



Pinellas County

Staff Report

#27

File #: 22-1162A, **Version:** 1

Agenda Date: 7/19/2022

Subject:

Proposed settlement of the claim of PCS Civil, Inc. (Pepper) arising from the Landside Terminal Improvements Contract.

Recommended Action:

Consideration of the proposed settlement of the claim of PCS Civil, Inc. (Pepper).

Strategic Plan:

N/A

Summary:

The above-referenced claim is being brought to the Board of County Commissioners for consideration in accordance with the confidential memorandum of July 19, 2022.

Background Information:

This matter was previously brought before the Board on November 9, 2021, under Legistar item no. 21-2111A.

Fiscal Impact:

Unknown.

Staff Member Responsible:

Jewel White, County Attorney
Christy Donovan Pemberton, Managing Assistant County Attorney
Thomas R. Jewsbury, Director, St. Pete/Clearwater Airport

Partners:

N/A

Attachments:

N/A



Pinellas County

315 Court Street, 5th Floor
Assembly Room
Clearwater, Florida 33756

Staff Report

File #: 22-1162A

Agenda Date: 7/19/2022

Subject:

Proposed settlement in the claim of PCS Civil, Inc. (Pepper) arising from the Airport's Landside Terminal Improvements Contract.

Recommended Action:

It is recommended that the County settle this matter by releasing the \$456,500.00 withheld by the County as liquidated damages and additionally remit to Pepper \$1,300,000.00.

Strategic Plan:

N/A

Summary:

On September 26, 2017, the County entered into a contract with Pepper for landside improvements at the airport. The initial contract price was \$13,238,899.88. The scope of work consisted of the reconstruction of the landside roadway system and parking lots for the airport, including the internal circulation roadway system; short-term and long-term parking lots; rental car parking lots; employee parking lots; and associated utilities and signage. Elements such as utility tie-ins and roadway access, were dependent upon the FDOT Gateway Project. The original contract required the Project to achieve Final Completion by June 18, 2019. Subsequently, on October 23, 2018, the County and Pepper executed Change Order No. 1, increasing the contract price by \$319,300.00, and adding an additional 149 days to the Contract Time. Change Order No. 1 resolved all claims between the parties through June 30, 2018. On October 30, 2019, the County issued unilateral Change Order No. 2, extending the contract duration by an additional 49 days for hurricane preparation and airport special events. Although Change Order 2 extended the Substantial Completion date to October 30, 2019, and the Final Completion date to January 3, 2020, Pepper did not execute that Change Order. Substantial Completion was actually achieved on July 28, 2020; and the Certificate of Final Completion was dated November 19, 2020.

In addition to the Change Orders outlined above, Pepper submitted numerous claims and requests for payment for changes to the project, including an additional \$2,904,177.00 and a contract extension of 305 days. The Board authorized the initiation of litigation due to Pepper's failure to complete construction within the contract time. To minimize costs, both parties retained counsel and scheduling experts and mediated the matter prior to initiating litigation.

It is recommended that the County settle this matter by releasing the \$456,500.00 withheld by the County as liquidated damages and additionally remit to Pepper \$1,300,000.00. Pepper has released all claims against the County, subject to this Board's approval of the recommended settlement. Although unanticipated, should any latent defects come to light subsequently, the County retains its right to pursue Pepper.

The County Administrator concurs with this recommendation.

Background Information:

This matter was previously brought before the Board on November 9, 2021, under Legistar item no. 21-2111A, for authority to litigate.

Fiscal Impact:

Total amount of claim to be paid by the County is \$1,756,500.00, inclusive of \$456,500.00 of retainage.

Staff Member Responsible:

Jewel White, County Attorney

Christy Donovan Pemberton, Managing Assistant County Attorney

Partners:

N/A

Attachments:

N/A