Pinellas County

Staff Report

File #: 22-1007D, **Version:** 1 **Agenda Date:** 12/31/2022

Subject:
Emergency agreement with Kimley-Horn & Associates Inc for Runway 18-36 Pavement Maintenance

Recommended Action:
Approval and execution by the County Administrator of the emergency agreement with Kimley-Horn & Associates Inc (Kimley-Horn), for Runway 18-36 Pavement Maintenance.

- The St. Pete-Clearwater International Airport (PIE) is requesting an emergency agreement with Kimley-Horn to correct a design error which was committed during work performed under prior contract no. 189-0334-CP for the Runway 18-36 Pavement Rehabilitation project. After the project had been completed, it was determined a portion of the longitudinal profile of the runway did not meet the design criteria per the FAA Advisory Circular 150/5300 -13B, Airport Design.
- Kimley-Horn has agreed to correct their error by performing professional engineering services, at no cost to the County, to develop the design plans, construction administration, quality assurance testing, inspection, project close-out, and other necessary tasks needed to complete this work. Kimley-Horn will be paying for the construction and construction phase services of this project by depositing funds into a “perfect receivable account” created by Clerk Finance in order for the County to make payment to the contractor, Ajax Paving Industries of Florida, LLC once complete.
- Approval of this agreement with Kimley-Horn in the amount of $2,322,396.21 is concurrent with the approval of the agreement with Ajax via Legistar No. 22-1027D. The total amount of $2,322,396.21 from Kimley-Horn will be used to pay Ajax, as progress payments are received for construction activities.
- This emergency agreement is requested to expediate this work. Utilizing competition will be detrimental to the timely acquisition of goods and services.
- This design error is a serious safety issue, per the Airport. Allegiant pilots have filed safety reports on this bumpy condition which led to the investigation. The excessive bumpy takeoffs have been verified by Airport staff and deemed to be a serious safety issue that needs to be corrected immediately.

- The County Administrator has delegated authority under Code Section 2-181(b)1 to approve this emergency purchase with receipt and file to the Board of County Commissioners.

Contract No. 22-0650-E is not to exceed the amount of $2,322,396.21 as reimbursement to pay Ajax for construction activities for a duration of 180 days.

Strategic Plan:
Deliver First Class Services to the Public and Our Customers

5.2 Be responsible stewards of the public's resources
5.3 Ensure effective and efficient delivery of county services and support

Summary:
This agreement with Kimley-Horn is to correct the inaccuracies from the original design document required under prior contract no. 189-0334-CP which expired February 22, 2022. Kimley-Horn will be reimbursing the County for all design and construction related costs by depositing funds into a "perfect receivable account" created by Clerk's Finance in order for the County to make payment to the contractor, Ajax Paving Industries of Florida, LLC (Ajax).

It is necessary to approve the agreement as an emergency to complete the work expeditiously and to allow the same vendor which started the work to complete the work.

Background/Explanation:
St. Pete-Clearwater International Airport (PIE) completed the Runway 18-36 Pavement Rehabilitation project in the Spring of 2021. Although the contractor met all acceptance criteria per the Contract Documents during construction, it was noticed after the completion of the project that there was a portion of the longitudinal profile of the runway that did not meet the design criteria per the FAA Advisory Circular 150/5300-13B, Airport Design.

Ajax, the original contractor for the Runway 18-36 Rehabilitation project, has provided a cost estimate of $2,322,396.21 for this work. This includes $1,823,098.38 for the work related to the Runway 18-36 maintenance, and an additional $499,297.83 for pavement rehabilitation to Taxiway "G", (parallel taxiway to Runway 4-22), should it be needed due to the impacts of placing air carrier operations on this taxiway after the work related to Runway 18-36 is completed. (i.e. If no damage is done to Taxiway "G" during this project, this work will not be needed). All costs of this work will be borne by Kimley Horn.

Fiscal Impact:
The total cost of this agreement is $2,322,396.21. Per the Agreement between Pinellas County and Kimley-Horn (Section 2B), Kimley-Horn hereby agrees that upon request by the County and based on the amount requested by Ajax in their monthly payment Apps/requests, they will send a payment equal to the requested and agreed upon amount into an account provided by the County. The County will use these funds to pay Ajax as a contractor during construction. Payments by Kimley-Horn will be made via wire transfer to the account provided by the County within ten (10) business days of mutual approval of the Contractor's pay request by the County and Kimley-Horn. As a result, no negative budgetary impacts are anticipated.

