

RESOLUTION NO. 2003-47
TOURISM AND SPORTS AUTHORITY
Resolution Approving Guaranteed Maximum Price under the Design/Build Agreement
with Hunt Construction Group, Inc.

I. RECITALS

WHEREAS, pursuant to Arizona Revised Statutes Section 5-801 et seq. (the "Act"), the Tourism and Sports Authority (the "Authority") is authorized to construct, finance, furnish, maintain, improve, operate, market and promote the use of a multipurpose facility to be used to accommodate professional football franchises, major college football bowl sponsors, other sporting events and entertainment, cultural, civic, meeting, trade show or convention events or activities and may include a stadium (the "Facility"), on-site infrastructure, parking garages and lots and related commercial uses and do all things necessary or convenient to accomplish those purposes; and

WHEREAS, the Authority and B&B Holdings, Inc., d/b/a the Arizona Cardinals (the "Team") entered into an Agreement for Design/Build Services, dated August 12, 2003 (the "Design-Build Agreement"), with Hunt Construction Group, Inc., an Indiana corporation ("Hunt"), for the design and construction of the Facility; and

WHEREAS, the Design-Build Agreement provides that the Authority, the Team and Hunt shall agree on the guaranteed maximum price to be paid to Hunt for the design and construction of the Facility (the "GMP"), together with refinements to the documents identified as the Schematic Design Package for the Facility attached as Exhibit A to the Design-Build Agreement, the Schematic Design Package Budget attached as Exhibit B to the Design-Build Agreement, and the Project Schedule attached as Exhibit C to the Design Build Agreement; and

WHEREAS, the Design-Build Agreement contemplates that Hunt may submit the GMP for approval by the Authority and the Team in stages or component parts rather than as a complete package; and

WHEREAS, on August 26, 2003 and upon the recommendation of the Authority Representative, the Authority's Board of Directors (the "Board") approved four components of the GMP for inclusion in the Design Build Agreement representing a total commitment of \$111,422,150 of work (the "Prior GMP Component Approval"); and

WHEREAS, the Board's Prior GMP Component Approval was never approved by the Team and was therefore never agreed to by the parties to pursuant to the terms of the Design Build Agreement; and

WHEREAS, on November 19, 2003, with the approval of the Authority and the Team, Hunt submitted a proposal for the entire GMP (the "Hunt Proposal") for approval by the Authority and the Team as a single, complete package rather than in components as permitted by the Design-Build Agreement; and

WHEREAS, after due consideration of the Hunt Proposal, the Authority and the Team, jointly, responded to the Hunt Proposal (the "Authority/Team Response") with certain questions and comments regarding the Hunt Proposal and requested modifications to the Hunt Proposal; and

WHEREAS, following negotiations among the parties, the Authority, the Team and Hunt agreed that the final documents setting forth the GMP shall consist of the following (collectively, the "GMP Documents"): (1) a letter from the Team approving the GMP Documents; (2) resolutions by the Authority's Board of Directors approving and ratifying, as necessary, the GMP Documents; (3) written approval of the GMP Documents by the Authority's Representative and the Team's Representative, as provided in Recital I and Section 2.3 of the Design-Build Agreement; (4) a substitute Exhibit B (Project Budget) to the Design Build Agreement reflecting the GMP budget modified to reflect comments on GMP Breakdown and Comparison and decisions on GMP Deductive Alternates set forth in the Authority/Team Response; (5) GMP Deductive Alternate List modified to reflect decisions on GMP Deductive Alternates set forth in the Authority/Team Response; (6) a substitute Exhibit C (Schedule) to the Design Build Agreement reflecting the GMP Schedule modified to reflect the comments set forth in the Authority/Team Response; (7) a substitute Exhibit A (Scope) to the Design-Build Agreement reflecting the GMP Drawings and Specifications as set forth in the Hunt Proposal and the GMP Drawings and Specifications Supplement addressing all of the comments to GMP Drawings and Specifications set forth in the Authority/Team Response; (8) GMP Clarifications modified to reflect the comments to the GMP Clarifications set forth in the Authority/Team Response; (9) a substitute Exhibit F (Allowance Items) to the Design-Build Agreement; and (10) a substitute Exhibit O (Partial Occupancy Areas) to the Design-Build Agreement; and

WHEREAS, on or before December 30, 2003, Hunt shall submit to the Authority's Representative and the Team's Representative the substitute Exhibit C (Schedule) to the Design Build Agreement reflecting the modified GMP Schedule, the substitute Exhibit A (Scope) to the Design Build Agreement reflecting modified GMP Drawings and Specifications Supplement, and the modified GMP Clarifications all to reflect all comments and responses in the Authority/Team Response; and

