



Legislation Details (With Text)

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On agenda: 10/26/2021 **Final action:**
Title: Approve Agreement with Varco Pruden and authorize staff to issue of letter of credit in support of same.

Sponsors:

Indexes:

Code sections:

Attachments: 1. DRAFT ADDENDUM AGREEMENT WITH VARCO PRUDEN (vp redline) 10182022.pdf

Date	Ver.	Action By	Action	Result
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Agenda Item Name:

Approve Agreement with Varco Pruden and authorize staff to issue of letter of credit in support of same.

Presenter:

Tommy Crosby, Assistant County Manager, 337-6205

Description:

Waive anti-indemnification policy, approve Agreement with Varco Pruden for Owner Direct Purchase of materials for the construction of Sports Event Center, and approve issuance of letter of credit.

Recommended Action:

- 1) Waive the County's Policy against contractual indemnity set forth in Resolution 2014-33, and approve and authorize the Chair and the Clerk to execute and deliver the Agreement with Varco Prudent, which includes said indemnification, in substantially the form attached hereto with such changes therein as shall be approved by the Chair upon the advice of the County Manager and the County Attorney.
- 2) Approve and authorize staff to provide a letter of credit to Varco Pruden to guarantee payment under the Agreement.

Prior Board Motions:

At the Board's July 13, 2021 meeting, the Board approved:

- 1) Adopt the Resolution to Approve the Sports Center Development Agreement, Operation & Maintenance Agreement, and Donation of Property to the County.
- 2) Approve a \$30 Million inter-fund loan from the General Fund to be paid back from pre-scheduled draws of the previously approved \$30 Million bond issue.
- 3) Adopt the Resolution for unanticipated revenue and approve the Budget Amendment to establish the project fund.

At the Board's May 25, 2021 meeting, Commissioner Alford motioned Approve the First Amendment to the Pre-Development Agreement for the Multi-Use Sports Center, and to also delegate to the County Manager the authority to amend the pre-development agreement as follows and as often as necessary providing that the accumulative effect of all such amendments does not increase the counties obligation to reimburse the developer by more than 50,000 dollars. Upon a finding by the county manager that the price of one more materials needed for construction will substantially increase unless a deposit that locks in the price of said materiel is received by the materiel supplier the county manager may

- 1) Increase the amount of the pre-development budget to solely allow the developer to pay a deposit to the materiel supplier to prevent the substantial price increase
- 2) Amend the phase 1 activities on exhibit contained on the pre-development agreement to add the payment of said deposit or
- 3) Increase the counties obligation to reimburse the developer set forth in paragraph 3b of the pre-development agreement equal to the deposit approved by the county manager.

Motion carried 5-0

At the Board's April 27, 2021 meeting, Commissioner Alford motioned to approve the 60% Design Plans in accordance with the Predevelopment Agreement and direct staff to continue to engage with the development team on the design to maximize the sports events potential of the facility while maintaining the financial pro forma. Allow for the use of 1917 energy management funds for the commissioning of building systems in support of sustainability goals for operations and utility performance. Motion passed 5-0.

At the Board's April 13, 2021 meeting, Commissioner Prizzia moved to adopt the two resolutions and authorize bond counsel to initiate the bond validation process. The motion carried 5-0.

At the Board's March 23, 2021 meeting, Commissioner Alford moved to direct staff to continue to engage with the development team on the design to maximize the sports events potential of the facility while maintaining the financial pro forma. The motion carried 5-0.

At the Board's Jan 26, 2021 meeting, Commissioner Wheeler moved the following:

- 1) Authorize the Chair to sign a pre-development agreement consistent with the term sheet not to exceed \$1 Million and
- 2) Authorize staff to work with the Operator to finalize the project development and operations agreements for future Board consideration.
- 3) The Board will review the plans at the 60% completion point.

The motion carried 5-0.

