



# Broward County

## Legislation Text

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File #: 21-2010, Version: 1

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### **Broward County Commission Regular Meeting**

**Director's Name:** Bertha Henry

**Department:** County Administration

### **Information**

#### **Requested Action**

A. MOTION TO AUTHORIZE County Administrator to approve and execute GMP Contract Amendment No. 4 to the Master Development Agreement (MDA) between Broward County and Matthews Holdings Southwest, Inc., (MSW) for the Convention Center Expansion and Headquarters Hotel Project (Project) in substantially the form provided to the Board (to be distributed Monday), in an amount not to exceed \$329.8 million for the Guaranteed Maximum Price 4 (GMP 4), for the vertical construction costs of the Eastern Expansion of the Convention Center, the CVB Building and the Public Plaza and other aspects of the project (Exhibit 1-GMP Proposal), to include a CBE goal reduction from 30% to 25%, provided it has been reviewed and approved as to legal sufficiency by the Office of the County Attorney.

*(Per the Tuesday Agenda Memorandum, the Board's consideration of this item is based on the updates to Exhibits 1 and 2 and draft contract amendments distributed by Additional Material Item 6, and on the revised Summary of Terms to the Third Amendment and GMP Amendment No. 4, which deletes a paragraph inadvertently included in that amendment, distributed as Additional Material Item 6(2). FGMP Contract Amendment No. 5 is unchanged.)*

**ACTION: (T-11:45 AM) Approved as amended with Regular Meeting Additional Material 6 and 6 (2), dated November 16, 2021, submitted at the request of County Administration.**

**VOTE: 9-0.**

B. MOTION TO AUTHORIZE County Administrator to approve and execute GMP Contract Amendment No. 5 to the MDA Between Broward County and MSW for the Project in substantially the form provided to the Board (to be distributed Monday), in an amount not to exceed \$571 million for the Guaranteed Maximum Price 5 (GMP 5), for the vertical construction costs of the Headquarters Hotel and other aspects of the Project (Exhibit 2-GMP Proposal), to include a CBE goal reduction from 30% to 25%, provided it has been reviewed and approved as to legal sufficiency by the Office of the County Attorney; and authorize the County Administrator to take all necessary budgetary and administrative actions needed to effectuate and implement GMP 5.

*(Per the Tuesday Agenda Memorandum, the Board's consideration of this item is based on the updates to Exhibits 1 and 2 and draft contract amendments distributed by Additional Material Item 6, and on the revised Summary of Terms to the Third Amendment and GMP Amendment No. 4, which deletes a paragraph inadvertently included in that amendment, distributed as Additional Material Item 6(2). FGMP Contract Amendment No. 5 is unchanged.)*

***ACTION: (T-11:45 AM) Approved as amended with Regular Meeting Additional Material 6 and 6 (2), dated November 16, 2021, submitted at the request of County Administration.***

***VOTE: 9-0.***

C. MOTION TO AUTHORIZE County Administrator to approve a Third Amendment to the MDA Between Broward County and Matthews Holdings Southwest, Inc., (MSW) for the Convention Center Expansion and Headquarters Hotel Project (Project) to address requirements of the bond indenture, consistent with the summary of terms provided to the Board (to be distributed November 15, 2021), provided it has been reviewed and approved as to legal sufficiency by the Office of the County Attorney.

***(Per the Tuesday Agenda Memorandum, the Board's consideration of this item is based on the updates to Exhibits 1 and 2 and draft contract amendments distributed by Additional Material Item 6, and on the revised Summary of Terms to the Third Amendment and GMP Amendment No. 4, which deletes a paragraph inadvertently included in that amendment, distributed as Additional Material Item 6(2). FGMP Contract Amendment No. 5 is unchanged.)***

***ACTION: (T-11:45 AM) Approved as amended with Regular Meeting Additional Material 6 and 6 (2), dated November 16, 2021, submitted at the request of County Administration.***

***VOTE: 9-0.***

**Why Action is Necessary**

To keep the Project moving forward and lock in sub-contractor and supplier pricing before it expires.

**What Action Accomplishes**

Allows the County to potentially lock in the pricing of the current bid packages by November 30<sup>th</sup> deadline for GMPs 4 and 5, which due to post-pandemic market conditions (including labor shortages, supply chain disruptions, and commodities price increases) are expected to go up if the current bids are allowed to expire.