WHEREAS, on or before January 6, 2004, the Authority's Representative and the Team's Representative shall, jointly, certify to each other and to Hunt: (a) whether or not the (i) substitute Exhibit C (Schedule) to the Design Build Agreement reflecting the modified GMP Schedule; (ii) substitute Exhibit A (Scope) to the Design Build Agreement reflecting modified GMP Drawings and Specifications Supplement; and (iii) modified GMP Clarifications submitted by Hunt all satisfactorily reflect all comments and responses in the Authority/Team Response to the Hunt Proposal; and (b) that all elements of the GMP Documents described above are complete and final; and

WHEREAS, if the Authority's Representative and the Team's Representative jointly certify to each other and to Hunt that all of the GMP Documents satisfactorily reflect all comments and responses in the Authority/Team Response to the Hunt Proposal and are complete and final, then following such joint certification, the Authority's Representative and the Team's

Representative shall recommend that the GMP Documents be ratified by the Board and the Team, respectively; and

WHEREAS, pursuant to the terms of the Design Build Agreement, in the event the Authority's Representative and the Team's Representative do not make such joint certification and respective recommendation for ratification, an agreement on the GMP by the parties will not have been reached and, pursuant to Section 2.3.1 of the Design-Build Agreement, the Authority may exercise any and all rights and remedies available under the terms of the Design-Build Agreement; and

WHEREAS, the approval of the GMP Documents shall not amend the other terms and conditions of the Design-Build Agreement in any manner except as may be expressly set forth in the GMP Documents with respect to the substitute Exhibits B, F and Q of the Design-Build Agreement and, upon ratification of the Board, Exhibits A and C to the Design Build Agreement; and

WHEREAS, after due consideration of the recommendations of the President, Chief Executive Officer and Executive of the Authority (the "CEO"), the Board desires to approve the GMP Documents as in the best interests of the Authority.

II. APPROVAL OF GUARANTEED MAXIMUM PRICE

NOW, THEREFORE, BE IT RESOLVED, that the Board approves the GMP Documents, conditioned upon and subject to (i) Hunt submitting to the Authority's Representative and the Team's Representative, on or before December 30, 2003, the substitute Exhibit C (Schedule) to the Design Build Agreement reflecting the modified GMP Schedule and the substitute Exhibit A (Scope) to the Design Build Agreement reflecting the GMP Drawings and Specifications Supplement and the modified GMP Clarifications; (ii) the Authority's Representative's and the Team's Representative's joint certification, on or before January 6, 2004, that the substitute Exhibit C (Schedule) to the Design Build Agreement reflecting the modified GMP Schedule, the GMP Drawings and Specifications Supplement and the substitute Exhibit A (Scope) to the Design Build Agreement reflecting the GMP Drawings and Specifications Supplement and the modified GMP Clarifications submitted by Hunt satisfactorily reflect all comments and responses to these document set forth in the Authority/Team Response to the Hunt Proposal and that all other GMP Documents are complete and final; (iii) the Board's ratification of the GMP Documents following the occurrence of the events in (i) and (ii) above; and provided that the Board's approval of the GMP Documents as set forth in these resolutions (a) is intended solely to approve the GMP as provided for in Section 2.3 of the Design-Build Agreement and is governed by all relevant provisions of the Design-Build Agreement, including, without limitation, Section 3.5; and (b) is not intended to amend the Design-Build Agreement in any manner except as may be expressly set forth in the GMP Documents with respect to Exhibits B, F and Q of the Design-Build Agreement and, upon ratification of the Board, Exhibits A and C to the Design Build Agreement.

FURTHER RESOLVED, that, in the event the Authority's Representative and the Team's Representative do not that certify that the substitute Exhibit C (Schedule) to the Design

Build Agreement reflecting the modified GMP Schedule, the GMP Drawings and Specifications Supplement and the substitute Exhibit A (Scope) to the Design Build Agreement reflecting the GMP Drawings and Specifications Supplement and the modified GMP Clarifications submitted by Hunt satisfactorily reflect all comments and responses to these document set forth in the Authority/Team Response to the Hunt Proposal and that all other GMP Documents are complete and final, , the Authority may exercise any and all rights and remedies available under the terms of the Design-Build Agreement; and

FURTHER RESOLVED, that the Chairman of the Board and the CEO (each an "Authorized Officer") are authorized and directed, in the name and on behalf of the Authority, to take all actions necessary, appropriate or advisable to effectuate the foregoing resolutions, including the incurrence of fees and expenses, as in their judgment shall be necessary, appropriate or advisable to carry into effect the purposes and intent of these resolutions and the matters contemplated by these resolutions; and

III. MISCELLANEOUS MATTERS

FURTHER RESOLVED, that all actions previously taken on behalf of the Authority by any director or officer of the Authority in connection with any of the foregoing matters are hereby ratified, confirmed and approved in all particulars as the acts of the Authority.

Dated: December 19, 2003