

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date September 19, 2007

Division: Emergency Services

Bulk Item: Yes X No

Department: Emergency Management

Staff Contact Person: Jerald O'Cathey

AGENDA ITEM WORDING: Approval for the BOCC to enter into an Interlocal Agreement (ILA) with the Monroe County School Board (MCSB), to provide payment for the cost of Enhanced Hurricane Protection Area Upgrade cost for Poinciana Elementary School to enable the use of the school facility as a hurricane shelter and Refuge of Last Resort.

ITEM BACKGROUND: EHPA Criteria included in the design of new Poinciana Elementary School and Gross Maximum Price (GMP): EHPA Envelope: 16,000 sf – Cafeteria, Administration, Music and Are rooms, EHPA Capacity: 600; EHPA manager's Office: Receptionist's area.

PREVIOUS RELEVANT BOCC ACTION: On October 24, 2004, Commissioner Rice discussed entering into negotiations with the MCSD regarding proposed construction of new schools currently in the planning stages to possibly include the requirements to enable use of the school facilities as hurricane shelters. On May 18, 2005, the BOCC passed a motion granting approval of funding in an amount not to exceed \$200,000 for enhanced hurricane protection area upgrades at Poinciana Elementary. The upgrades were constructed at a cost of \$135,927.75, and the Monroe County School Board has now requested reimbursement.

CONTRACT/AGREEMENT CHANGES: None.

STAFF RECOMMENDATIONS: Acceptance: It is appropriate to accept the Monroe County School Board Interlocal Agreement. The funds were included in and will be paid from the FY 2008 budget.

TOTAL COST: \$ 135,927.75 **BUDGETED:** Yes X No

COST TO COUNTY: \$ 135,927.75 **SOURCE OF FUNDS:** Ad Valorem Taxes

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

APPROVED BY: County Atty *WJH* OMB/Purchasing *RD* Risk Management

DOCUMENTATION: Included X Not Required

DISPOSITION:

AGENDA ITEM #

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is entered into this ___ day of _____, 2007, by and between the Board of County Commissioners of Monroe County, a political subdivision of the State of Florida (hereinafter "COUNTY"), whose address is 1100 Simonton Street, Key West, FL 33040, and the School Board of Monroe County ("SCHOOL BOARD"), as the contracting agent for the School District of Monroe County, a public agency of the State of Florida, whose address is 241 Trumbo Road, Key West, FL 33040.

WITNESSETH:

WHEREAS, COUNTY is authorized by Section 125.01(1)(p), F.S. to enter into agreements with other governmental agencies within or outside the boundaries for joint performance, or for performance by one unit in behalf of the other, of any of either agency's authorized functions; and

WHEREAS, COUNTY is authorized by Section 252.38, F.S. to appropriate and expend funds, make contracts, provide for the health and safety of persons and property, including emergency assistance to the victims of any emergency; and direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies; and

WHEREAS, SCHOOL BOARD is authorized by Section 1013.10, F.S. to permit the use of school grounds for community use centers; and

WHEREAS, the parties are authorized by the Florida Interlocal Cooperation Act, Section 163.10, F.S. to enter into an interlocal agreement to carry out their independent powers; and

WHEREAS, it is in the best interests of the citizens of Monroe County, Florida, that local school facilities under construction or in the planning stages be constructed in such a way as to allow the facilities to be used as hurricane shelters; and

WHEREAS, the parties now desire to enter into an interlocal agreement pursuant to which COUNTY will reimburse SCHOOL BOARD for enhanced hurricane protection area (EHPA) upgrade costs.

NOW THEREFORE, COUNTY and SCHOOL BOARD, through their respective elected governing bodies, and in consideration of the mutual promises and covenants herein contained, hereby agree as follows:

Section 1. Services. In or about October 2006, SCHOOL DISTRICT directed the general contractor in charge of construction for new Poinciana Elementary School, Heery International, Inc., to incorporate EHPA upgrades in the design and construction of the school. EHPA upgrades consisted of the following: Automatic transfer switch (transfers power from generator to Fire Pump); electrical costs associated with EHPA; moving power from generator to fire alarm pane; generator and generator install; foundation for generator room; mechanical costs for duct, louvers, and installation; doors and frame for generator room; design fee; and project manager (TPM) fee. On or about October 19, 2006, SCHOOL DISTRICT paid \$135,927.75 to Heery International, Inc. for the above-referenced services.

