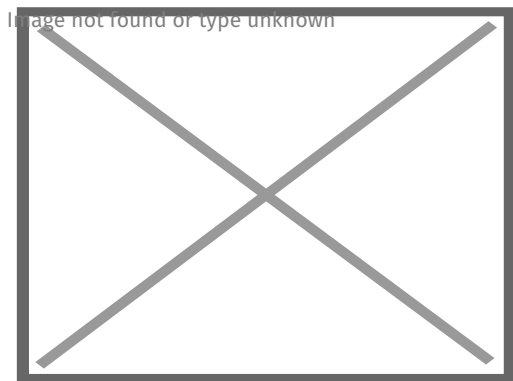


Cullen and Dykman obtains \$3.25 million settlement from The City of New York for GII Industries, Inc.

September 27, 2011



We successfully represented GII Industries, Inc. (“GII”) on a delay claim for extended overhead against the NYC Department of Transportation (“NYCDOT”) which recently resulted in a \$3.25 MM settlement. (The settlement agreement between GII and the City is currently pending approval before the United States Bankruptcy Court for the Eastern District.)

After initiating litigation on GII’s delay claim, we promptly proposed and engaged the City in a series of meaningful discussions using an alternative dispute resolution process to resolve the dispute between the parties, including working sessions to address accounting and legal issues related to GII’s claim followed by multiple rounds of non-binding mediation.

In 2003 NYCDOT had awarded GII a contract for the reconstruction and rehabilitation of the Queensboro Bridge in the amount of \$34.84MM which, through the issuance of \$8.16MM in Change Orders, mostly in the period of delay after the original contract completion date, was increased to an adjusted contract amount of approximately \$43MM.

Design and planning errors, including lengthy periods of blocked or diminished GII access to the work site, caused an overall twenty-four (24) month delay of the project beyond the 820-days established by the contract for completion of the work. The “No Damages For Delay Clause” in the contract did not apply to these delays or the City’s issuance of multiple change orders both before and after the original contract completion date by reason of the design errors.

Despite the protracted delays and the accompanying, severe cost overruns, GII diligently progressed the work to a successful completion of this capital infrastructure project for the benefit of the public. Notwithstanding the inception of litigation, the City should be commended for recognizing the additional costs incurred by GII on the project and for its willingness at an early point in time to agree to participate in a carefully planned and organized alternative dispute resolution process which successfully resolved the issues in dispute without the need for time consuming and costly discovery and trial of the issues.

Practices

Industries

- Construction