**

Permanent Work to restore roads and bridges is eligible unless restoration is eligible under the specific authority of another Federal Agency such as FHWA.

FHWA has authority to restore public roads under the Emergency Relief (ER) Program. Roads that are eligible for ER assistance are identified as Federal-aid Routes, which include highways on the Federal-aid highway system and all other public roads not classified as local roads or rural minor collectors. The ER program is activated separately from Presidential declarations under the Stafford Act and may not be activated for all incidents. Federal-aid roads are not eligible for Permanent Work even if the ER program is not activated or if the program is activated but FHWA does not provide funding for the work. (page 116)

#### **Analysis:**

FEMA, pursuant to its delegated authority, may make contributions to a local government for the repair, restoration, reconstruction, or replacement of a public facility damaged or destroyed by a major disaster and for associated expenses incurred by that government.<sup>7</sup> FEMA has determined the County is an eligible applicant that may receive contributions for the repairs to damage caused by the major disaster only in accordance with all Federal regulations and policy.

FEMA policies establish specific criteria for determining the eligibility of facilities, such as bridges, for Public Assistance. The Stafford Act prohibits Public Assistance for an ineligible public facility.<sup>8</sup> If FEMA determines such facilities are the statutory authority of another Federal agency, FEMA cannot provide assistance for either temporary or permanent work. In this

---

<sup>7</sup> Stafford Act § 406(a)(1)

<sup>8</sup> Stafford Act § 102 (10)(B)

instance, the Recipient provided documentation to substantiate this bridge is not the responsibility of another Federal agency.<sup>9</sup>

The County's Bridge is a double "T" beam style bridge, constructed in 1991, has five spans and is approximately 201.5 feet (ft) long and 45.5 ft wide. It carries two lanes and the superstructure is a simple span concrete slab.<sup>10</sup> Federal Highway Administration (FHWA) regulations recommend frequent inspections for scour critical bridges and the formulation of a Plan of Action (POA) is required. A POA identifies scour countermeasures to be taken in the event flooding conditions that could threaten the stability of the scour critical bridge are identified.<sup>11</sup>

The County provided copies of Bridge Inspection Reports prepared for the Florida Department of Transportation in 2014 and 2016. The 2014 Inspection recorded scour dishes up to 18 inches (in) around several of the pilings in Bents 3 and 4 extending out from the pilings up to 4 ft. The report's "Recommended Feasible Action: Do Nothing."<sup>12</sup>

The 2016 Report noted bank protection needed minor repairs and that "minor stream bed movement may be evident, or debris may be present." The Report also repeated the 2014 observation about 18 in. scour dishes around the piles in Bents 3 and 4 extending out up to 4 ft.<sup>13</sup>

In contrast to the 2014 Report, the 2016 Report included a Plan of Action.<sup>14</sup> This POA scored the Scour Vulnerability as a 113 Code 3 and that "Profile measurements taken between 1991 and 2010 show degradation of up to 5.6 feet and scour dishes have been noted at Bents 3 and 4."<sup>15</sup> A Bridge report summary based on the 2016 Inspection Report concluded

- Channel Protection: Bank protection is being eroded. River control devices and/or embankment have major damage. Trees and rush (sic) restrict the channel.
- Scour condition: Bridge is scour critical; bridge foundations determined to be unstable.<sup>16</sup>

The 2016 Inspection Report also recommended the implementation of a Flood Monitoring Program and consideration of structural/hydraulic countermeasures; specifically, "Crutch Bent" or "Replace Bridge."<sup>17</sup> The POA included costing estimates of the proposed countermeasures.

From the issuance of the 2016 POA with the recommended countermeasures, there is no indication in documentation provided by the County that any actions were taken to investigate implementation of the POA recommended countermeasures. On April 30, 2019, FEMA issued a

---

<sup>9</sup> Email confirm not FHWA for Brevard County's Searay Bridge.

