Memorandum

Date: November 2, 2022

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

Daniella Levine Cava

Subject: Recommendation of Metromover Extension for Rapid Mass Transit Solution for the Beach Corridor/Baylink

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My administration is committed to developing rapid transit solutions that improve mobility, reduce traffic, and expand access to job opportunities – while delivering projects that provide maximum value to taxpayers. As we work to accelerate progress on the SMART Program strategic transit plan, I directed the Department of Transportation and Public Works (DTPW) to develop a beach corridor solution that provides the best experience to users while mitigating costs and project delays. Our staff's analysis indicated that a seamless extension of the County's existing Metromover system to Miami Beach – the community-preferred, one-seat option – would yield significant benefits and provide the highest overall value to residents. While monorail technology was originally estimated at a lower cost in 2018, proposed costs have escalated significantly – the latest pricing in the Interim Agreement with MBM Partners, LLC (MBM) includes a capital cost of $1.3 billion. Although we provided time for MBM to propose cost-saving measures, the monorail proposal has not come down from this price.

As a result of the substantial increase in cost and additional concerns outlined below and attached, I cannot recommend that the Board proceed to enter into a Project Agreement with MBM for the monorail transit solution. Accordingly, the interim phase has expired without a recommendation for an agreement. It's critical that we make fiscally responsible infrastructure investment decisions and act as good stewards of public tax dollars, as we aim to expand transit across Miami-Dade with limited resources. A Metromover option can accomplish the much-needed Beach Corridor/Baylink connection at a lower cost than the original monorail plan, while delivering a more accessible one-seat ride to residents and visitors. Further, DTPW can repurpose engineering and environmental work already completed for the monorail proposal to ensure we deliver the Metromover extension in a comparable timeframe.

Pricing Increase

Under the terms of the Interim Agreement approved by this Board in October 2020, MBM was to complete predevelopment activities while the final long-term Project Agreement was negotiated. From November 2020 through October 2022, County staff negotiated in good faith with MBM to arrive at a final Project Agreement. During the negotiation phase, the capital cost of the project more than doubled from the original proposal. While some increases were expected – due to the increased scope for an additional transit station in Miami Beach, as well as changes in economic conditions related to the pandemic – the cost increases have significantly exceeded what was expected. Further, due to the change in interest rates, an even more substantial increase in availability payments is indicated by MBM. These significant cost escalations may minimize the County's ability to mitigate other risks as the project moves forward, and could jeopardize our ability to finance and procure the other priorities outlined in the SMART Plan proforma.

Benefits of a Metromover Solution

Expanding Metromover for the Baylink connection offers numerous advantages and closely aligns with the Locally Preferred Alternative (LPA) adopted by the Miami-Dade Transportation Planning Organization in January 2020. A key benefit is the ability to offer users a one-seat ride from any Metromover station to Miami Beach and back. This is a significant advantage over a monorail solution which requires a transfer – integrating seamlessly with existing transit infrastructure, while maintaining comparable travel times and passenger capacities. This solution also provides operational efficiencies associated with extending a system that the County is familiar with and already operates. The extension of Metromover allows for County staff to operate and maintain the system, providing economies of scale and eliminating the uncertainty and inefficiencies that an entirely new mode of transportation would introduce.

It is also important to note that the Beach Corridor of the SMART Plan considers multiple transit extensions beyond the Baylink connection to Miami Beach, including the expansion of Metromover service north to the Design District. Maintaining consistent service to both Miami Beach and Design District yields the greatest user, system and community benefits. We also anticipate that the Metromover solution will yield capital and operational cost savings, enhance the County's ability to gain support from funding partners, and provide the opportunity to explore American-made fleet vehicles.

Next Steps

To implement the Beach Corridor/Baylink transit extension as swiftly as possible, staff will proceed to advertise a competitive solicitation for a Metromover extension. During the term of the Interim Agreement, MBM completed required predevelopment work – including topographical and utility surveys, geotechnical studies, environmental assessments, structural analyses, and more – which will be used for the design criteria package in the advertisement, allowing the vendor community to provide more refined pricing by reducing project risk associated with geotechnical, environmental, and utility risk. The project will undergo competitive solicitation to facilitate selection because of qualifications, technical capabilities, cost, and overall best value.

