
**CITY OF TEMPE
REQUEST FOR COUNCIL ACTION****Council Meeting Date: 12/08/2016
Agenda Item: 5A5**

ACTION: Approve the settlement agreement and any related documents among the City of Tempe, PCL Construction, Inc., and Great Lakes Environmental and Infrastructure, LLC, fka Magnus Pacific Corporation, regarding a claim relating to construction of the Tempe Town Lake Dam. *(Related to Agenda Item 5A4)*

FISCAL IMPACT: Sufficient funds for payment of the \$250,000 settlement have been appropriated in CIP Project No. 6504229 – Tempe Town Lake Dam Replacement.

RECOMMENDATION: Approve the settlement agreement.

BACKGROUND INFORMATION: The City received a claim in July 2015, for approximately \$1.5M arising out of alleged differing site conditions in the construction of the slurry wall and cut-off wall on the Tempe Town Lake Dam. The City disputes this claim. The City's contractor, PCL Construction, Inc., contracted with Magnus Pacific, now known as Great Lakes Environmental and Infrastructure, LLC ("Magnus") for the construction. (Project No. 6504221). In recent months City staff participated in mediation to resolve this matter, resulting in a proposed settlement of \$250,000. PCL Construction, Inc. has agreed to match the City's payment dollar for dollar. The settlement will resolve all claims and disputes related to the alleged differing site conditions.

ATTACHMENTS: Settlement Agreement.

STAFF CONTACT(S): Michael Niederbaumer, Assistant City Attorney, (480) 350-8609

Department Director: Judi Baumann, City Attorney
Legal review by: Chuck Cahoy, Deputy City Attorney
Prepared by: Judi Baumann, City Attorney