Section 2. Payment. In return for the EHPA upgrades detailed above, and the agreement to allow County to use this school and other school facilities as Shelters and Refuges of Last Resort as detailed further in another interlocal agreement to be executed at the same time, and upon presentation of a proper invoice as that term is defined in the Florida Local Government Prompt Payment Act, Section 218.70, F.S., which invoice shall include proof of actual payment by SCHOOL BOARD to Heery International, Inc., COUNTY shall issue a check to SCHOOL BOARD in the amount of \$135,927.75.

Section 3. Termination. With the exception of the agreement by SCHOOL BOARD to allow COUNTY to use the school as a Shelter and Refuge of Last Resort, detailed further in a separate, contemporaneous interlocal agreement, this INTERLOCAL AGREEMENT will terminate upon receipt by SCHOOL BOARD of the funds referenced above.

Section 4. Notices. All notices and other communications required under this INTERLOCAL AGREEMENT must be in writing and addressed as follows:

If to COUNTY: Irene Toner, FPED, CPM
Director
Monroe County Emergency Management
490 63rd Street, Ocean
Suite 150
Marathon, FL 33050

With a copy to: Suzanne A. Hutton, Esq.
Monroe County Attorney
P.O. Box 1026
Key West, FL 33041-1026

If to SCHOOL BOARD: Randy Acevedo
Superintendent of Schools
Monroe County School District
241 Trumbo Road
P.O. Box 1788
Key West, FL 33041-1788

Any Notice required by this Agreement shall be deemed to have been duly given if sent by certificate mail, return receipt requested, postage and fees prepaid; hand delivered; facsimile; or by overnight delivery service with proof of delivery.

Section 5. Governing Law. This INTERLOCAL AGREEMENT shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this INTERLOCAL AGREEMENT shall be in Monroe County, Florida, in the Sixteenth Judicial Circuit Court. This Agreement shall not be subject to arbitration.

Section 6. Entire Agreement/Modification/Amendment. This writing sets forth the entire agreement of the parties with respect to the subject matter of this INTERLOCAL AGREEMENT. No representations were made or relied upon by either party, other than those expressly set forth herein. No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless in a writing signed by both parties.

Section 7. Access to Records and Audits. In addition to any other rights conferred upon the parties under the Florida Government in the Sunshine Law or the Florida Public Records Act, both parties shall have the right to examine and audit any records involving transactions related to this

INTERLOCAL AGREEMENT. Either party may cancel this INTERLOCAL AGREEMENT for refusal to allow access to any records pertaining to work performed under this Agreement that are subject to the Florida Government in the Sunshine Law or the Florida Public Records Act.

Section 8. Non-Reliance By Non-Parties. No person or entity shall be entitled to rely upon the terms of this Agreement, in order to enforce or attempt to enforce any third-party claim or entitlement to or benefit from any service or program contemplated hereunder, and COUNTY and SCHOOL BOARD agree that neither party, nor any agent, officer, or employee of either, shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this INTERLOCAL AGREEMENT separate and apart, inferior to, or superior to, the community in general, or for the purposes contemplated in this INTERLOCAL AGREEMENT.

Section 9. Taxes. The parties are not subject to taxes or assessments.

Section 10. Severability. If any term or provision of this INTERLOCAL AGREEMENT shall to any extent be held invalid or unenforceable, the remainder of this INTERLOCAL AGREEMENT shall not be affected thereby, and each remaining term and provision shall be valid and enforceable to the fullest extent permitted by law.

Section 11. Waiver. The failure of either party to this INTERLOCAL AGREEMENT to object to or take affirmative action with respect to any conduct of the other in violation of any term or condition of this INTERLOCAL AGREEMENT shall not be construed as a waiver of the violation or breach, or a waiver of any future violation, breach, or wrongful conduct.

Section 12. Counterparts. This INTERLOCAL AGREEMENT may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

Section 13. Insurance. The parties to this INTERLOCAL AGREEMENT stipulate that each is a state governmental agency as defined by Florida Statutes and each represents to the other that it has purchased suitable Public Liability, Vehicle Liability, and Workers' Compensation insurance, or is self-insured, for any amounts adequate to respond to any and all claims under federal or state actions for civil rights violations, which are not limited by Florida Statutes Section 768.28 and Chapter 440, as well as any and all claims within the limitations of Florida Statutes arising out of the activities governed by this agreement.

