

ITEM #55₍₂₎

**ADDITIONAL MATERIAL
REGULAR MEETING**

OCTOBER 5, 2021


**SUBMITTED AT THE REQUEST OF
OFFICE OF THE COUNTY AUDITOR**



OFFICE OF THE COUNTY AUDITOR

115 S. Andrews Avenue, Room 520 • Fort Lauderdale, Florida 33301 • 954-357-7590 • FAX 954-357-7592

Advisory No. 220

Date: October 4, 2021
To: Honorable Mayor and Board of County Commissioners
From: Robert Melton, County Auditor 
Subject: Broward County Convention Center Expansion Agreement – Agenda Item No. 55

Item 55 presents a motion to authorize the County Administrator to execute a Second Amendment (Amendment) to the Broward County Convention Center Expansion and Headquarters Hotel Master Development Agreement (MDA) between Broward County and Matthews Holdings Southwest, Inc. (MSW) for the Convention Center Expansion and Headquarters Hotel Project (Project).

While we do not recommend disapproval of this item, this memorandum is to provide the Board with additional information about our serious concerns regarding the administration of this MDA by County Staff (the Project Management Team, consisting of Contract Administrator and Assistant County Administrator). We are concerned that issues raised in our Advisory Memorandum No. 215 (attached as Exhibit 2 to this item) have been mischaracterized by Management as being based upon a history of past dealings with “unscrupulous parties and others who have not always had the County’s best interests in mind.” This is incorrect, as our concerns are specifically related to the Project Management Team’s potential bypassing of standard controls for accountability and the potential lack of timely contract administration actions, resulting in an absence of transparency, at a minimum. Now, Management is proposing this Amendment as a remedy for issues which could have been more fully addressed by Management on an ongoing basis.

It is important to note that the MDA divides the Project work into several phases with Guaranteed Maximum Price (GMP) No. 2 representing the West Expansion of the Convention Center, with construction of the east convention center expansion and headquarters hotel expected to proceed in the coming months. The entire project is budgeted in excess of \$1 Billion. As such, it is critical that immediate improvements in the global management of this MDA are enacted to ensure reinstatement of normal controls and appropriate contract management activities.

Our specific concerns include, but are not limited to:

- 1. Absence of Coordination Team meetings.** Initially, a team of individuals from varied agencies in the County (including our Office, Project Management Team, County Attorney, Department of Finance and Administrative Services, and Owner’s Representative staff) met on a bi-weekly basis to keep all parties informed of activities on the project, and to provide feedback on such activities, based on our diverse backgrounds and perspectives. These meetings, which began in July 2018, ceased to occur on a regular basis after May 2020, with only two meetings occurring from then until the present time. Based on our attendance in those meetings, we were attempting to, in a team player fashion, participate and provide input in this forum; however, the lack of meetings has largely precluded our Office from being able to effectively monitor administration of the agreement, or major decisions by Project Management staff.
- 2. Lack of timely action on Notices of Impacts (NOI) and failure to incorporate full schedule reviews into the terms of executed Contract Price Element Adjustment Memorandum (CPEAM) and Change Orders (CO).** It appears that all Notices of Impacts have not been resolved in a timely manner, and such impacts are not resolved/documented in a timely manner via CPEAM and/or CO, as evidenced by the information in this Amendment. Specifically, time delays due to weather impacts in 2020 should have been resolved previous to the impending substantial completion due date, and if appropriate, acceleration should have been negotiated at such time.

Further, based on information in Exhibit 1, it appears several components of work were added to the Project, either in response to previously unidentified existing conditions or new scope requested by Project Management staff. However, it appears staff did not adequately address any potential needs for additional time when such scopes were added/changed, or when such project delays were realized. All changes in work should be accompanied by submission and review of project schedules to ensure project completion dates can be met, or other appropriate remedial actions can be considered. It is presently unclear if such actions have occurred on a regular and timely basis, although in meetings, Management has acknowledged this as an area for improvement. It is our understanding that the Owner’s Representative team has scheduling experts available who can provide ongoing assistance in this area.

- 3. Lack of transparency in the current cost of work, based upon such changes memorialized in the current Amendment.** The agenda identifies the Amendment as having no increase in costs; however, the item does not provide the Board with the total current approved cost of GMP No. 2. As a significant portion of the work identified for extended substantial completion dates is identified as ‘new’ in Exhibit 1, it is implied that all such work is being done without any increase in costs, and it is unknown if such work was funded through the use of existing contingency or allowance accounts. The item does not provide the total value of the GMP No. 2, the amounts remaining in contingency or allowance accounts, or funds expended to date, all of which should be readily available information and useful to the Board’s consideration of this item.

- 4. Lack of transparency regarding the full impact of Developer caused delay item, or others.** The item notes one aspect of delay is “related to an incorrect installation.” However, the item does not identify what was incorrectly installed, and the related impacts of same. Further, the Background Discussion for Agenda Item 92, June 2, 2021, Motion A, indicated that the existing roof was under warranty for an additional five years, and that the County and SMG would be pursuing compensation for the premature failure from the roofing manufacturer. In full transparency, the current agenda item should include a status update regarding the water intrusion and mold remediation activities, and if a determination has been made of responsibility.
- 5. Lack of sufficient documentation and timely management of issues may expose the County to liability.** Potential failures to resolve issues in an expedient manner with comprehensive documentation and due diligence reviews may expose the County to liability and increased risk of additional project costs. Appropriate record keeping is critical to protect the County’s position should there be any disagreements during the project, or if claims are filed. If the County does not properly address and document responses to all issues, including any changes in project time, schedules, or costs of work, the County is exposed to additional risk of loss. Thorough documentation helps protect the County’s interests against claims and liability, as well as providing the level of transparency critical to public accountability.

Based on our concerns, we are not able to provide assurance that this project has been reasonably or appropriately managed to date. Because of this situation and the magnitude of this project, in terms of dollar value, scope, and importance to the community, we plan to initiate an audit which may utilize an outside consultant with expertise in similar scale construction projects. This will help to provide independent assurance that this project is complying with existing terms and conditions as well as best practices.

Please be advised that the information presented herein is not considered an audit in accordance with Generally Accepted Governmental Auditing Standards. Had we conducted an audit, we may have identified additional findings and concerns.

I hope you find this information useful, feel free to contact me if you have any questions regarding this memorandum.

Cc: Bertha Henry, County Administrator
Andrew Meyers, County Attorney