

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: November 16, 2011

Division: Public Works

Bulk Item: Yes No

Department: Facility Maintenance/Corrections

Staff Contact Person/Phone #: Bob Stone
797-1458

AGENDA ITEM WORDING: Approval and ratification of Attachments A through F as part of the "Energy Retrofit-Jackson Square" contract documents and Agreement with Electronic System Services, Inc.

ITEM BACKGROUND: Attachments A through F are part of the contract documents and were not attached to agenda Item C31 of the September 21, 2011 MCBOCC meeting.

PREVIOUS RELEVANT BOCC ACTION: On September 21, 2011, MCBOCC approved execution and awarded contract to Electronic System Services, Inc. for the "Energy Retrofit - Jackson Square" project (Item C31). On June 15, 2011, the MCBOCC approved advertising for construction bids. January 19, 2011, the MCBOCC approved Task Order PW-HDR-001 with HDR Engineering for energy audit and design services. On November 9, 2010 Grant Agreement No. ARS010 was executed by and between the MCBOCC and the Florida Energy and Climate Commission.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A

BUDGETED: Yes No

DIFFERENTIAL OF LOCAL PREFERENCE: N/A

COST TO COUNTY: N/A

SOURCE OF FUNDS: Grant No. ARS010

REVENUE PRODUCING: Yes No

AMOUNT PER MONTH

AMOUNT PER YEAR

APPROVED BY: County Atty *NWC* OMB/Purchasing Risk Management

DOCUMENTATION: Included Not Required

DISPOSITION: _____

AGENDA ITEM # _____

ATTACHMENT A

PUBLIC CONSTRUCTION BOND

BY THIS BOND, We _____, as Principal
and _____, a corporation, as Surety, are bound
to _____, herein called Owner, in the sum of
\$ _____ for payment of which we bind ourselves, or heirs, personal
representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the contract dated _____, 20____, between
Principal and Owner for construction of _____ the
contract being made a part of this bond by reference, at the times and in the manner
prescribed in the contract; and
2. Promptly makes payment to all claimants, as defined in Section 255.05(1), Florida
Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly
by Principal in the prosecution of the work provided for in the contract and
3. Pays Owner all losses, damages, including damages for delay, expenses, costs, and
attorney's fees, including appellate proceedings, that Owner sustains because of a default
by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the
time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the
notice and time limitation provisions in Section 255.05(2), Florida Statutes.

Any changes in or under the contract documents and compliance with any formalities connected
with the contract or the changes does not affect Surety's obligation under this bond.

DATED on _____ 2011

(NAME OF PRINCIPAL)

BY _____
(AS ATTORNEY-IN-FACT)

(NAME OF SURETY)

FLORIDA ENERGY AND CLIMATE COMMISSION

ATTACHMENT B

SPECIAL AUDIT REQUIREMENTS

**STATE OF FLORIDA GRANT ASSISTANCE PURSUANT TO
AMERICAN RECOVERY AND REINVESTMENT ACT UNITED STATES DEPARTMENT OF ENERGY
AWARDS**

The administration of resources awarded by the Florida Energy and Climate Commission (hereinafter referred to as the "Commission") to the recipient (hereinafter referred to as the "grantee" or "recipient"), may be subject to audits and/or monitoring by the Commission, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Commission 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 Commission. In the event the Commission determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Commission to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Chief Financial Officer or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. 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. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards. 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 part.
2. In connection with the audit requirements addressed in Part I, paragraph 1. the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.
3. 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 an audit must be paid from recipient resources obtained from other than Federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <http://12.46.245.173/cfdalcfd.html>.

FLORIDA ENERGY AND CLIMATE COMMISSION
GRANT AGREEMENT NO. ARSOIO

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such recipient, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Commission, other state agencies and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

2. In connection with the audit requirements addressed in paragraph 1, the recipient shall ensure that the audit complies with the requirements of Section 215.97, Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the recipient expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$500,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

4. The recipient must include the record keeping requirements found herein in subcontractor agreements entered into for work required under terms of this Agreement. In the executed subcontract, the recipient shall provide each subcontractor of state financial assistance the information needed by the subcontractor to comply with the requirements of Section 215.97, Florida Statutes. Pursuant to Section 215.97, Florida Statutes, the recipient shall review and monitor subcontractor audit reports and perform other procedures as specified in the agreement with the subcontractor, which may include onsite visits. The recipient shall require subcontractors, as a condition of receiving state financial assistance, to permit the independent auditor of the recipient, the Commission, the Chief Financial Officer, the Chief Inspector General and the Auditor General access to the subcontractor's records and independent auditor's working papers as necessary to comply with the requirements of Section 215.97, Florida Statutes.

5. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com!fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: The Florida Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, the State of Florida's website at <http://www.myflorida.com/>, the Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.state.fl.us/audgen>.

PART III: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this Attachment 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:

A. The Florida Energy and Climate Commission at the following address:

Audit Director or Grant Manager
Florida Energy and Climate Commission
Executive Office of the Governor
600 South Calhoun Street, Suite 251
Tallahassee, FL 32399-0001

FLORIDA ENERGY AND CLIMATE COMMISSION
GRANT AGREEMENT NO. ARSOIO

B. 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

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

2. Pursuant to Section .320(j), 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 letters issued by the auditor, to the Commission at the following address:

Audit Director or Grant Manager
Florida Energy and Climate Commission
Executive Office of the Governor
600 South Calhoun Street, Suite 251
Tallahassee, FL 32399-0001

3. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Florida Energy and Climate Commission at the following address:

Audit Director or Grant Manager
Florida Energy and Climate Commission
Executive Office of the Governor
600 South Calhoun Street, Suite 251
Tallahassee, FL 32399-0001

B. The Auditor General's Office at the

following address: State of Florida Auditor General
Room 401, Claude Pepper Building
III West Madison Street
Tallahassee, Florida 32399-1450

RECORD RETENTION

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

General Decision Number: FL100162 10/29/2010 FL162

Superseded General Decision Number: FL20080162

State: Florida

Construction Type: Building

County: Monroe County in Florida.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Modification Number	Publication Date
0	03/12/2010
1	03/19/2010
2	03/26/2010
3	10/29/2010

ELEC0349-003 08/31/2009

	Rates	Fringes
ELECTRICIAN		
Electrical contracts including materials that are over \$2,000,000.....	\$ 29.61	8.71
Electrical contracts including materials that are under \$2,000,000.....	\$ 27.15	8.44

ENGI 0487-004 01/01/2010

	Rates	Fringes
OPERATOR: Crane		
All Cranes Over 15 Ton Capacity.....	\$ 28.05	8.75
Yard Crane, Hydraulic Crane, Capacity 15 Ton and Under.....	\$ 21.00	8.75

IRON0272-004 10/01/2006

	Rates	Fringes
IRONWORKER, REINFORCING AND STRUCTURAL.....	\$ 26.70	6.43

* PAI N0365-004 08/01/2010

	Rates	Fringes
PAINTER: Brush Only.....	\$ 16.00	6.20

SFFL0821-001 01/01/2010

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 26.80	14.30

	Rates	Fringes
SHEETMETAL WORKER (HVAC Duct Installation Only).....	\$ 24.42	11.36

SUFL2009-059 05/22/2009		
	Rates	Fringes
CARPENTER.....	\$ 15.08	5.07
CEMENT MASON/CONCRETE FINISHER... \$	12.45	0.00
FENCE ERECTOR..... \$	9.94	0.00
LABORER: Common or General..... \$	8.62	0.00
LABORER: Pipelayer..... \$	10.45	0.00
OPERATOR: Backhoe/Excavator..... \$	16.98	0.00
OPERATOR: Paver..... \$	9.58	0.00
OPERATOR: Pump..... \$	11.00	0.00
PAINTER: Roller and Spray Only..... \$	11.21	0.00
PLUMBER..... \$	12.27	3.33
ROOFER: Built Up, Composition, Hot Tar and Single Ply..... \$	14.33	0.00
SHEETMETAL WORKER (Excluding HVAC Duct Installation)..... \$	14.41	3.61
TRUCK DRIVER: Dump and 10 Yard Haul Away..... \$	8.00	0.15

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

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In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have

been determined
to be prevailing.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division Letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U. S. Department of Labor
200 Constitution Avenue, N. W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U. S. Department of Labor
200 Constitution Avenue, N. W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

Attachment C - Wage Determination FL162.dvb

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)



Rev. Dec. 2008

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB No.: 1215-0149
Expires: 12/31/2011