Delegated Authority:
Authority for the County Administrator to approve this emergency purchase is granted under Code Section 2-181(b)1.

Staff Member Responsible:
Thomas Jewsbury, Director, St. Pete-Clearwater International Airport
Merry Celeste, Division Director, Purchasing & Risk, Administrative Services

Joe Lauro, Director, Purchasing

Partners:
N/A

Attachments:
Agreement

AGREEMENT

THIS AGREEMENT ("Agreement") is entered into by and between Pinellas County, a political subdivision of the State of Florida ("County"), and Kimley-Horn and Associates, Inc. ("Kimley-Horn"), (collectively referred to as "the Parties"). This Agreement is effective upon full execution by both Parties.

WITNESSETH:

WHEREAS, the County previously had Ajax Paving Industries of Florida, LLC. ("Ajax") perform substantive pavement work to Runway 18-36: and

WHEREAS the above referenced pavement work to Runway 18-36 was done in accordance with plans provided and designed by Kimley-Horn ; and

WHEREAS post the pavement work to Runway 18-36, some necessary repair work to the runway has been identified and Kimley-Horn has agreed to bear the reasonable and agreed upon costs for that necessary pavement repair work, including but not limited to, any new plan and design costs, construction administration and construction management costs, including Quality Assurance testing and inspection, and construction related costs to perform the necessary pavement repair work; and

WHEREAS, given Ajax's familiarity with Airport operations and the specific runway work, and to not potentially void any existing warranty issues, if any, the Parties have agreed that the County will enter into a new agreement with Ajax to perform the necessary pavement repair work in accordance with the corrected plans prepared by Kimley-Horn as set forth in a brief version of the Scope of Work below; and

WHEREAS, Kimley-Horn will reimburse the County for all the reasonable and agreed upon costs associated with or resulting from the necessary pavement repair work as set forth herein not to exceed $1,823,098.38; and

WHEREAS, the Parties further agree that should it be determined and agreed upon by the Parties that the existing pavement on the parallel taxiway to Runway 4-22 (a/k/a Taxiway G) has developed signs of pavement distresses due to the impacts of inordinate air carrier traffic being placed on it during the Runway 18-36 closure, Ajax may be instructed to perform a milling and overlay operation or other improvements to mitigate these pavement distresses and Kimley-Horn shall be liable for a portion of the reasonable and agreed upon costs for this additional work to Taxiway G, if necessary, Kimley-Horn's portion to be agreed by the Parties and not to exceed $499,297.83.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, it is agreed by and between the Parties hereto as follows:

1. SCOPE OF WORK:

a) The anticipated work involves the milling and overlay of approximately twelve hundred (1200) linear feet of bituminous pavement, adjustment of centerline and edge line airfield lights,

and procurement and installation of new in-pavement light fixtures in accordance with the plans and technical specifications titled Runway 18-36 Pavement Maintenance, dated July 21, 2022 which will be set forth in greater detail in the Agreement between the County and Ajax.

b) Kimley-Horn, pursuant to an existing Continuing Professional Services Agreement (RFP contract no. 190-0486-CN (SS)), will also, at its sole cost, be providing professional services during the pavement repair work to be done by Ajax, including but not limited to, design/contract drawings, technical specs, construction administration, construction management, and Quality Assurance testing, inspections,., as well as bearing the necessary reasonable and agreed upon Ajax pavement repair construction costs as set forth in the Exhibit 1, attached hereto, which has been provided to, reviewed and approved by Kimley Horn, not to exceed $1,823,098.38.

c) Additionally, should it be determined and agreed upon by the Parties that during the closure and construction of the Runway 18-36 necessary pavement repair work that the existing Runway 4-22 (a/k/a Taxiway G) pavement has developed signs of pavement distresses due to diverted and inordinate amounts of air carrier traffic being placed on Runway 4-22 during the closure, Ajax may be instructed to perform a milling and overlay operation or other necessary improvements to repair those pavement distresses and Kimley-Horn shall be liable for a portion of the reasonable and agreed upon costs for this additional work, if necessary, Kimley-Horn's portion to be agreed by the Parties and not to exceed $499,297.83.