<sup>10</sup> Searay Bridge Inspection Report, 2016, p38.

<sup>11</sup> US Department of Transportation, Federal Highway Administration, **Evaluating Scour at Bridges, Fifth Edition**, Publication No. FHWA-HF-12-003, April 2012, pp10.2-10.3

<sup>12</sup> Searay Bridge Inspection Report 2014, p33.

<sup>13</sup> Searay Bridge Inspection Report, 2016, p8.

<sup>14</sup> Ibid. p38.

<sup>15</sup> Ibid. pp38-39.

<sup>16</sup> Bridge report – Searay Drive Bridge Sykes Creek, p2.

<sup>17</sup> Searay Bridge Inspection Report, 2016, p40. A crutch bent is a rigid frame commonly made of reinforced concrete or steel that supports a vertical load and is placed transverse to the length of a structure. Bents are commonly used to support beams and girders. An end bent is the supporting frame forming part of an abutment. <https://www.contractortalk.com/f4/what-crutch-bents-58523/>

Request for Information to the County seeking documentation that the County had taken measures to repair the erosion and scour conditions noted in the 2016 Inspection Report.<sup>18</sup>

The County provided an updated timeline of inspection dates beginning after the passage of Tropical Storm Colin in June 2016 and Hurricane Mathew in October 2017 as well as an updated version of the POA.<sup>19</sup> The County provided no documentation to indicate the conditions noted on the 2016 Inspection Report had been mitigated prior to the major disaster in September 2017.

As noted above, the 2016 Inspection had determined the Bridge's foundations were "unstable"<sup>20</sup> Despite this finding, the County could provide no documentation that it had taken any steps to repair the channel protection, erosion or scour conditions identified in that report.

In an email dated June 25, 2019, the County acknowledged its design firm was considering two options to address the disaster damage: bridge replacement or bridge repair using crutch bents and slope protection.<sup>21</sup> These options had previously been recommended to the County to address the issues identified in the 2016 Inspection Report.<sup>22</sup> The County provided no explanation as to why it delayed implementation of the mitigation countermeasures put forth in the 2016 Inspection Report.

FEMA policy is clear that PA funding may not be provided for repair of damage caused by:

- Deterioration
- Deferred maintenance
- The Applicant's failure to take measures to protect a facility from further damage
- Negligence<sup>23</sup>

### *Remedy*

To be eligible for Federal assistance, applicants must adequately document these costs were incurred in the performance of work resulting directly from the major disaster. The County provided no explanation as to why it failed to address the channel protection, erosion and scour conditions identified more than a year before the major disaster.

If a Non-Federal Entity, like the County, fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through may impose additional conditions. These additional conditions permit FEMA to disallow (that is, deny both the use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.<sup>24</sup> That remedy is appropriate here.

<sup>18</sup> FEMA, RFI-PRJ-12460, April 30, 2019.

<sup>19</sup> Bridge 704144 Inspection Log; Bridge 704144 POA Update.

<sup>20</sup> Bridge report – Searay Drive Bridge Sykes Creek, p2

<sup>21</sup> 20858 Searay Bridge Email Cost Estimate

<sup>22</sup> Searay Bridge Inspection Report, 2016

<sup>23</sup> PAPPG II, pp19-20.

<sup>24</sup> 2 C.F.R § 200.338(d).

**Eligibility Determination:**  Partially Approved  Denied

The County was informed more than a year prior to the disaster that the Sea Ray Bridge foundations had been determined to be "unstable." A POA identified a set of prudent countermeasures for the County to implement to mitigate the threat of further damage. The County provided no documentation in the form of maintenance records or contract work orders to show that it implemented any of these measures. Consequently, the damage claimed cannot be demonstrated to be the direct result of the major disaster but was pre-existing and identified to the County more than one year prior to the disaster. The County deferred maintenance on the bank protection, erosion and scour conditions until these were exacerbated by the major disaster. FEMA cannot provide PA funding for work caused by deferred maintenance. Therefore, the County request for PA support for \$4,000,000 to replace this bridge or, alternatively, \$2,000,000 to repair the Sea Ray Bridge is denied.

