

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: January 9, 2007

☒ Consent ☐ Regular
☐ Workshop ☐ Public Hearing

Department:

Submitted By: Department of Airports

Submitted For:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: A Contract Close-Out Agreement with Centex Construction, LLC for the Expansion of the Security Checkpoints A/B and C at Palm Beach International Airport (PBIA).

Summary: The Construction Management (CM) at Risk Contract (R2003-1110) with Centex Construction, LLC was approved on July 15, 2003 for the Expansion of the Security Checkpoints A/B and C at PBIA. During the course of the contract, various disputes arose between Centex Construction, LLC and Palm Beach County. This Contract Close-Out Agreement includes a General Release, which if approved, will resolve the disputes of claims relating to project time and as-built drawings. The Palm Beach County Attorney's Office assisted in the preparation of these agreements.

Countywide (JCM)

Background and Justification: During the course of the Security Checkpoint Project, disputes arose relative to claims for project time. Centex Construction, LLC and Palm Beach County wish to resolve these disputes. By execution of this Contract Close-Out Agreement, the two parties are accepting obligations which will permit the close out of the contract and resolve the disputes of all actions or causes which Centex Construction, LLC may have against Palm Beach County arising from or relating to the design, construction, or operations of the improvements to the Security Checkpoints.

Attachments:

1. **Contract Close-Out Agreement (3 originals)**

Recommended By:

Department Director

12-13-06

Date

Approved By:

County Administrator

12-27-06

Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues (Grants)	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No: Fund _____ Department _____ Unit _____ Object _____
Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

The Contract Close-Out Agreement has No Fiscal Impact. The contract balance of \$166,214 stipulated in the close-out agreement equals the remaining balance of the construction contract, including change orders.

C. Departmental Fiscal Review: CM Summer

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

12-18-06
OFMB
12-18-06
12-18-06
12-18-06
Contract Dev. and Control
12/20/06
12/21/06

B. Legal Sufficiency:

12/24/06
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 9/03

ADM FORM 01

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

CONTRACT CLOSE-OUT AGREEMENT

This Agreement is made this ____ day of _____ 2007, between Centex Construction, LLC (Contractor) and Palm Beach County, Florida.

WHEREAS, Contractor and Palm Beach County entered into a construction contract dated July 15th, 2003 (R-2003-1110) for Project Number PB 04-1 (Expansion of Security Checkpoints A/B) and Project Number PB 04-2 (Expansion of Security Checkpoint C); and

WHEREAS, the Contract Sum through Change Order #4 is Twenty Million Eight Hundred Twenty Thousand Six Hundred Sixty Dollars (\$20,820,660.00), and the amount paid to date equals Twenty Million Six Hundred Fifty Four Thousand Four Hundred Forty Six Dollars (\$20,654,446.00), leaving a balance due and owing of One Hundred Sixty Six Thousand Two Hundred Fourteen Dollars (\$166,214.00); and

WHEREAS, disputes arose on the project, including claims relating to project time. The Contractor argues that they could not obtain a Final Certificate of Completion due to events outside their control. Hurricane Wilma damaged terminal facilities constructed by the Contractor as well as areas outside of the Contractor's immediate work area. The County disputed the amount of time actually required to make the repairs; and

WHEREAS, the parties to this agreement desire to close out the contract, amicably resolve all of their disputes, and avoid the expense of possible litigation.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree that Palm Beach County will perform those items identified as Palm Beach County's Obligations and Contractor will perform those items identified as Contractor's Obligations as follows:

I. Palm Beach County's Obligations

- A. Palm Beach County will pay to Contractor the sum of One Hundred and Sixty Six Thousand, Two Hundred and Fourteen Dollars (\$166,214.00) which sum represents a negotiated contract balance and retainage. In recognition of Contractor's efforts to complete this project, despite the above referenced dispute, Palm Beach County waives its claims for liquidated damages.

II. Contractor's Obligations

- A. Contractor will indemnify and defend Palm Beach County from claims to the extent required by the contract including, but not limited to, all claims of subcontractors, laborers, and suppliers/materialmen of any tier.
- B. Contractor will honor all of the warranty obligations set forth in the contract between the parties.
- C. Contractor will execute a general release in favor of Palm Beach County releasing any and all claims which Contractor has or may in the future have arising out of or related to the contract.

D. Contractor will provide project As-Built Drawings as required by the contract acceptable to Palm Beach County. The Contractor and County acknowledge the value of the As-Built Drawings to be \$100,000 and agree that the work has not been performed and payment is not due until the drawings are provided in a form acceptable to Palm Beach County.

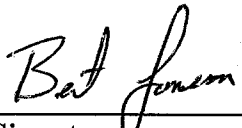
The parties hereto agree that this agreement contains all of the agreements of the parties regarding the closeout of the contract between the parties and have set their hands hereto.

