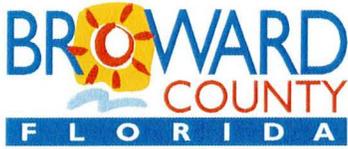


ITEM #31

**ADDITIONAL MATERIAL
REGULAR MEETING**

APRIL 20, 2021

**SUBMITTED AT THE REQUEST OF
COUNTY ADMINISTRATION**



BERTHA W. HENRY, County Administrator

115 S. Andrews Avenue, Room 409 • Fort Lauderdale, Florida 33301 • 954-357-7362 • FAX 954-357-7360

MEMORANDUM

DATE: April 14, 2021

TO: Mayor, Vice-Mayor, and Board of County Commissioners

FROM: Bertha Henry
County Administrator

RE: April 20, 2021 - Commission Meeting - Item No. 31, MOTION TO DISCUSS
Negotiations between Broward County and Vital Pharmaceuticals, Inc. (d/b/a
Bang Energy) for Solicitation No. PNC2121385F1 – Land Development
Opportunity in Unincorporated Southwest Broward County

Attached please find a letter dated April 9, 2021 to Bang Energy outlining the County's understanding of the current position of Bang Energy in the above referenced negotiations.

In that letter, the County requested a response from Bang Energy by close of business (5:00pm) on Tuesday, April 13, 2021. Shortly after the 5:00pm deadline, Bang Energy indicated that it would provide a response on Wednesday, April 14, 2021. As of the writing of this memorandum, Bang Energy has not provided a response. If Bang Energy ultimately provides a response, it will be provided to the Board as additional material.

Should you have any questions, please do not hesitate to contact me.

Attachments

c: Monica Cepero, Deputy County Administrator
Kevin Kelleher, Assistant County Administrator
Sandy-Michael McDonald, Director, Office of Economic and Small Business Dev.
Robert Melton, County Auditor
Andrew Meyers, County Attorney
Michael Kerr, Deputy County Attorney
Jeff Siniawsky, Assistant County Attorney



County Administration

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April 9, 2021

Matthew Davidson, Sr. Corporate Counsel
BANG | VPX | REDLINE
1600 North Park Drive
Weston, FL 33326

SUBJECT: Negotiations for Land Development Opportunity in Unincorporated
Southwest Broward County (Solicitation No. PNC2121385F1)

Dear Mr. Davidson,

As discussed during the negotiation meeting held on April 8, 2021, this letter is to confirm the County's understanding of the position of Vital Pharmaceuticals, Inc. (d/b/a Bang Energy) related to the Term Sheet and Interim Agreement proposed by the County on January 29, 2021. This confirmation is necessary as Bang Energy's current position appears to be significantly different than what was proposed by Bang Energy in its response to the above referenced solicitation as well as from its presentation to the Board of County Commissioners on October 21, 2020.

Economic Development - Employment

Before - In its proposal and presentation to the Board, Bang Energy "committed to hiring at least 1,000 employees to staff the expanded facilities across our integrated headquarters incorporating the county parcel." Bang Energy further provided "we pay above-market rates at all levels of the business, beginning with a \$15 minimum hourly wage plus benefits – no government mandate required. The average wage is anticipated to be \$25/hr (excluding benefits), with top salaries in the six figures."

Furthermore, in its presentation to the Board, representatives from Bang Energy stated that its current median annual wage was \$62,000. This figure was subsequently corrected by Bang Energy to reflect a current median annual wage of \$45,760. The County Auditor's Office confirmed that the \$45,760 represents the median salary (not including additional fringe benefits that may be provided) for 1,351 employees listed at all company locations (\$42,500 for the 707 employees listed in Florida).

Now – During our negotiation meeting on April 8, 2021, Bang Energy indicated that it would commit to the number of jobs, but objects to the concept of including any enforceable metrics on wage and salary levels. Despite the County repeatedly stressing

that the creation of high-paying jobs was the primary public purpose of this public private partnership (P3), representatives from Bang Energy indicated that it would not agree to any enforceable metrics on wages and salary in this Agreement.

Project Timeline

Before – In its proposal and presentation to the Board, Bang Energy provided a timeline that construction would be completed within 660 days (a little less than one year and ten months) after an agreement is reached.

Now – During our negotiation meeting on April 8, 2021, Bang Energy indicated that it would only complete one phase of a multi-phase process in the 660 days and needed to modify its proposal. Despite the County again indicating that the creation of new, ongoing high-paying jobs was the priority, Bang Energy indicated that it needed to modify its proposal to reflect that the project would not be completed for 3 to 4 years.

Rent

Before - In its proposal and presentation to the Board, Bang Energy stated that “Based on an evaluation of similarly situated properties performed on our behalf by Colliers, Bang Energy proposes a rent of \$2.4 million per annum, adjusted annually.” There was no mention of abatement, step-up, need to revisit the amount, or other conditions or qualifiers on the rent proposed by Bang Energy.

Now - During our negotiation meeting on April 8, 2021, Bang Energy reiterated its position from your March 12, 2021 email, that it wants: (1) to revisit the precise amount of rent to be paid after being able to access the land; (2) a three-year rent abatement; and (3) a “step-up” over years four to ten before paying the total rent.

The County sought clarifying information on the abatement and step-up now being proposed. Unfortunately, Bang Energy’s subject matter expert unexpectedly left the call before this could be addressed. Although you indicated that Bang Energy has these conditions or provisions in all of its lease agreements, none of these conditions or provisions were included in Bang Energy’s proposal or mentioned during the presentation to the Board.

Summary

In summary, these are just the items that we discussed in which it appears that Bang Energy is now deviating from what it proposed and presented to the Board after being selected in the above referenced solicitation. If the County’s understanding of Bang Energy’s position is incorrect and Bang Energy is willing to commit to ALL of the commitments and representations made in its proposal and presentation, please so advise ***by close of business (5:00pm) on Tuesday, April 13, 2021.***

Future Negotiations

Lastly, with respect to any future negotiations, Bang Energy needs to commit to meet timely will all necessary parties that are authorized to negotiate and bind the firm. As you know, it took us awhile to mutually schedule the initial negotiation dates. Since then, Bang Energy has cancelled two sessions, proceeded without anyone authorized to bind the firm, and had subject-matter experts leave the negotiations unexpectedly and unannounced. These actions do not leave the County the impression that we are important "partners" in this process and are certainly not conducive to reaching an agreement. We trust that this is an aberration and that any future negotiations will be timely scheduled, maintained and attended by all the necessary individuals on behalf of Bang Energy.

Cone of Silence

Please be reminded that the County's [Cone of Silence](#) which restricts certain communications is still in effect for this project.

Should you have any questions or like to discuss further, please do not hesitate to contact me.

Sincerely,



Kevin B. Kelleher
Assistant County Administrator

cc: Bertha Henry, County Administrator
Monica Cepero, Deputy County Administrator
Sandy-Michael McDonald, Director, Office of Small Business and Economic Dev.
Andrew Meyers, County Attorney
Michael Kerr, Deputy County Attorney
Jeff Siniawsky, Assistant County Attorney
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