The immediate advertisement of the solicitation will mitigate delays and allow for the solution to be delivered in a comparable timeframe to that of the monorail solution. Engineering and other work performed to-date with relation to the project will be leveraged to the furthest extent possible to accelerate procurement. It is anticipated that the advertisement, evaluation, negotiations, and presentation of a recommendation to award to the Board can be achieved by October 2023. This will facilitate an accelerated delivery with project design commencing in 2024, construction beginning in 2025, and operations anticipated by 2029.

We have the unique opportunity to implement a world-class, user-friendly transit solution that creates a vital link for residents, visitors, and businesses between Miami's urban core, Miami Beach, and the economic engines of Miami International Airport and PortMiami, as we work to more seamlessly connect all corners of our community. I look forward to providing the Board with regular updates on the status of this project. Please don't hesitate to reach out to me or DTPW Director Eulois Cleckley with any questions.

Attachments

c: Geri Bonzon-Keenan, County Attorney
Gerald K. Sanchez, First Assistant County Attorney
Jess McCarty, Executive Assistant County Attorney
Office of the Mayor Senior Staff
Eulois Cleckley, DTPW Director
Yinka Majekodunmi, Commission Auditor
Jennifer Moon, Chief, Office of Policy and Budgetary Affairs
Basia Pruna, Director, Clerk of the Board

Memorandum

Date: November 1, 2022

To: Mayor Daniella Levine Cava

From: Eulois Cleckley, Director & CEO EEC
Miami-Dade Department of Transportation and Public Works

Subject: Conclusion of Negotiations with MBM Partners, LLC and Recommendation for a Beach Corridor / Baylink Solution

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On October 20, 2020, under Resolution No. R-1080-20, the Board approved the award of an Interim Agreement to MBM Partners, LLC (MBM) to perform pre-development activities and have the exclusive right to negotiate a comprehensive 30-year Project Agreement with the County to design, build, finance, operate and maintain a monorail system from Downtown Miami/Overtown area of the City of Miami connecting to two locations in the City of Miami Beach.

As part of the negotiations, MBM provided pricing updates which included a detailed breakdown of capital costs as well as a breakdown of the operating and maintenance costs. These figures were to be used to derive the availability payments that would be made by the County to MBM for the term of the Project Agreement. The pricing updates have continued to increase throughout the term of the Interim Agreement. While increases were expected as a result of the additional station in Miami Beach as well as impacts on material and labor costs as a result of the COVID-19 pandemic, this cost exceeds the amount supported by the cost analysis, with the most recent pricing including a capital cost of approximately $1.3 billion.

Given the importance of developing a regional transportation solution that connects Miami's urban core with Miami Beach, DTPW will proceed to develop a transit solution that maximizes the user experience, enhances community and operational benefits, while mitigating taxpayer costs and delivering the project in a timeframe comparable to that of the monorail solution.

Attached you will find report of negotiation results for RFP-01353 which outlines the process undertaken and associated outcomes.

Attachment: Report of Negotiation Result RFP-01353: Interim Agreement for the Design, Construction, Financing, Operation and Maintenance of the Rapid Mass Transit Solution for the Beach Corridor Trunk Line

c: Jimmy Morales, Chief Operations Officer
Josenrique Cueto, Deputy Director, Chief Project Delivery Officer DTPW
Eddie Gonzalez, Assistant County Attorney
Bruce Libhaber, Assistant County Attorney
Monica Rizo, Assistant County Attorney

Memorandum

Date: October 31, 2022

To: Eulois Cleckley
Director and CEO
Department of Transportation and Public Works

Thru: Josenrique Cueto, P.E., LEED Green Associate, ENV SP
Deputy Director - Chief Project Delivery Officer
Department of Transportation and Public Works