To the extent allowed by law, each party shall be responsible for any acts of negligence on the part of its own employees, agents, contractors, and subcontractors. Each party agrees to keep in full force and effect the required insurance coverage during the term of this Agreement. If the insurance policies originally purchased which meet the requirements of this agreement are canceled, terminated or reduced in coverage, then the respective party must immediately substitute complying policies so that no gap in coverage occurs.

Section 14. Non-Discrimination. The parties agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. The parties agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VII of the Civil Rights Act of 1964 (PL 88-352), which prohibit discrimination in employment on the basis of race, color, religion, sex, and national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC § 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC §§ 6101-6107), which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, §§ 523 and 527 (42 USC §§ 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC §§ 1201), as amended from time to time, relating to nondiscrimination in employment on the basis of disability; 10) Monroe County Code Chapter 13, Article VI, which prohibits discrimination on the basis of race, color, sex, religion, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age; and 11) any other nondiscrimination provisions in any federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement.

Section 15. Assignment. SCHOOL BOARD may not assign this INTERLOCAL AGREEMENT or assign or subcontract any of its obligations under this Agreement without the approval of COUNTY's Board of County

Commissioners. All obligations under this INTERLOCAL AGREEMENT will extend to and bind the legal representatives, successors, and assigns of SCHOOL BOARD.

Section 16. Covenant of No Interest. SCHOOL BOARD and COUNTY covenant that neither presently has any interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance under this INTERLOCAL AGREEMENT, and that each's only interest is to perform and receive the benefits as recited in this INTERLOCAL AGREEMENT.

Section 17. Code of Ethics. SCHOOL BOARD and COUNTY agree that each agency's respective officers and employees recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, F.S., regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting or contractual relationship; and disclosure or use of certain information.

Section 18. Ethics Clause. SCHOOL BOARD warrants that it has not employed, retained, or otherwise had act on its behalf any former COUNTY officer or employee subject to the prohibition of Section 2 of Ordinance No. 010-1990 or any COUNTY officer or employee in violation of Section 3 of Ordinance No. 010-1990. For breach or violation of this provision, COUNTY may, in its discretion, terminate this agreement without liability and may also, in its discretion, deduct from the agreement or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid to the former COUNTY officer or employee.

Section 19. Severability. In the event that one or more provisions of this Agreement are declared invalid by a court of competent jurisdiction, the balance of this Agreement shall remain in full force and effect.

**[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT
BLANK]**

IN WITNESS WHEREOF, the parties hereto have set their hands and seals
the day and year first written above.

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

ATTEST: DANNY L. KOHLAGE,
COUNTY CLERK

By: _____
Deputy Clerk

By: _____
Mario Di Gennaro, Mayor

SCHOOL BOARD OF MONROE COUNTY

(Seal)
ATTEST:

By: _____
Randy Acevedo, Superintendent

By: _____
Chairperson

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Cynthia L. Hall
CYNTHIA L. HALL
ASSISTANT COUNTY ATTORNEY
Date 9-4-07

11:00 Am

BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: May 18 - 19, 2005 Division: Public Safety

Bulk Item: Yes No X Department: Public Safety

Staff Contact Person: James R. "Reggie" Paros
modified at meeting to \$200,000

AGENDA ITEM WORDING: Approval of funding in an amount not to exceed \$184,000.00 for Enhanced Hurricane Protection Area (EHPA) Upgrade Cost at new Poinciana Elementary School.

ITEM BACKGROUND: EHPA Criteria included in the design of new Poinciana Elementary School and Gross Maximum Price (GMP): EHPA Envelope: 16,000 sf - Cafeteria, Administration, Music and Art rooms; EHPA Capacity: 600; EHPA Manager's Office: Receptionist's area
EHPA Criteria not included in GMP and EHPA Upgrade Cost

- Storm Shutters \$25,000
 - Electrical \$50,000
 - Generator By Others*
 - Water Storage \$25,000
 - Sanitary Storage NIC ^{not in} _{contract}
 - Doors \$15,000
 - Total \$115,000
- * This anticipates using an existing County-owned mobile generator set. A permanently installed generator with automatic transfer switch and connections is estimated to be an additional \$45,000. The Monroe County School District (MCSD) has taken a stance against the permanent generator because of the on-site fuel and maintenance requirements. If the BOCC elects to go further with the EHPA, then it would need to formally request the MCSD to re-examine its present stance.