**Is this Action Goal Related**

Yes

**Previous Action Taken**

April 26, 2016 Regular Meeting (Item No. 35), May 10, 2016 Regular Meeting (Item No. 35), August 16, 2016 Regular Meeting (Item No. 95), November 1, 2016 Regular Meeting (Item No. 34), April 4, 2017 Regular Meeting (Item No. 43), October 3, 2017 Regular Meeting (Item No. 32), February 27, 2018 Regular Meeting (Item No. 61), August 14, 2018 Regular Meeting (Item No. 102), January 8, 2019 Regular Meeting (Item No. 56), April 16, 2019 Regular Meeting (Item No. 36), June 11, 2019 Regular Meeting (Item No. 78), August 27, 2019 Regular Meeting (Item No. 44), November 5, 2019 Regular Meeting (Item No. 77), June 16, 2020 Regular Meeting (Item No. 80), October 20, 2020 Regular Meeting (Item No. 58), November 10, 2020 Regular Meeting (Item No. 89), April 6, 2021 Regular Meeting (Items No. 47 & 48), June 1, 2021 Regular Meeting (Item No. 92), June 15, 2021 Regular Meeting (Items No. 72, 105, & 120), October 5, 2021 Regular Meeting (Item No. 55).

### **Summary Explanation/Background**

**Prior to Board action on these items, individual briefings will be held with Commissioners to discuss the overall strategies and financing recommendations for the Convention Center Expansion and Headquarters Hotel project.**

When the Board authorized the Project to be restarted after the COVID-19 pandemic suspension (June 15, 2021, Regular Meeting (Item No. 105)), MSW was asked to provide the County with GMP 4 for the East Expansion, Plaza and CVB Building, and GMP 5 for the Headquarters Hotel. New bid packages were issued by the general contractor Balfour Beatty to the construction market. It takes about four months to receive, process, and reconcile bids and present them in final form to the County, which MSW did on October 13, 2021 (Exhibits 1 & 2). The total amount of GMP 4 includes an increase of approximately \$41.2 million and the total amount of GMP 5 includes an increase of approximately \$162 million from the original Initial Guaranteed Maximum Price (IGMP) primarily due to the previously cited post-pandemic market conditions and to a further refinement of the design documents.

GMPs 4 & 5 were immediately turned over to the Weitz team, which serves as the County's Owner's Representative, for their review and comment. The Weitz team is composed of subject matter experts (sub-contractors and Weitz staff) from all relevant fields related to the construction of the Project. The Weitz team completed their review and provided their comments to the County on November 8, 2021. The parties (Developer and County) met on November 11-12 and reviewed and reconciled all outstanding issues. Now that the County and Developer teams have satisfactorily reconciled GMP issues, the County Attorney's Office will work on finalizing the GMP amendments and the Chief Financial Officer will complete the financing plan for both GMPs.

Several post-pandemic market conditions, including labor shortages, supply chain disruptions and commodities price increases have all contributed to a significant increase in the cost of construction. Exhibit 4 contains a sampling of price increases and supply chain disruption notifications from a variety of suppliers. This was reflected in cost increases included in the GMP 4 & 5 proposals. Importantly, due to the volatility of the market, the bids included in the GMP 4 & 5 proposals are only valid until November 30, 2021. To meet that date, the County must issue an NTP prior to November 30<sup>th</sup>.

**Motion A.** County staff and consultants have concluded their analysis of the GMP 4 submission, discussed desired changes with MSW and arrived at a final number and other material changes in the GMP. Consistent with previous actions, this item is being presented to the Board now, with the original GMP proposal, with the intent that the changes to GMP 4 resulting from the staff and consultant analysis will be presented to the Board as additional material on Monday, November 15, 2021.

Additionally, GMP 4 includes an assumption of a CBE goal of 25% instead of the previously established goal of 30%, which provides a project savings of approximately \$16 million. The bulk of those savings are being used to create a cost escalation allowance within the total GMP for the project, to be managed by the County, which will be used to absorb unforeseen cost escalations due

to the unusual volatility of the post-pandemic market. Should these funds not be used, project betterments can be negotiated to increase CBE participation above the 25% or reflect an overall reduction in project costs.

The funding for GMP 4 would come from bonds backed by Tourist Development Tax (TDT) revenue. The Finance/Bond teams are scheduled to price bonds on December 14, 2021, with a closing date of December 21, 2021. The \$41.2 million of increased costs are being covered by an increase in 'Pay-Go' cash funds generated by a reallocation of Project debt costs that were not needed in Fiscal Year 2022 and an unexpected increase in Fiscal Year 2021 TDT revenues.

