



Pinellas County

Staff Report

File #: 21-1231D, Version: 1

Subject:

Settlement and Release of Claim with Kimley-Horn and Associates Inc. associated with the Pump Station 190 Upgrades and Forcemain Improvements Project.

Recommended Action:

Approval and execution by the County Administrator of a Settlement and Release of Claim with Kimley-Horn and Associates Inc. (Kimley-Horn) associated with the Pump Station 190 Upgrades and Forcemain Improvements Project.

- The settlement of claims is in lieu of litigation where the County would be considered the plaintiff.
- This action approves a release of liability in exchange for \$86,922.88 to the County, from Kimley-Horn, for repair of deterioration to the pump station's concrete wet well walls, due to the use of an incorrectly specified industrial coating product.
- Kimley-Horn performed design work for this project as a work assignment under Agreement 156-0127-CN(SS) Utilities General Engineering Consulting Services.
- TLC Diversified, Inc. provided an estimate to perform the rehabilitation in the amount of \$86,922.88. This amount is estimated to cover the entire rehabilitation.

PID No. 003124A; Settlement Agreement in the amount of \$86,922.88, due to the County by January 31, 2022.

Strategic Plan:

Deliver First Class Services to the Public and Our Customers

5.2 Be responsible stewards of the public's resources

Summary:

The settlement of claims is in lieu of litigation where the County would be considered the plaintiff. This action approves a release of liability in exchange for \$86,922.88 to the County from Kimley-Horn. The release is for deterioration of the pump station's concrete wet well walls due to an error in the industrial coating product used. The County and the Kimley-Horn each desire to resolve this dispute amicably and have agreed to a mutually agreeable resolution.

The repairs to Pump Station 190 will be performed by TLC Diversified, Inc., under Agreement 21-0241-CP, Job Order Contracting (JOC) WWTP & Water Plant Maintenance Repair, Minor Construction & Underground Utilities, and completed under existing PID No. 003124A. TLC Diversified, Inc. provided an estimate to perform the rehabilitation in the amount of \$86,922.88.

Background/Explanation:

Kimley-Horn prepared plans and specifications to perform upgrades at Pump Station 190. Upon the completion of plans and specifications, Utilities bid out and awarded a construction contract to perform the upgrades. Approximately eight (8) months after completion of the project, pump station operations personnel noticed the concrete in the wet wells were deteriorating at an accelerated rate. Upon further investigation, it was determined the industrial coating product used was inadequate for the location of the pump station. Kimley-Horn was notified that the product specified was inadequate.

After discovering an inadequate product was used, the County and the Consultant negotiated a verbal settlement fully resolving any claims between the parties related to the Pump Station 190 Upgrades and Forcemain Improvements Project. This Settlement and Release of Claim memorializes those terms.

Fiscal Impact:

The total settlement amount is \$86,922.88 to be paid by Kimley-Horn to the County. The cost of this repair and offsetting revenue were not included as part of the FY22 Adopted Budget. Both will need to be incorporated into the FY22 Estimate as part of the FY23 budget development process.

Delegated Authority:

Authority for the County Administrator to sign this Agreement is granted under Code Section 2-62(a) (2).

Staff Member Responsible:

Megan Ross, Director, Utilities Department

Partners:

N/A

Attachments:

Agreement
Project Location Map