HONORABLE CITY COUNCIL

RE: Victor Stanley, Inc. v SCH Enterprises, Mark Pappas, and COD
Case No: 18-002944-CZ
File No:L19-00017 CNR

July 30, 2019

In late 2017, the City, via DPW, issued a purchase order to procure 1,500 waste receptacles to place throughout the City as part of the City’s efforts to combat blight. SCH Enterprises (“SCH”) was the selected vendor. The City agreed to pay $650 per receptacle for a total price of $975,000. The City did not know that a company called Victor Stanley, Inc. (“VSI”) had a judgment against SCH for more than $3 million.

SCH was supposed to deliver all 1,500 receptacles by early 2018, although the City initially asked that deliveries be delayed due to space concerns. SCH began deliveries in dribs and drabs. And shortly after deliveries began, VSI issued a garnishment to the City to collect VSI’s $3+ million judgment against SCH. The garnishment required the City to issue to VSI all payments due to SCH for delivery of receptacles.

Initially, the City did properly pay $108,099 to VSI under the garnishment. However, due to some miscommunications the City paid $110,000 to SCH in error when those funds should have been paid to VSI under the garnishment. That erroneous payment exposed the City to duplicative liability - i.e., a claim by VSI that the City was obliged to pay that amount a second time, this time to VSI. That serious error has been fully discussed with the OCFO and should never happen again. The law department ultimately terminated SCH’s contract for failure to deliver under the contract. SCH ended up shipping receptacles with a contract price of $79,000 for which the City did not pay because of SCH’s breach.

VSI asserted a claim against the City for (i) the $110,000 that was paid in error to SCH, and (ii) the $79,000 that the City did not pay to anyone on the grounds that SCH had breached its contract. VSI’s total claim against the City was $189,000. In a recent facilitation, the law department agreed, subject to City Council approval, to resolve that claim for $93,500.
This was a difficult and messy case. But the bottom line was this: The City received a total of 630 containers from SCH. At the contract price of $650 each, the City should have paid $409,500. Instead, including all payments made to SCH and VSI, and the settlement payment of $93,500, the City will pay a total of $429,500.

In short, the City resolved a potential exposure of $189,000 to VSI for roughly $20,000. Moreover, DPW has rebid the waste receptacle contract. Although the replacement receptacles are not as heavy duty as those supplied by SCH, the replacement receptacles meet the City’s specs and are considerably less expensive - $423 each vs. $650 for the SCH receptacles. So the City will emerge from this mess in the black.

The law department believes this is an excellent resolution and strongly recommends it to City Council

Respectfully submitted,
Charles N. Raimi
Deputy Corporation Counsel

APPROVED: JUL 31 2019
LAWRENCE GARCIA
Corporation Counsel

BY: Charles N. Raimi
Deputy Corporation Counsel

Attachments
RESOLUTION

BY COUNCIL MEMBER __________________________:

RESOLVED, that settlement of the above matter be and is hereby authorized in the amount of Ninety-Three Thousand Five Hundred Dollars and 00/00 Cents ($93,500.00); and be it further

RESOLVED, that the Finance Director be and is hereby authorized and directed to draw a warrant upon the proper account in favor of Victor Stanley Inc. and THEIR attorney, Anthony Vittiglio Esq., in the amount of Ninety-Three Thousand Five Hundred Dollars and 00/00 Cents ($93,500.00) in full payment for any and all claims which Victor Stanley Inc. may have against the City of Detroit and any other City of Detroit employees and otherwise set forth in Case No. 18-002944-CZ, that said amount be paid upon receipt of properly executed Releases in Lawsuit No. 18-002944-CZ and, where deemed necessary by the Law Department a properly executed Medicare/CMS Final Demand Letter.

APPROVED:
LAWRENCE GARCIA
Corporation Counsel

BY: ______________________
Charles N. Raimi
Deputy Corporation Counsel

Approved by City Council: ______________________
Approved by the Mayor: ______________________