**Notice of Right to Appeal:**

The Applicant may appeal this determination to the Regional Administrator, pursuant to Title 44 of the Code of Federal Regulations § 206.206, Appeals. If the Applicant elects to file an appeal, the appeal must:

- 1) Contain documented justification supporting the Applicant's position;
- 2) Specify the monetary figure in dispute; and
- 3) Cite the provisions in federal law, regulation, and/or policy with which the Applicant believes the initial action was inconsistent.

The appeal must be submitted to the State by the Applicant within 60 days of its receipt of this determination. The State's transmittal of that appeal, with the State's recommendation, is required to be submitted to The FEMA Regional Administrator's office within 60 days of the receipt of the Applicant's letter.

**Preparation and Review:**

**Preparer: Notra Trulock, III PA Policy Advisor**

**Signature:**  Digitally signed by AARON M LACHAPELLE  
Date: 2019.09.19 08:50:28 -04'00'

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

**Office of Chief Counsel Reviewer: David Russo, Attorney Advisor**

**Signature:** DAVID A RUSSO Digitally signed by DAVID A RUSSO  
Date: 2019.09.16 12:14:41 -04'00'

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

**Approval:**

**PA Management: Angela Gillman, Infrastructure Branch Director**

**Signature:** ANGELA D GILLMAN Digitally signed by ANGELA D GILLMAN  
Date: 2019.09.16 12:14:41 -04'00'

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

# \$5.3 Million Proposed Allocation

District	Total Paved Roadway Center Miles	Percent of Total	Proportionate Share of \$5.3 Million to be allocated
1	382.59	34%	\$ 1,797,773.76
2	256.44	23%	\$ 1,205,000.40
3	118.24	10%	\$ 555,604.61
4	232.07	21%	\$ 1,090,486.83
5	138.57	12%	\$ 651,134.40
<b>Total</b>	<b>1127.91</b>	<b>100%</b>	<b>\$ 5,300,000.00</b>

December 11, 2019

MEMORANDUM

TO: Frank Abbate, County Manager

RE: Item 1.1., Discussion of the Sea Ray Drive Bridge Over Sykes Creek

The Board of County Commissioners, in regular session on December 10, 2019, discussed the alternatives to repair or replace the Sea Ray Drive Bridge Over Sykes Creek; directed staff to pursue the most favorable funding options for Alternative 2B8 - Bridge Replacement Florida I-Beam, to partner with Merritt Island Redevelopment Agency (MIRA), to include 20 percent of MIRA's General Fund Tax Increment Financing funds up to \$275,000 per year; to take any necessary action to ensure the MIRA operating and administrative expenditures budget would not be impacted by this reduction; to utilize Exhibit A for distribution of local option gas tax funds and any additional funding required coming from the General Fund proportionately distributed among districts; granted permission to draft and bring forward any ordinances needed for the changes to MIRA; directed you to pursue discussions with MIRA ~~for~~ if it has the ability to add more funds and if MIRA has its Board approval to add more funds; approved Notice to Proceed to the consultant to perform the design build criteria package; and authorized for any necessary budget changes. Attached Enclosed is Exhibit A.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/ds

Encl. (1)

cc: County Attorney  
Public Works Interim Director  
Contracts Administration  
Finance

## Donna Scott

---

**From:** Kimberly Powell  
**Sent:** Friday, December 13, 2019 4:46 PM  
**To:** Donna Scott  
**Subject:** FW: Sea Ray Bridge  
**Attachments:** Sea Ray Bridge Tammy gram 12 13 2019 4 pm.docx; Sea Ray Bridge Exhibit A.pdf