From: Ryan Fisher, P.E.
Project Manager, Manager Highway Bridge Engineering
Department of Transportation and Public Works

Beth Goldsmith, CPPB, ENV SP
Acting Chief Negotiator
Information Technology Department

Subject: Report of Negotiation Results for RFP-01353: Interim Agreement for the Design, Construction, Financing, Operation and Maintenance of the Rapid Mass Transit Solution for the Beach Corridor Trunk Line

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Background:
On October 20, 2020, under Resolution No. R-1080-20, the Board approved the award of an Interim Agreement to MBM Partners, LLC (MBM) to perform pre-development activities and have the exclusive right to negotiate a comprehensive 30-year Project Agreement with the County to design, build, finance, operate and maintain a monorail system from Downtown Miami/Overtown area of the City of Miami connecting to two locations in the City of Miami Beach. Under the terms of the Interim Agreement, the County receives proprietary ownership of all predevelopment work completed by MBM, including utility identification, environmental reviews, topographic studies, geotechnical studies, roadway and drainage studies, structural analysis and a basis of design. The long-term Project Agreement was to include the final terms, conditions, and all costs associated with the project to be paid by the County via availability payments over the 30-year agreement term. The Interim Agreement established a not-to-exceed capital cost of $586,500,000 for the solution, not including the second station to be located within the City of Miami Beach.

The results of negotiation process are summarized below.

Technical Working Groups:
Pursuant to the Interim Agreement, the following technical working groups were formed:

- Environmental / Permitting
- Guideway Design
- Facilities Design
- Constructability and Traffic Management
- Right of Way and Transit Oriented Development
- Public Information and Outreach
- Vehicles, Systems, Operations and Maintenance
- System Integration

From November 2020 through April 2022, meetings for each working group were held weekly, bi-weekly, or monthly depending on the number of actions to be discussed. Working groups consisted of representatives from MBM, the County, County technical consultants and representatives from the Florida Department of Transportation (FDOT). During sessions, various technical discussions were held in each subject area to facilitate the completion of the predevelopment work, completion of conceptual design, establishment of construction means and methods, and development of the technical appendixes for the Project Agreement. In April 2022, most discussion topics had been addressed, therefore structured sessions were discontinued. The parties continued to exchange technical feedback via email or in ad hoc meetings on specific issues.

Interim Agreement Design Deliverables:
During the term of the Interim Agreement, MBM produced predevelopment deliverables required per the scope of the agreement. Prior to issuing acceptance of any deliverable, the County reviewed the deliverables for conformance with the technical requirements of the Interim Agreement, and where applicable, provided the deliverable to the Florida Department of Transportation (FDOT) for review and comment. Comments were responded to by MBM, comment resolution meetings were held, and submittals were updated to achieve final acceptance by the County. These predevelopment deliverables are reusable assets to the County in terms of geotechnical exploration, preliminary foundation design, guideway alignment, utility location and preliminary relocation coordination, conceptual power systems supply, concept level traffic control plans and sequencing, traffic engineering and studies, 15% roadway and drainage design, 25% station and facility design, conceptual systems and vehicles layout and concept of operations. The County has proprietary ownership over all deliverables required under the Interim Agreement and has received all deliverables in their native file formats.

Legal, Commercial, and Financial Working Group:
In addition to the technical working groups, a legal, commercial, and financial working group was formed to include appropriate decision makers from MBM and DTPW, representatives acting on behalf of the Internal Services Department and County Attorney's Office, as well as outside financial and technical consultants. This working group was responsible for the development of all contractual documents related to the Project Agreement, including terms and conditions, legal provisions, and technical and financial appendixes, amounting to more than 800 pages of contractual documents. This working group was responsible for the negotiation of all aspects of the Project Agreement and began meeting in January 2021 following the establishment of initial draft documents. Initial sessions to determine key areas of negotiation were held virtually, with multi-day in person sessions held in December 2021. Sessions continued to be on various topics, followed by an additional round multi-day in person meetings in May 2022. The working group was able to successfully establish most parameters of the Project Agreement in a manner that provided appropriate protections for the County in a manner consistent with public-private partnership market standards. Upon resolution of the majority of provisions, major points of negotiation, as further described below, remained as topics of discussion, including three primary aspects: 1) Project Risk such as unknown site conditions, utilities risk, and governmental approval risk; 2) design, construction, operation, and maintenance considerations; and 3) Price.

