



# Broward County

## Legislation Text

File #: 21-1423, Version: 1

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

**Director's Name:** Jonathan Daniels

**Department:** Port Everglades

**Division:** Operations

### Information

#### Requested Action

MOTION TO APPROVE Third Amendment to Agreement between Broward County and Shanghai Zhenhu Heavy Industries Co., Ltd. Inc., a/k/a ZPMC, for Construction, Transportation, Erection, Testing, and Commissioning of Low-Profile Super Post Panamax Container Handling Gantry Cranes for Port Everglades, Agreement No. X2111385P1, increasing the lump sum purchase price of each of three option cranes from \$13,800,000 to \$15,100,000 per crane, extending the substantial completion period from 25 months to 27 months after the issuance date of the First Notice to Proceed, and modifying other provisions regarding the timing of the First Notice to Proceed, design modifications, sources of supply, and spare parts; and authorize the Mayor and Clerk to execute same.

#### Why Action is Necessary

In accordance with the Broward County Procurement Code, Section 21.47 (a), Award and Execution Authority, Broward County Board of County Commissioners approval is required for amendments to agreements exceeding \$500,000.

#### What Action Accomplishes

Provides for the design, construction, transportation, delivery, and commissioning of three additional Low-Profile Super Post Panamax Container Handling Gantry Cranes at Port Everglades.

#### Is this Action Goal Related

Yes

#### Previous Action Taken

None

#### Summary Explanation/Background

THE PORT EVERGLADES DEPARTMENT RECOMMENDS APPROVAL.

This action supports the Broward County Board of County Commissioners' ("Board") Value of "Ensuring economic opportunities for Broward's diverse population and businesses" and the Goal to "Increase the economic strength and Impact of revenue-generating County enterprises balancing economic, environmental, and community needs."

On June 6, 2017, the Board approved the Agreement Between Broward County and Shanghai Zhenhu Heavy Industries Co., Ltd. Inc., a/k/a ZPMC ("ZPMC") for the Construction, Transportation,

Erection, Testing, and Commissioning of Low-Profile Super Post Panamax Container Handling Gantry Cranes at Port Everglades, consisting of a base crane order of three cranes for Berths 31-32, with an option to order up to three additional cranes for Berth 30. The price for the initial three cranes ordered was \$13,800,000 per crane, with the unit price for the option cranes increasing from the base price depending on the ordering date, ranging from the base price of \$13,800,000 if ordered within 24 months from the First Notice to Proceed for the base crane order, \$15,180,000 per crane if ordered between 24 and 36 months; \$16,698,000 per crane if ordered between 36 and 48 months; and \$18,367,800 per crane if ordered between 48 and 60 months.

On December 29, 2017, the Contract Administrator issued the First Notice to Proceed for the design of the base crane order, and on June 29, 2018, the Contract Administrator issued the Second Notice to Proceed to commence construction of the first three cranes.

On February 6, 2019, the Contract Administrator approved the First Amendment to the Agreement, which provided an extension to the substantial completion term from 730 calendar days (24 months) to 910 calendar days (30 months) and a term extension to the pricing schedules of six months due to delays in the design of the cranes, the largest low-profile cranes ever built.

On April 21, 2020 (Item No. 6), the Board approved the Second Amendment to the Agreement, which provided a further extension of the substantial completion term to a fixed date of December 29, 2020, with a corresponding extension to the pricing schedules for the option cranes to hold the original price of \$13.8 million per crane for up to six months after the date of substantial completion of the first three cranes, and also reduced the period for substantial completion of any option cranes ordered from 910 days (30 months) to 25 months after issuance of the First Notice to Proceed.

The three base order cranes were delivered to Port Everglades on November 17, 2020, and ZPMC commenced the commissioning process. On January 6, 2021, ZPMC requested a 60-day extension to the date of substantial completion for the first three cranes due to the impacts of COVID-19 and unforeseen weather conditions adversely affecting the construction and delivery schedule.

On February 27, 2021, the three base order cranes were determined to be substantially complete, and the new cranes were placed into service. On March 10, 2021, the Port Everglades Chief Executive & Port Director approved a non-compensable excusable delay, adding a time extension of 60 calendar days to the date of substantial completion for each of the first three cranes that was reflected in Change Order No. 1 to the Agreement completed on April 1, 2021.

On May 20, 2021, Port staff received a request from ZPMC to discuss the option crane order, and on May 26, 2021, a meeting was held between ZPMC representatives and Port staff to discuss ZPMC's concerns with pandemic impacts, changes in global market prices for steel and other crane components, changes in the exchange rate between Chinese and US currency, and other factors affecting ZPMC's cost structure.

On July 4, 2021, Port staff received a letter from ZPMC dated June 30, 2021, addressing a number of the issues discussed during the May meeting and requested negotiations to discuss proposed price increases for the option cranes as well as an increase in the time period between the receipt of a First Notice to Proceed and substantial completion of each option crane that may be ordered. A modified letter providing additional information on changes in component pricing and correcting an error in the original letter concerning the warranty period was received on July 7, 2021 (see Exhibit

1).

Negotiations were held on July 13, 2021, with representatives from ZPMC, the Port Everglades Department, and the County Attorney's Office to discuss ZPMC's request for a price increase and time extension for the option crane order, and the various factors behind the request. Based on those negotiations, staff recommends approval of the Third Amendment to the Agreement (see Exhibit 2) with the following business terms:

- The County will issue the First Notice to Proceed for all three option cranes in a single order in lieu of ordering them at separate times.
- The price for each option crane is modified to \$15,100,000 per crane, with that price valid through September 30, 2021.
- The time for substantial completion of the three option cranes is increased from 25 months to 27 months from the First Notice To Proceed to account for the actual time taken by ZPMC for the initial crane order and similar cranes ordered by another US port.
- The time period between the First Notice To Proceed and Second Notice To Proceed for the option cranes is increased from 30 days to 60 days to provide more time for ZPMC to incorporate design change recommendations from the base crane order in the option cranes.
- A Suggestions and Design Modifications exhibit has been added to the Agreement that reflects recommended modifications to the crane design based on experience during construction and delivery that ZPMC has agreed to incorporate in the option cranes.
- The Scope of Supply list for the option cranes is modified to delete cargo beams already provided in the base crane order.
- The Acceptable Suppliers List for the option cranes is modified to reflect the final list of suppliers used for the base crane order, and to accept a ZPMC-manufactured service crane for the option cranes in place of a Kone Crane service crane specified in the base crane order.
- The required Spare Parts List to be provided with each option crane is updated to be consistent with the final list of spare parts provided with each base crane.
- An At-cost Spare Parts List exhibit has been added to provide a list of certain spare parts that will be needed to maintain both the base and option cranes that ZPMC has agreed to provide at their actual cost without profit or overhead for the duration of the three-year warranty period applicable to the cranes.

The Third Amendment has been reviewed and approved as to form by the Office of the County Attorney. Receipt of the executed signature pages from ZPMC in China is pending, and will be included in the Monday Night memo.

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

Glenn A. Wiltshire, Deputy Director, Port Everglades Department, 954-468-3504, gwiltshire@broward.org

#### **Fiscal Impact**

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

Funding of \$13.8 million was appropriated by the Board in the Port's Fiscal Year 2021 Capital Improvement Plan ("CIP"), \$15.8 million is included in the Port's Fiscal Year 2022 CIP budget request, and the remaining amount needed to fully fund the cranes will be included in the Port's

Fiscal Year 2023 CIP budget request.