**Motion B.** County staff and consultants have concluded their analysis of the GMP 5 submission, discussed desired changes with MSW and arrived at a final number and other material changes in the GMP. Consistent with previous actions, this item is being presented to the Board now, with the original GMP proposal, with the intent that the changes to GMP 5 resulting from the staff and consultant analysis will be presented to the Board as additional material on Monday, November 15, 2021. Additional changes resulting from other considerations, such as requirements of the bond indenture, would be added prior to execution. While authorization for the County Administrator to approve and execute GMP 5 is requested, it will not be executed until a finance plan is fully developed. This plan requires identification of additional revenue, and/or cuts that do not affect the performance of the hotel.

GMP 5 also includes an assumption of a CBE goal of 25% instead of the previously established goal of 30%, which provides a project savings of approximately \$22.5 million. The bulk of those savings are being used to create a cost escalation allowance within the total GMP for the project, to be managed by the County, which will be used to absorb unforeseen cost escalations due to the unusual volatility of the post-pandemic market. Should these funds not be used, project betterments can be negotiated to increase CBE participation above the 25% or reflect an overall reduction on project costs.

The funding for GMP 5 would come from bonds backed by hotel revenues, American Recovery Act federal funds and other appropriate resources.

**Motion C.** The Third Amendment to the MDA is necessary due to changes and additional items required by bond counsel, primarily related to the issuance of non-recourse debt for GMP 5. For example, damages related to failure to deliver the hotel within the project schedule will be aligned with the financial interests of the bondholders. These changes are also being finalized in ongoing discussions. A list of known requirements from bond counsel will be provided to the Board on Monday, November 15, 2021.

In closing, market conditions in the short term will remain turbulent due to many projects starting or restarting after the pandemic in South Florida and nationwide. The South Florida market is particularly active with projects like the County's and the Pier 66 project now restarting and new projects that were planned during the pandemic also coming on-line. The pending approval of the federal infrastructure legislation will continue to exert pressure on labor and commodities costs, particularly concrete, for the medium term. Labor shortages are expected to be an issue for many

years to come. Staff does not anticipate costs abating in the short term; costs are expected to continue rising for at least the next two years based on the market intelligence we have gathered to date. If the County is unable to issue an NTP for GMP 4 & 5 in a timely manner, it is fully anticipated that the next GMP proposals the County receives will cost more.

The intent of staff is to follow the same process that was used for GMP 2; issue Limited NTPs for GMPs 4 & 5 based on a value of initial construction work (labor and supplies) that is equivalent to the County's currently available resources and then later issue full NTPs when full funding is available. The approval of the GMP was enough for the MSW team to move forward and sign contracts with subcontractors who in turn were able to order necessary supplies and lock in product pricing.

As previously discussed with the Board, the work authorized in the Master Development Agreement (Agreement) with MSW for the Project is phased into five different components, each with its own Guaranteed Maximum Price (GMP). Each of the five GMPs have already been or will be presented to the Board for its review and approval. Each GMP approval requires an amendment to the Agreement.

At the June 11, 2019, Regular Meeting (Item No. 78), the Board simultaneously approved the Agreement with MSW and the Initial GMP 1 Amendment for utility relocation work for the West Expansion of the Convention Center. A final GMP 1 Amendment was approved by the Board at the August 27, 2019, Regular Meeting (Item No. 44) in the amount of \$13,861,866.

A GMP 2 Amendment, which provided for the vertical construction of the Western Expansion to the Convention Center, partial demolition and reconfiguration of the Northport Parking Garage, piles for the East Expansion and infrastructure modifications for the East Expansion, Convention and Visitors Bureau (CVB) Building and Plaza, was approved by the Board at the November 5, 2019, Regular Meeting (Item No. 77) in the amount of \$224,939,251.

At the June 16, 2020, Regular Meeting (Item No. 80) the Board approved a First Amendment to the Project that continued ongoing GMP 1 & 2 work but otherwise suspended the rest of the project moving forward due to the impacts of the COVID-19 pandemic on the financing markets.

The Project was restarted with the GMP 3 Amendment, which provided for earthwork, an auger cast pile test program, production pile installation, tension pile installations and other related site and foundation work for the Headquarters Hotel, and was approved by the Board at the June 15, 2021, Regular Meeting (Item No. 105) in an amount not to exceed \$10,294,634.

#### **Source of Additional Information**

Alan Cohen, Assistant County Administrator, 954-357-7364

#### **Fiscal Impact**

##### **Fiscal Impact/Cost Summary**

These contracts will be funded by the appropriate source at the time of release.