



# Pinellas County

## Staff Report

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**File #:** 17-1816A, **Version:** 1

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### **Subject:**

Notice of Termination of Right to Proceed under the contract with The Artec Group, Inc. for the Terminal Improvement Project - Phase 3, Gates 7-10 Terminal Addition at the St. Pete-Clearwater International Airport.

### **Recommended Action:**

Notice of Termination of Right to Proceed under the contract with The Artec Group, Inc. (Artec) for the Terminal Improvement Project - Phase 3, Gates 7-10 Terminal Addition at the St. Pete-Clearwater International Airport (Airport).

### **Strategic Plan:**

Foster Continual Economic Growth and Vitality

4.4 Invest in infrastructure to meet current and future needs

Deliver First Class Services to the Public and Our Customers

5.2 Be responsible stewards of the public's resources

### **Summary:**

Artec was provided notice of default via a letter dated October 10, 2017 (Notice of Default). The cure period of seven (7) calendar days following receipt of this Notice of Default is October 17, 2017. Therefore, the Airport is seeking to terminate the contract, the contractor's rights to proceed, in whole or in part, and take possession of the work and any materials, tools, equipment, and appliances, take assignments of subcontracts and purchase orders and complete the work. Termination of this contract is necessary as a result of Artec not completing the project, in accordance with the terms of the Contract, including but not limited to, the reasons set forth below.

### **Background Information:**

On March 17, 2016, the County entered into a contract with Artec for the Terminal Improvement Project - Phase 3, Gates 7-10 Terminal Addition. The Notice to Proceed notified Artec to commence work on or before April 15, 2016, and fully complete all work within 500 consecutive calendar days. Therefore, the date of completion of all work was August 28, 2017. Artec's latest construction schedule does not forecast completion until April 6, 2018.

In an attempt to resolve all outstanding time extension requests made by Artec and any time impacts resulting from Hurricane Irma, the Airport on September 27, 2017 offered Artec Construction Change Order No. 1 - Time Only. This time extension provided 45 consecutive calendar days to complete the project. Artec did not execute and return Change Order No. 1 as requested by the County.

Artec was hand-delivered a Notice of Default letter on October 10, 2017 for breach of contract including, but not limited to, the following:

1. Failure to complete the work in a timely manner; and failure to properly and timely perform the work as directed by the Design Professional/Engineer/Project Manager or as provided for in the approved Construction Progress Schedule;
2. Performance of work in an unacceptable, unsuitable, or otherwise defective manner;
3. Failure to supply enough properly skilled workers and proper materials;
4. Failure to properly progress the project schedule;
5. Failure to provide required updates of the project schedule;
6. Failure to provide requested information for change orders submitted by Artec;
7. Failure to make timely and proper payments to subcontractors and suppliers;
8. Billing for work incorrectly performed;
9. Failure to perform the work in accordance with the plans, specifications, and applicable codes; and
10. Failure to comply with Airport Work Procedures including, failure to coordinate work with Airport Operations, including interference. Additionally, Artec interfered with occupants and failure to provide safe and secure passageways for passengers.

Since Artec was hand-delivered a Notice of Default letter on October 10, 2017 for breach of contract they have not provided a revised schedule. The prior schedule reflected project completion no sooner than April 6, 2018. Previous schedules provided by Artec continue to push out the completion date further with each revision rendering the April 6 date unreliable.

There is approximately 40% of construction work remaining to complete the project. The original contract allowed for 500 calendar days to complete the project; therefore, approximately 200 calendar days remain to complete the project once the subsequent contractor issued the notice to proceed.

**Fiscal Impact:**

Of the original contract amount of \$9,432,979 with Artec, \$5,123,154 remains unspent. It is anticipated that the subsequent contractor's cost to finish the project, combined with the \$4,309,825 spent to date with Artec, will exceed the original contract amount as a result of potential escalation costs since the project was initially bid and awarded in 2016. A performance bond is in place and recoupment may be sought from the contractor or surety.

**Staff Member Responsible:**

Thomas R. Jewsbury, Airport Director  
Joe Lauro, Director of Purchasing

**Partners:**

N/A

**Attachments:**

Notice of Termination of Right to Proceed under the Contract Letter dated October 31, 2017  
Notice of Default dated October 10, 2017  
Construction Change Order No. 1 - Time Only letter dated September 27, 2017  
Notice to Proceed  
Award of Bid to the The Artec Group, Inc.