



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#22-1099

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Alain E. Boileau, City Attorney

DATE: November 1, 2022

TITLE: Motion Authorizing Settlement of Contractual Claims in the Matter of
Hinterland Group, Inc. v. City of Fort Lauderdale, Case No. CACE 22-
004751 in the Total Amount of \$678,811.82 - **(Commission Districts 1, 2,
3 and 4)**

Recommendation

The City Attorney and City Manager recommend the City Commission authorize the settlement of contractual claims asserted in the matter of *Hinterland Group, Inc. v. City of Fort Lauderdale*, Case No. CACE 22-004751 in the total amount of \$678,811.82, and authorize the City Manager to execute a Settlement Agreement and Release.

Background

In 2017, the City announced that it would accept bids for a multi-year contract for the Stormwater Construction Project 12220 (Contract No. 473-11907), which included the stormwater force main repairs and restoration work in the Rio Vista neighborhood. Hinterland Group, Inc. submitted a bid and was deemed to be the lowest responsive, and responsible bidder for the Project, and ultimately was awarded a contract on or about June 22, 2017. On or about October 9, 2020, during the course of Hinterland Group, Inc.'s work on the Project, a Task Order was prepared and issued by the City expanding the scope of the Project to also include the Rio Vista Parks Restoration and Water Main Project (P12593) under Contract No. 473-11907-2. The expansion of the scope of Hinterland Group, Inc.'s Contract, and resulting additional expenditures, was the subject of a Forensic Examination Report by Carr, Riggs & Ingram, LLC, dated November 29, 2021. As a result of the foregoing unauthorized expansion of the scope Hinterland Group, Inc.' Contract, and the additional unauthorized expenditures, on August 13, 2021, the City issued Notice of Violation, Breach, and Termination of Task Order 25 and Contract No. 473-11907, and effectively terminated its contract with Hinterland Group, Inc. Consequently, a dispute arose between the City and Hinterland Group, Inc., including regarding outstanding payments related to Task Order 25, which resulted in the litigation at issue, entitled *Hinterland Group, Inc. v. City of Fort Lauderdale*, Case No. CACE 22-004751, pending in Circuit Court of the 17th Judicial Circuit in and For Broward County, Florida.

The City Commission considered and advised upon the foregoing claims at an Executive Closed Door Session (CAM #22-0940) on September 22, 2022, pursuant to Florida Statute, Section 286.011(8). The City Manager, City Attorney, and defense counsel's evaluation of the potential financial exposure to the City determined that a settlement would provide the most cost-effective outcome. Through months of negotiations, a settlement was reached with Hinterland Group, Inc. in the amount of \$546,130.81, with a separate payment of \$132,681.01 being made directly by City to Kompan, one of Hinterland Group, Inc.'s subcontractors, for a total settlement amount of \$678,811.82, subject to the approval of the City Commission.

Resource Impact

There will be a fiscal year impact to the City in the amount of \$678,811.82. Funds for this agreement in the amount of \$678,811.82 are available in the FY 2023 Operating Budget and Community Investment Plan in the accounts listed below.

<i>Funds available as of October 27, 2022</i>					
ACCOUNT NUMBER	COST CENTER NAME (Program)	CHARACTER/ACCOUNT NAME	AMENDED BUDGET (Character)	AVAILABLE BALANCE (Character)	AMOUNT
10-455-7999- 536- P12593-6599	Rio Vista Watermain and Roadway Improvements	Capital Outlay/ Construction	\$1,381,278	\$109,893.49	\$109,893.49
10-331-9100-572- P12690-6599	Hector Park and Victoria Young Park Restoration	Capital Outlay/ Construction	\$750,000	\$300,761.35	\$300,761.35
10-451-7424-536- 3299	Lohmeyer Regional Plant Operations	Services & Materials/ Other Services	\$8,820,213	\$8,820,213	\$268,156.98
PURCHASE TOTAL ►					\$678,811.82

Prepared by: Alain E. Boileau, City Attorney, City Attorney's Office

Charter Officer: Alain E. Boileau, City Attorney, City Attorney's Office