2. FUNDING OF NECESSARY PAVEMENT REPAIR WORK:

a) The County will be responsible for awarding the construction contract for the necessary and agreed upon pavement repair work to Ajax as a non-competitive emergency project.

b) Kimley-Horn hereby agrees that upon request by the County and based on the amount requested by Ajax in their monthly payment Apps/requests, they will send a payment equal to the requested and agreed upon amount into an account provided by the County. The County will use these funds to pay Ajax as a contractor during construction. Payments by Kimley-Horn will be made within ten (10) business days of mutual approval of the Contractor's pay request by the County and Kimley-Horn.

c) Kimley-Horn shall make all agreed upon deposits due to the County as referenced above via wire transfer to the account provided by the County.

3. RELEASE OF CLAIMS RELATING TO REASONABLE AND AGREED UPON NECESSARY PAVEMENT REPAIR WORK:

FOR AND IN CONSIDERATION of Kimley-Horn's obligations undertaken herein, County, for itself and its affiliates and anyone claiming by, through, or under it, has released and discharged, and by these presents does release, acquit and forever discharge Kimley-Horn, and its employees, subconsultants, agents, insurers, and affiliates of and from any and all causes of action, claims, demands, damages, costs, and expenses, based on any theory of law or equity including but not limited to claims for negligence, breach of contract, delay claims, lost profits, and consequential damages ("Claims") which County now has, or hereafter may have, on account of, or in any way

growing out of professional engineering, consulting and other services previously provided by Kimley-Horn for the initial pavement project to Runway 18-36 in Pinellas County, Florida (including but not limited to lost profits and consequential damages sustained during the period in which the repair work discussed in Section 1 above is performed). This release and discharge shall not apply to claims that allege the repair work discussed in Section 1 is deficient.

4. County acknowledges and represents to Kimley-Horn that it has no knowledge of any actual or alleged errors or omissions of Kimley-Horn related to any services provided by it other than the alleged errors and omissions giving rise to the Claims being released hereby

5. This Agreement constitutes a full and complete SETTLEMENT of doubtful and disputed claims, regardless of the adequacy of the consideration described above, and the payment described herein, and the acceptance of this Agreement is not an admission of liability or wrongdoing on the part of the persons and entities hereby released.

6. This Agreement shall be governed by and shall be construed and enforced in accordance with the laws of the State of Florida.

7. This Agreement contains the entire agreement between the undersigned and the parties released hereby.

8. The persons signing the Agreement below represent and warrant that they have full authority to execute this Agreement on behalf of and bind the designated entity and that there has been no assignment or other transfer by the St. Pete-Clearwater International Airport, (PIE), or County of any interest in the claims or matters released hereby.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the day and year written below.

PINELLAS COUNTY, FLORIDA
a political subdivision of the State of Florida

By:
Name: Barry Burton, County Administrator
Title:
Date: September 26, 2022

KIMLEY-HORN AND ASSOCIATES, INC.

By:
Name: Mudassar Alam, P.E.
Title: Senior Vice President
Date: 09/14/2022

APPROVED AS TO FORM
By: *Michael A. Zas*
Office of the County Attorney

St. Pete-Clearwater International

TAMPA BAY THE EASY WAY

MEMORANDUM

TO: Mary Celeste, Pinellas County Purchasing Director

FROM: Thomas R. Jewsbury, Airport Director

DATE: August 15, 2022

SUBJECT: EMERGENCY – PIE Runway 18-36 Pavement Maintenance

St. Pete-Clearwater International Airport (PIE) completed the Runway 18-36 Rehabilitation project in the Spring of 2021. Although the contractor met all acceptance criteria per the Contract Documents during construction, it was noticed after the completion of the project that there was a portion of the longitudinal profile of the runway that did not meet the design criteria per the FAA Advisory Circular 150/5300-13B, Airport Design.

It was subsequently found that this design error was attributed to the design consultant of the project and would be subject to a potential claim against their Professional Liability Insurance coverage under their Agreement with the County. In this scenario, the County would seek reimbursement for all design and construction related costs associated with the required mitigation.