At the November 10, 2020 Board Meeting, Commissioner Cornell moved to direct staff to negotiate a term sheet for the financing, construction, and operation of a Sports Events Center with the most responsive proposer. And 2) bring back the results of negotiations for the Board's consideration. (5:0)

At the October 15, 2019 Board Meeting, Commissioner Byerly moved direct staff to further explore the creation of a Sports Events Center via a partnership with Celebration Pointe Community Development District with the following ordered steps:

- 1) Determine public funding sources/amounts for the project.

- 2) Develop architectural designs and construction cost estimates.
- 3) Conduct a Celebration Pointe parking demand study and determine cost and Funding sources for additional parking stalls.
- 4) Establish legal parameters for venue funding and ownership.
- 5) Authorize a Chair letter to the City of Gainesville that provides the economic impacts of the Event Center to the community and request that the City get back to the Board of County Commissioners as soon as they have the necessary information to move forward with the eastern part of the City to move in a parallel path if possible.

The motion carried 5-0

At the May 7, 2019, Special Meeting Commissioner Byerly moved the following:

- 1) That we direct staff to expand Victus Study to include an analysis of the Celebration Pointe Site and include as needed an analysis of the range of Public and/or Private Ownership models and to work with the Celebration Community Development District to come up with those numbers.
- 2) Direct staff to prepare a business model / operational analysis for all three of the sites we have been considering for public investment; Celebration Pointe, Cabot Koppers and the MLK Site.
- 3) Direct Staff to draft an Interlocal Agreement for consideration by the Commission for investments of Community Redevelopment Agency (CRA) funds and Wild Spaces Public Places funds for the Citizens Field and Cabot Koppers sites. This should include a timeline for the development.
- 4) Authorize a Chair Letter to request that the Event Center be a topic of discussion at our Joint Meeting in June with the City of Gainesville.

The motion carried 5-0.

Fiscal Consideration:

Purchase from Varco Pruden is funded by \$30 million bonded for Sports Center Development in account 333.45.4515.575.62.00.

Strategic Guide:

Infrastructure

Background:

In July 2021, the County entered into multiple agreements regarding the design, construction and operation of a new Sports Event Center. The Project will be designed to a Class A institutional quality and commensurate with National Collegiate Athletic Association qualifying sports facilities. It will have no less than 110,000 square feet focusing on an indoor track, volleyball, basketball, dance, and cheerleading. Current estimates place the project being open for events in January 2023.

Ownership of the Project Site has been conveyed to the County pursuant to the Donation Agreement. Site work construction is anticipated to commence soon in accordance with the terms and conditions of the Development Agreement. As the County enjoys certain tax-immune/exempt status, the Development Agreement provides for the County to make "owner direct purchases" of materials that are specified and requested by the Developer, so that the project can benefit from the tax savings. The Developer has provided the County with plans and specifications for the purchase of material

from Varco Pruden that will be used by the Developer to construct the Sports Event Center. Accordingly, staff is requesting Board approval of this Agreement with Varco Pruden to make an owner direct purchase of said materials.

Varco Pruden has presented a Standard Material Contract Proposal for the furnishing of steel and steel beams for the Sports Event Center. As part of their standard contract, Varco Pruden requested that the County to indemnify them which is not in compliance with Resolution 14-33. Pursuant to Resolution 14-33, County staff requested to reconsider its request for indemnification. Varco Pruden declined to withdraw its request, but did agree to revise the indemnification language to be consistent with language provided in Resolution 14-33. Even so, Resolution 14-33 requires specific Board approval of any agreement that requires the County to indemnify another party. Therefore, the Board must waive this its anti-indemnification policy, and find that obtaining the good or service at the offered terms is in the best interest of the County. County staff advise that said indemnification created only a small risk to the County and that approval is in the best interest of the County because there are limited manufacturers of steel and steel beams for sports complexes, the County can save Sales Tax by doing this owner direct purchase. Furthermore, the materials are being constructed in accordance with Florida Building Code so purchase of materials is creates only a low risk to the County. The Agreement is being finalized between the parties. Additionally, Varco Prudent is requesting a letter of credit from the County, which requires approval by the BoCC, to secure payment for the materials being purchased.