



Broward County

Legislation Details (With Text)

File #: 21-1877 **Version:** 1

Status: Agenda Ready

In control: County Attorney

On agenda: 11/4/2021 **Final action:** 11/4/2021

Title: MOTION TO APPROVE Settlement Agreement between Broward County and Russell Engineering, Inc., to resolve all disputes between the parties concerning Contract No. N2114545C1 for improvements to Wiles Road from Riverside Drive to Rock Island Road at a cost of \$535,000 to the County; and authorize the Mayor and Clerk to execute same.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit 1 - Copy of Settlement Agreement

Date	Ver.	Action By	Action	Result
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Broward County Commission Regular Meeting

Director's Name: Andrew J. Meyers

Department: County Attorney

Information

Requested Action

MOTION TO APPROVE Settlement Agreement between Broward County and Russell Engineering, Inc., to resolve all disputes between the parties concerning Contract No. N2114545C1 for improvements to Wiles Road from Riverside Drive to Rock Island Road at a cost of \$535,000 to the County; and authorize the Mayor and Clerk to execute same.

Why Action is Necessary

Board of County Commissioners' approval is required pursuant to Section 1-51.3, Broward County Code of Ordinances, for claims in excess of \$50,000.

What Action Accomplishes

Provides for financial settlement with Russell Engineering, Inc., regarding claims associated with the construction of the Wiles Road Improvement Project.

Is this Action Goal Related

No

Previous Action Taken

Summary Explanation/Background

On December 5, 2017 (Item No. 21), the Board of County Commissioners approved Contract No.

N2114545C1 between Broward County and Russell Engineering, Inc. ("REI"), for improvements to Wiles Road from Riverside Drive to Rock Island Road (the "Project"). The improvements included reconstruction of Wiles Road from four to six lanes with Complete Streets elements including designated bicycle lanes, sidewalks, drainage, lighting, signalization, landscaping, and irrigation improvements.

Construction began on January 29, 2018 and attained substantial completion on June 26, 2020. During construction, REI notified the County of its intent to file claims for (i) disputed costs for additional work performed beyond the original scope of the contract, and (ii) damages for delays allegedly caused by utility issues and the County.

REI submitted a claim against the County for \$1,605,930. In addition to the disputed costs for additional work performed and alleged damages for delay, the claim amount total also contained items for retainage being held by the County and unpaid final costs for work performed. The County notified REI of the County's claims in the amount of \$1,038,177 for liquidated damages and additional construction administration costs due to delays in Project completion. A mediation was held on September 16, 2021, as required by the contract.

As a result of the mediation, the County and REI agreed to a proposed settlement amount of \$535,000 to be paid by the County to REI to settle all claims of either party. The settlement amount includes \$139,767.74 for alleged costs of additional work, \$20,789.35 for unpaid final costs of work performed, and \$374,442.91 for retainage being held by the County. In addition, the proposed settlement will assign to REI the County's rights against all utility companies that own or maintain utilities in the Project limits, which would enable REI to pursue those claims.

The terms of the attached Settlement Agreement were negotiated between REI and staff from the Highway Construction and Engineering Division and the Office of the County Attorney, both of which recommend approval of this settlement.

Source of Additional Information

Michael J. Kerr, Deputy County Attorney, 954 357-7600

Fiscal Impact

Fiscal Impact/Cost Summary

Funds for the settlement amount of \$535,000 are available in the Wiles Road Project Budget, Fund 30115-86311-61502020-560505.