Fortunately, the design consultant agreed to cover all design and construction related costs and appropriate documents are being executed.

Ajax Paving Industries of Florida, LLC, (Ajax), the original contractor for the Runway 18-36 Rehabilitation project, has provided a cost estimate of $2,322,396.21, ($1,823,098.38 for the pavement maintenance work for Runway 18-36, and $499,297.83 for maintenance work to Taxiway "G", should it be decided during field inspection that this work is needed due to impacts from air carrier aircraft during the closure of Runway 18-36), to perform this work to bring it in compliance with the FAA Advisory Circular. All costs of this work will be borne by the design consultant, including design, construction administration, quality control testing, inspection, project close-out, and other necessary tasks needed to complete this work.

The Airport requests approval of this emergency construction work to expeditiously bring the runway longitudinal alignment within design criteria.

The Airport also requests that this work be done without competition, as this work was originally completed by Ajax and other construction contractors would not be willing to take the risk of performing maintenance on another contractor's work.

The Airport is only going to be a "pass through" on this project; in other words, when pay applications are ready, our design consultant will deposit the full costs to an escrow account and the pay application will move through the OPUS workflow and be paid by Pinellas County.

The reason why Pinellas County must be involved at all is for the following reasons:

1) The County contract requirements such as payment and other related procedures, warranties, bonds, insurance, etc., must be encompassed in this work to ensure the County is protected under their standard provisions and contract language.

2) The design consultant cannot enter a contract with the contractor for this work, as by doing so, the design consultant would become a de facto general contractor. This scenario would require the design consultant to have a contractor's license, the proper insurance, and ability to obtain performance and payment bonds, which, as a design consultant, they do not.

Please contact Scott Yarley, PE, if you require further information.

Pinellas County

Staff Report

File #: 22-2294A, **Version:** 1 **Agenda Date:** 1/17/2023

Subject:
Receipt and file report of purchasing items delegated to the County Administrator for the quarter ending December 31, 2022.

Recommended Action:
Accept the receipt and file report of purchasing items delegated to the County Administrator.

Strategic Plan:
Deliver First Class Services to the public and Our Customers.
5.3 Ensure effective and efficient delivery of county services and support.

Summary:
The Board of County Commissioners (Board) has delegated authority to the County Administrator to approve purchases and other purchasing related processes with the requirement that all approvals be submitted for receipt and file on a quarterly basis.

Background Information:
The County Administrator has delegated authority to award contracts up to $250,000.00 in a fiscal or calendar year. For purchases initiated from State of Florida bids or negotiated contracts, the County Administrator has delegated authority to approve in any amount. The County Administrator has delegated authority to increase maintenance, repair and operating contracts in an amount not to exceed fifty percent (50%) of the amount previously approved by the Board subject to the same unit pricing, terms and conditions. The County Administrator has delegated authority to extend the term of Board approved contracts above the threshold of $250,000.00 pending all prices, terms and conditions remain the same.

The County Administrator has delegated authority to approve change orders and amendments in an amount not to exceed $250,000 or ten percent (10%), whichever is less, and to release retainage and close out construction type contracts when the change order does not exceed $250,000.00 or ten percent (10%) of the total award, whichever is less.

The County Administrator also has delegated authority to approve emergency purchases up to $250,000.00. Emergency purchases in excess of $250,000.00 are approved by the County Administrator and entered into the minutes of the Board of County Commissioners via the receipt and file report.

Lastly, the County Administrator has delegated the authority for non-purchasing items pursuant to Section 2-62 in an amount not to exceed $25,000.00 to the Director of Administrative Services.

Fiscal Impact:
The attached list contains approvals of competitive sealed bidding, Florida State contracts, master

purchase agreement increases, emergency purchases, contract extensions, and items delegated to the Administrative Services Director as per County Code 2-62, 2-164, 2-176, 2-177, 2-178, 2-180, 2-181, 2-184 and 2-185.

Staff Member Responsible:
Barry A. Burton, County Administrator
Joe Lauro, Director, Administrative Services
Merry Celeste, Division Director, Purchasing & Risk, Administrative Services

Partners:

N/A

Attachments:
List of Purchasing items approved by the County Administrator and the Director of Administrative Services for quarter ending December 31, 2022