NAME OF CONTRACTOR		OR SUBCONTRACTOR		ADDRESS																			
PAYROLL NO.		FOR WEEK ENDING		PROJECT AND LOCATION						PROJECT OR CONTRACT NO.													
(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK				
				HOURS	MON	TUE	WED	THU	FRI	SAT				SUN	FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS					
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

LABOR STANDARDS INTERVIEW

CONTRACT NUMBER AND LOCATION		EMPLOYEE INFORMATION		
		LAST NAME	FIRST NAME	MI
NAME OF PRIME CONTRACTOR		STREET ADDRESS		
NAME OF EMPLOYER		CITY	STATE	ZIP CODE
SUPERVISOR'S NAME		WORK CLASSIFICATION		WAGE RATE
LAST NAME	FIRST NAME	MI		

ACTION	CHECK BELOW	
	YES	NO
Do you work over 8 hours per day?		
Do you work over 40 hours per week?		
Are you paid at least time and a half for overtime hours?		
Are you paid for all hours worked?		
Do you receive a 30-minute break for every 6 hours worked?		
Have you ever been threatened or coerced into giving up any part of your pay?		
Are you receiving any cash payments for fringe benefits required by the posted wage determination decision?		

Examples of "bona fide" fringe benefits include (but are not limited to) life insurance, health insurance, pension, vacation, holidays, and sick leave

WHAT DEDUCTIONS OTHER THAN TAXES AND SOCIAL SECURITY ARE MADE FROM YOUR PAY?

HOW MANY HOURS DID YOU WORK ON YOUR LAST WORK DAY BEFORE THIS INTERVIEW?	DUTIES PERFORMED	TOOLS USED
DATE OF LAST WORK DAY BEFORE INTERVIEW (YYMMDD)		
WHEN DID YOU BEGIN WORK ON THIS PROJECT? (YYMMDD)		

I HAVE READ THE ABOVE AND CERTIFY IT TO BE CORRECT TO THE BEST OF MY KNOWLEDGE

EMPLOYEE'S SIGNATURE X	DATE (YYMMDD)
INTERVIEWER'S SIGNATURE	DATE (YYMMDD)

INTERVIEWER'S COMMENTS

WORK EMPLOYEE WAS DOING WHEN INTERVIEWED	ACTION (If explanation is needed, use comments section)	YES	NO
	IS EMPLOYEE PROPERLY CLASSIFIED AND PAID?		
	ARE WAGE RATES AND POSTERS DISPLAYED?		

FOR USE BY PAYROLL CHECKER

IS ABOVE INFORMATION IN AGREEMENT WITH PAYROLL DATA? YES NO

COMMENTS

CHECKER			
LAST NAME	FIRST NAME	MI	JOB TITLE
SIGNATURE			DATE (YYMMDD)

Know Your Rights Under the Recovery Act!

Did you know?

The American Recovery and Reinvestment Act of 2009 ¹ provides protections for certain employees of non-federal employers who make specified disclosures relating to possible fraud, waste and/or abuse of Recovery Act funds.

Who is protected?

Employees of non-federal employers receiving recovery funds. This includes State and local governments, contractors, subcontractors, grantees or professional membership organizations acting in the interest of recovery fund recipients.

How are Whistleblowers Protected?

You cannot be discharged, demoted or otherwise discriminated against as a reprisal for making a protected disclosure.

What types of disclosures are protected?

The disclosure must be made by the employee to the Recovery Accountability and Transparency Board, an Inspector General, the Comptroller General, a member of Congress, a state or federal regulatory or law enforcement agency, a person with supervisory authority over the employee, a court or grand jury, or the head of a federal agency or his/her representatives.

The disclosure must involve information that the employee believes is evidence of:

- gross mismanagement of an agency contract or grant relating to recovery funds;
- a gross waste of recovery funds;
- a substantial and specific danger to public health or safety related to the implementation or use of recovery funds;
- an abuse of authority related to the implementation or use of recovery funds; or
- a violation of law, rule, or regulation related to an agency contract or grant awarded or issued relating to recovery funds.

Take Action!

Log on to [Recovery.gov](http://www.recovery.gov) for more information about your rights and details on how to report at www.recovery.gov.

¹ [Section 1553 of Division A, Title XV of the American Recovery and Reinvestment Act of 2009, P.L. 111-5](#)

EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:

1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627



WWW.WAGEHOUR.DOL.GOV