



**COMMISSION
AGENDA MEMORANDUM**

Item No. 6d

ACTION ITEM

Date of Meeting April 16, 2019

DATE: April 8, 2019

TO: Stephen P. Metruck, Executive Director

FROM: Daniel Zenk, Senior Manager Airport Operations

SUBJECT: Centralized International Support Service Contract Settlement Ratification

Amount of settlement: \$399,560.45

ACTION REQUESTED

Request Commission authorization for the Executive Director to ratify a payment of \$399,560.45 made to VIP Hospitality in 2017 for the settlement of back wages relating to the City of SeaTac minimum wage ordinance known as Proposition 1 (SeaTac Municipal Code Chapter 7.45).

EXECUTIVE SUMMARY

Following a December 2015 ruling by the Washington State Supreme Court regarding the City of SeaTac minimum wage ordinance known as Proposition 1, VIP Hospitality requested reimbursement payments under its contract for passenger services. The cost for VIP Hospitality to pay back wages from February 2014 through November 2015 was determined to be \$399,560.45. In October 2017, Port legal counsel recommended approving settlement of the claim with VIP Hospitality for \$399,560.45 to cover its back-wage claims. Inadvertently, payment was made to VIP in 2017 without seeking Commission approval, which was recently discovered.

JUSTIFICATION AND DETAILS

The Port awarded VIP Hospitality (VIP) a contract for passenger services beginning February 1, 2014. The City of SeaTac passed a minimum wage ordinance known as Proposition 1 that went into effect on January 1, 2014. Proposition 1 mandated a relatively significant increase to the minimum wage. Proposition 1 was challenged in court, with the trial court ruling that it was not effective within the airport. The decision was appealed to the Washington State Supreme Court, which reversed the district court in August 2015 by ruling that Proposition 1 did apply at the airport, and issued a mandate finalizing its decision in December 2015.

After the December 2015 mandate, the Port amended VIP's contract to allow for an increase to contract hourly labor rates consistent with the increase in the minimum wage effective December 2015. In 2016, VIP requested reimbursement payments back to the beginning of the

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contract in February 2014. As Proposition 1 was effective January 1, 2014, VIP argued that a retroactive increase was necessary to satisfy the contract, which required compliance with all local laws and ordinances.

VIP Hospitality employees had threatened litigation for back wages, which could have included the Port as a party and alleged the Port owed VIP the difference between the amount VIP originally paid its workers and the amount Proposition 1 required.

The cost for VIP Hospitality to pay back wages from February 2014 through November 2015 was determined to be \$399,560.45. In October 2017, Port legal counsel recommended approving settlement of the claim with VIP Hospitality for \$399,560.45 to cover its back-wage claims based on the likelihood that the Port would be drawn into litigation over the claim, as well as the Port’s communicated policy and expectation that all contractors comply with Proposition 1, including coverage of any back-wage claims.

Subsequent review revealed that the payment was made to VIP in 2017 without seeking Commission approval. The \$399,560.45 payment to VIP is consistent with the Port’s communicated policy and expectations relating to compliance with Proposition 1. Payment has already been made to the contractor and Port staff has verified that the payment was distributed to VIP employees. Commission ratification is required because the total amount of the settlement payment is greater than \$300,000.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Do not ratify the settlement payment to VIP Hospitality

Cost Implications: \$0

Pros:

- (1) None

Cons:

- (1) Settlement payment remains out of compliance with Commission General Delegation of Authority (as Amended June 13, 2017).
- (2) Settlement payment has already been made but remains unratified.

This is not the recommended alternative.

Alternative 2 – Ratify the settlement payment to VIP Hospitality

Cost Implications: \$0

Pros:

- (1) Previous payment made in 2017 for back wages in compliance with Proposition 1 is formally ratified.
- (2) Compliance with Commission General Delegation of Authority (as Amended June 13, 2017) is rectified.

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Cons:

(1) None

This is the recommended alternative.

FINANCIAL IMPLICATIONS

No funds are requested by this action, as the payment of \$399,560.45 was made in 2017.

ATTACHMENTS TO THIS REQUEST

None

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

November 13, 2018 – The Commission authorized execution of a contract amendment with VIP Hospitality for support services in the International Arrivals Facility at Seattle-Tacoma International Airport for an estimated amount of \$3,220,000, effective through December 31, 2019.

September 30, 2014 – The Commission authorized execution of a contract for Centralized International Support Services in the Federal Inspection Services (FIS) Facility at Seattle-Tacoma International Airport for up to five years (2015-2019) for an estimated amount of \$8,700,000.