---

**From:** Bentley, Eden <[Eden.Bentley@brevardfl.gov](mailto:Eden.Bentley@brevardfl.gov)>  
**Sent:** Friday, December 13, 2019 4:37 PM  
**To:** Kimberly Powell <[Kimberly.Powell@brevardclerk.us](mailto:Kimberly.Powell@brevardclerk.us)>  
**Cc:** Denninghoff, John P <[John.Denninghoff@brevardfl.gov](mailto:John.Denninghoff@brevardfl.gov)>; Abbate, Frank B <[Frank.Abbate@brevardfl.gov](mailto:Frank.Abbate@brevardfl.gov)>  
**Subject:** RE: Sea Ray Bridge

And here is the revised version. I am now inserting the date and time to help avoid version confusion. Thanks for your patience.

---

**From:** Kimberly Powell <[Kimberly.Powell@brevardclerk.us](mailto:Kimberly.Powell@brevardclerk.us)>  
**Sent:** Friday, December 13, 2019 10:35 AM  
**To:** Bentley, Eden <[Eden.Bentley@brevardfl.gov](mailto:Eden.Bentley@brevardfl.gov)>  
**Cc:** Donna Scott <[donna.scott@brevardclerk.us](mailto:donna.scott@brevardclerk.us)>  
**Subject:** FW: Sea Ray Bridge  
**Importance:** High

Okay.

---

**From:** Bentley, Eden <[Eden.Bentley@brevardfl.gov](mailto:Eden.Bentley@brevardfl.gov)>  
**Sent:** Friday, December 13, 2019 9:23 AM  
**To:** Kimberly Powell <[Kimberly.Powell@brevardclerk.us](mailto:Kimberly.Powell@brevardclerk.us)>  
**Subject:** FW: Sea Ray Bridge  
**Importance:** High

Hold on CMO wants to double check something.

---

**From:** Bentley, Eden  
**Sent:** Thursday, December 12, 2019 4:18 PM  
**To:** Kimberly Powell <[Kimberly.Powell@brevardclerk.us](mailto:Kimberly.Powell@brevardclerk.us)>  
**Cc:** Abbate, Frank B <[Frank.Abbate@brevardfl.gov](mailto:Frank.Abbate@brevardfl.gov)>; Denninghoff, John P <[John.Denninghoff@brevardfl.gov](mailto:John.Denninghoff@brevardfl.gov)>  
**Subject:** FW: Sea Ray Bridge

As you can see, the attachment has changes from me and the County Manager's office. Let me know if you have any additional questions or concerns.

---

**From:** Denninghoff, John P  
**Sent:** Thursday, December 12, 2019 4:08 PM

**To:** Abbate, Frank B <Frank.Abbate@brevardfl.gov>  
**Cc:** Bentley, Eden <Eden.Bentley@brevardfl.gov>  
**Subject:** RE: Sea Ray Bridge

I think the revisions between the two of you are exactly what we got from the Board. I think we can go with this.

---

**From:** Abbate, Frank B  
**Sent:** Thursday, December 12, 2019 2:12 PM  
**To:** Denninghoff, John P <John.Denninghoff@brevardfl.gov>  
**Cc:** Bentley, Eden <Eden.Bentley@brevardfl.gov>  
**Subject:** Sea Ray Bridge

John:

I've provided some revisions for the Tammy gram, they're attached for your review.

Frank

Frank Abbate  
County Manager  
2725 Judge Fran Jamieson Way, Bldg. C  
Viera, FL 32940  
PH: (321) 633-2001  
FAX: (321) 633-2115



**BOARD OF COUNTY COMMISSIONERS**

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

---

**Under Florida law, all correspondence sent to the Clerk's Office, which is not exempt or confidential pursuant to Chapter 119 of the Florida Statutes, is public record. If you do not want the public record contents of your e-mail address to be provided to the public in response to a public records request, please do not send electronic mail to this entity. Instead, contact this office by phone or in writing.**