Project Risk Negotiations:
Key areas of project risk have played a significant role in negotiations to achieve the Project Agreement. These included geotechnical risk, utility risk, unknown site conditions, and governmental approval (i.e., permitting) risk. The County has maintained a position, consistent with the original RFP, that MBM should bare the financial risk of geotechnical and utility risk with time relief allowed by the County. The County has offered some allowable compensation for unknown site conditions under specific parameters negotiated by the parties. Regarding governmental approval risks, per the Interim Agreement, the County has borne the risk of various conceptual permits, including completion of the National Environmental Policy Act (NEPA) environmental assessment process. The County's position has remained that MBM would be responsible for any reevaluation of governmental approvals triggered by the means and methods being proposed by MBM. While significant progress was made on these topics, the final turn of the terms and conditions received from MBM on October 24, 2022, did not remedy the County's concerns regarding project risk. Additionally, the topics of project bonding and insurance requirements remain unresolved. Accordingly, final agreement has not been achieved as staff's position remains that given the cost of the solution, the risk profile places too much burden on the County.

Design, Construction, Operation and Maintenance Negotiations:
Provisions pertaining to the design, construction, operation, and maintenance represent the most voluminous portion of the Project Agreement. Hundreds of pages of provisions were reviewed and mutually agreed to by the parties. A final round of documents was provided by MBM well after close of business on October 28, 2022. As it pertains to design and construction, two main areas of dissent remain. The first being that MBM has maintained the position that the basis of design should take precedence over established codes and standards. The County has maintained the position that codes and standards, particularly those established by FDOT as the owner of the majority of the right of way needed for the project, must have authority over the basis of design. Secondly, MBM has failed to provide any design or technical provisions for the vehicles, despite multiple requests from the County. Staff does not recommend finalizing the Project Agreement without the ability to review provisions with the County's consultants that have technical expertise in this vehicle type. Regarding operation and maintenance, the parties were able to reach resolution on all material issues. Of note, the County agreed to take on armed guard services at transit stations.

Price Negotiations:
The Interim Agreement required the submission of three pricing updates from MBM, including a detailed breakdown of capital costs of the solution as well as a breakdown of the operating and maintenance costs. These figures are used to derive the availability payments that will be made by the County to MBM for the term of the Project Agreement.

Price Update 1:
The first pricing update was received November 15, 2021, and included a capital cost of $917,000,000, including the additional station in the City of Miami Beach and the associated engineering and infrastructure changes to update the monorail from a shuttle system to a loop system. The associated annual availability payment to the County, inclusive of the operation and maintenance of the solution as well as the repayment of the capital costs, was approximately $99,000,000.

Upon receipt of the price update, the County requested a more detailed breakdown of unit pricing in the Federal Transit Administration (FTA) format to conduct a more detailed cost analysis and understand areas of price increase in greater detail. The County requested MBM to review the costs and identify areas of reduction. Two value engineering meetings were held in which the MBM presented changes to the design or the performance standards which they felt could result in cost savings. The County accepted proposed changes that were not impactful to the overall quality of the project, such as roof type for facilities and the façade of the maintenance facility. However, proposed items that would have negatively impact user experience, and therefore ridership, or were contrary to the original technical specifications established in the original solicitations, were not accepted such as uncovered walkways, a reduction in the number of escalators and elevators, a reduction in the scope of the multimodal facility requiring a substantial distance between the two platforms, and removal of a mezzanine level the downtown station which would have impacted passenger flow.