ATTEST:
SHARON R. BOCK
Clerk & Comptroller

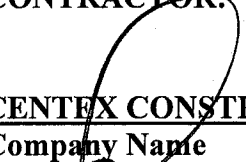
PALM BEACH COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS


By: _____
Deputy Clerk

By: _____
Chair

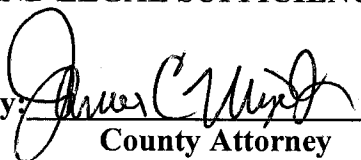
WITNESS:

Signature


BERT FOLSOM
Name (Type or Print)


CONTRACTOR:

CENTEX CONSTRUCTION, LLC
Company Name


Signature

CLINT ROGERS
Name (Type or Print)

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
County Attorney


Title

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Department Director

(Corporate Seal)



GENERAL RELEASE

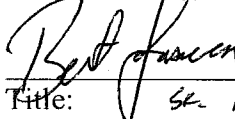
KNOWN ALL MEN BY THESE PRESENTS:

That CENTEX CONSTRUCTION LLC, first party, for an in consideration of the sum of Ten (\$10.00) Dollars, or other good and valuable considerations, received from or on behalf of PALM BEACH COUNTY, second party, the receipt and sufficiency of which is hereby acknowledged,

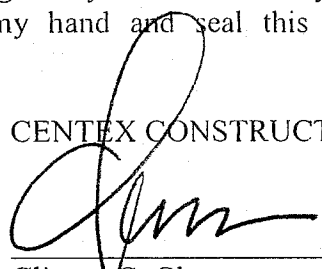
HEREBY remises, releases, acquits, satisfies, and forever discharges the said second party, of and from all, and all manner of action and actions, causes and causes of actions, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which said first party ever had or now has or which any subsidiary, affiliate, successor, or assign of said first party, ever had or may have, against said second party, for, upon or by reason of any matter, cause or thing, whatsoever arising from or related to the performance of that agreement, and amendments thereto, between the parties known as Contract for the Expansion of Security Checkpoints A/B and C at Palm Beach International Airport (Project Numbers PB 04-1 and PB 04-2) or arising from or related to the design, construction, or operation of the improvements which are the subject of that agreement as amended and supplemented.

IN WITNESS WHEREOF, and being duly authorized by CENTEX CONSTRUCTION LLC, I have hereunto set my hand and seal this 28th day of November, 2006.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:


Title: SR. PROJECT MGR
BERT FAWCETT

CENTEX CONSTRUCTION LLC


Clinton C. Glass
Senior Vice President

STATE OF: FLORIDA
COUNTY OF: PALM BEACH

Sworn to and subscribed before me this 29 day of NOVEMBER 2006.



Stacey L. Montgomery
My Commission DD369326
Expires November 04, 2008

Notary: Stacey L. Montgomery
My Commission Expires: 11/4/2008

Personally Known ☒ or Produced Identification _____

Type of Identification _____

CERTIFICATE OF OCCUPANCY

Palm Beach County
Planning, Zoning & Building Department
2300 N. Jog Road, West Palm Beach, FL 33411
www.co.palm-beach.fl.us/pzb
(561) 233 - 5000

This is to certify that the **COMMERCIAL** Structure Built Under Permit No. **T04000012**

Described as **ADDITION / NON-RESIDENTIAL**
SECURITY CHECKPOINT CONCOURSE A & B

NOTE: BUILDING PLANS SHOWING THE NATURE OF THE OCCUPANCY PERMITTED, THE NUMBER OF PERSONS FOR EACH AREA WHEN LIMITED BY LAW AND ALLOWABLE FLOOR LOADS AT THE TIME OF CONSTRUCTION ARE AVAILABLE FOR REVIEW FROM PALM BEACH COUNTY FILES

Owned By **PALM BEACH COUNTY**

Contractor **CENTEX CONSTRUCTION LLC**

and Located at **3200 BELVEDERE RD**
CONCOURSE A/B SEC CKPT ** RES INSP*

In Subdivision **PALM BEACH INTERNATIONAL AIRPORT** Section **31**, Township **43**

Range **43**, Lot **0**, Block **000**, Units **000**, was inspected and at the time of issuance of this certificate, was found to the best of my knowledge, to conform to the code requirements of the county of Palm Beach and/or was certified by Florida Registered architect or engineer that it meets the requirements of said codes, and is approved for utility services, as intended by the permit.

REBECCA CALDWELL

BUILDING OFFICIAL

OCTOBER 03, 2006

DATE

ORIGINAL 1 OF 3

TIM J RIDELLA

INSPECTOR

examine watermark for validity

CERTIFICATE OF OCCUPANCY

Palm Beach County
Planning, Zoning & Building Department
2300 N. Jog Road, West Palm Beach, FL 33411
www.co.palm-beach.fl.us/pzb
(561) 233 - 5000

This is to certify that the **COMMERCIAL** Structure Built Under Permit No. **T04000013**

Described as **ADDITION / NON-RESIDENTIAL**
SECURITY CHECKPOINT "C"

NOTE: BUILDING PLANS SHOWING THE NATURE OF THE OCCUPANCY PERMITTED, THE NUMBER OF PERSONS FOR EACH AREA WHEN LIMITED BY LAW AND ALLOWABLE FLOOR LOADS AT THE TIME OF CONSTRUCTION ARE AVAILABLE FOR REVIEW FROM PALM BEACH COUNTY FILES

Owned By **PALM BEACH COUNTY**

Contractor **CENTEX CONSTRUCTION LLC**

and Located at **3200 BELVEDERE RD**
CONCOURSE C SEC CKPT **RES INSP**

In Subdivision **PALM BEACH INTERNATIONAL AIRPOR** Section **31**, Township **43**

Range **43**, Lot **0** Block **0 0**, Units **000**, was inspected and at the time of issuance of this certificate, was found to the best of my knowledge, to conform to the code requirements of the county of Palm Beach and/or was certified by Florida Registered architect or engineer that it meets the requirements of said codes, and is approved for utility services, as intended by the permit.

REBECCA CALDWELL

BUILDING OFFICIAL

OCTOBER 03, 2006

DATE

TIM J RIDELLA

INSPECTOR

examine watermark for validity

ORIGINAL 1 OF 3