PREVIOUS RELEVANT BOCC ACTION: October 20, 2004 - Commissioner Rice discussed entering into negotiations with the MCSD regarding proposed construction of new schools currently in the planning stages to possibly include the requirements to enable use of the school facilities as hurricane shelters. Motion was passed requesting that School Board Member Dr. Walker present this request to the School Board for consideration and return to the BOCC with their decision.

CONTRACT/AGREEMENT CHANGES: This is not a contract.

STAFF RECOMMENDATIONS: Discussion

TOTAL COST: Not To Exceed \$184,000.00 *\$ 200,000* **BUDGETED:** Yes No X

COST TO COUNTY: Not To Exceed \$184,000.00 *\$ 200,000* **SOURCE OF FUNDS:** To Be Determined

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

APPROVED BY: County Atty n/a OMB/Purchasing n/a Risk Management n/a

DIVISION DIRECTOR APPROVAL: *[Signature]* 5/3/2005
James R. "Reggie" Paros

DOCUMENTATION: Included X Not Required

DISPOSITION: approved 5/18/2005 5-0 *MCBOLL* *\$200K copy* **AGENDA ITEM #** H-1

Revised 2/05
Modified copy of \$200K with consideration of threshold suggestion & increased fuel capacity for generator

RANDY ACEVEDO
Superintendent of Schools



**BUILDING BRIDGES
TO SUCCESS**

Members of the Board

District #1

EILEEN QUINN

District #2

ANDY GRIFFITHS

Vice Chair

District #3

DR. R. DUNCAN MATHEWSON, III

District #4

ANNE KELLY COHAN

Chair

District #5

DR. DEBRA WALKER

October 19, 2006

Dave Koppel, Engineer
Monroe County Board of Commissioners
1100 Simonton Street
Key West, FL 33040

Dear Mr. Koppel,

The Monroe County Board of Commissioners has agreed to finance the cost of Enhanced Hurricane Protection for Poinciana Elementary School. Attached is the breakdown of charges provided by Heery International, the contractor for this project. The amount to be reimbursed is \$135,927.75.

We are requesting that your check be made payable to:

Monroe County School District
241 Trumbo Road
Key West, FL 33040

Attn: Finance Department

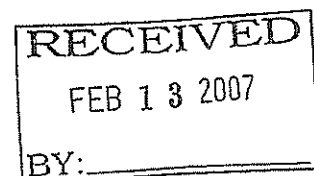
Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Fred Sims'.

Fred Sims
Executive Director of Facilities

Attachment



HEERY

October 9, 2006

Fred Sims
Monroe County School District
241 Trumbo Rd.
Key West, FL. 33040

Architecture
Construction Management
Engineering
Graphic Design
Interior Design
Program Management
Strategic Facilities Planning

RE: Poinciana Elementary School

Dear Fred:

Attached is a change order to return the unused portion of the EHPA funds. The costs are outlined below. The final change order sent for signature will have the back up documentation for you to submit to the county for reimbursement.

\$15,426.00	Automatic transfer switch (transfers power from generator to Fire Pump)
\$17,462.00	Electrical costs associated with EHPA (Power and Systems)
\$ 3,887.00	Power from generator to Fire Alarm panel
\$19,891.70	Generator
\$17,000.00	Generator Install
\$23,287.50	Foundations for Generator room
\$21,558.53	Mechanical costs inc. duct, louvers, and insulation.
\$ 1,555.02	Doors and Frame for Generator Room
\$ 7,360.00	Design Fee
\$ 8,500.00	TPM Fee
<hr/>	
\$135,927.75	Total

Returns \$64,072.25 in Savings.

If you have any questions feel free to contact me.

Sincerely
Heery International Inc.



Eric Pelinsky, P.E.
Project Manager

cc: Niels Hubbell, H.I.

Heery International, Inc.

A group of professional service practices
675 35th Street-Gulfside Marathon, Florida 33050
Telephone 305-289-5787 Fax 305-289-5269
ATLANTA BALTIMORE BEVERLY HILLS BOCA RATON BOULDER BOULDER COLOREDENVER DENVER DALLAS DENVER DUBLIN DUNELLEN
HOUSTON LOS ANGELES LOS ANGELES LOS ANGELES LOS ANGELES LOS ANGELES LOS ANGELES LOS ANGELES LOS ANGELES LOS ANGELES
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