Price Update 2:
The second pricing update was received on January 18, 2022, and included a capital cost of \$979,000,000 as well as an additional budget of \$90,000,000 for cost escalations over the five-year period expected for construction, bring the total capital cost to approximately \$1,069,000,000, and an approximate annual availability payment of \$117,300,000.

In response to this cost, on March 21, 2022, the County Mayor issued a six-month extension of the Interim Agreement and a memorandum advising that the cost was unacceptable and specifically directed MBM to find ways to bring the cost back to a figure that reasonably aligned with the original project cost estimate including in the Interim Agreement and to finalize an appropriate risk profile, design and construction parameters, and a sustainable long-term operating model.

The County and MBM met to establish the schedule for the remaining negotiation meetings and milestones for document exchanges to allow MBM time to re-evaluate the pricing of the project as well as alternative concepts with the intent of fulfilling the County Mayor's direction.

Price Update 3:
The third pricing update was received on August 10, 2022, and included a capital cost of \$1,201,956,755 as well as additional budget of \$93,750,000 for cost escalations over the five-year period expected for construction, bringing the total capital cost to approximately \$1,295,706,755, and an approximate annual availability payment of \$159,584,609.

County staff, along with third party technical and financial consultants evaluated the capital cost and found that project wide the pricing was about 20% higher than expected. Areas of price increase from the initial costs established in the Interim Agreement included a 435% increase for systems, 381% for the vehicle maintenance storage facility, 170% increase in vehicles cost, and 56% increase for professional services. The civil construction price increased 38% and stations costs increase of 83%, however, those increases are consistent with other increases being seen in other capital construction projects as a result of changes in market conditions for concrete and steel construction over the term with verifiable structural concrete price escalation of approximately 75% between May 2020 and May 2022 for civil infrastructure projects in Florida.

In addition to the pricing for the monorail solution, the third pricing update also included an alternative solution proposal for a cable-pulled car technology with a capital expenditure stated to be $1,040,000,000 and a 20% reduction in the availability payment. Staff analyzed the cable-pulled car technology option proposed by the Concessionaire and deemed that it does not fit in to the current technologies used by the County's existing mass transit systems specifically the machinery and equipment which is outdated technologically and may not be preferrable in the environmental conditions of the project. This system would pose operations and maintenance challenges for the County in the future. This type of technology was deemed to not be a viable option, especially due to the cost in excess of $1B, as this was higher than the second pricing update capital charge which resulted in the request to explore all options to make the project financially viable.

The findings of the County's analysis were used as the basis for the price component of the final negotiations more thoroughly described in the following section.

Final Negotiations:
The parties convened for a final in person negotiation session on October 7, 2022. Negotiation topics included in depth discussion around all project risks described in the foregoing section, high level discussion regarding the outstanding design, construction, operation, and maintenance provisions, and specific discussion regarding Price Update 3. The County presented information regarding the price analysis that had been done, indicating to MBM the areas that the County had determined to be excessive. MBM was advised that staff could not recommend support of the project at the cost included in Price Update 3, even with adjustments to the risk profile of the Project Agreement. It was agreed that documents would continue to be circulated between the parties to establish final positions. On October 12, 2022, the County requested MBM to provide a best and final price offering. On October 24, 2022, MBM notified the County that no price reduction was to be expected.

Consensus Statement:
The capital cost of the project is more than double (221%) the original proposal, and while increases due to the increased scope for an additional transit station in the City of Miami Beach as well as changes in economic conditions were expected, this cost exceeds the amount supported by the cost analysis. Further, due to the change in interest rates from 3.34% to 5.22%, an even more substantial increase in the year one availability payment from $61,043,750 to $159,584,609 (261%) is indicated by MBM. These significant costs may minimize the County's ability to mitigate the other risks it would need to take on if the project were to move forward with and may also jeopardize the ability to finance and procure other legislative priorities outlined in the SMART Plan proforma. Additionally, those project risk and design and construction outlined herein remain. As a result of these factors, the results of the negotiations are being presented for consideration to proceed without a recommendation for a Project Agreement.