



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#20-0461

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Chris Lagerbloom, ICMA-CM, City Manager

DATE: July 7, 2020

TITLE: Motion Terminating Contract No.12278-693 with Continental Construction
USA, LLC for SW 2nd Avenue Median Parking - (**Commission District 4**)

Recommendation

It is recommended that the City Commission approve the termination of the Contract, No.12278-693, for SW 2nd Avenue Median Parking with Continental Construction USA, LLC ("Continental").

Background

On July 9, 2019, the City Commission approved the contract for the SW 2nd Avenue Median Parking Project (Exhibit 1). Since inception of the contract, Staff has encountered numerous issues with the contractor, Continental. A summary of the issues is provided as follows:

On September 11, 2019, a Notice to Proceed, (Exhibit 2), for Construction was sent to Continental authorizing the commencement of work, with the final completion date of December 25, 2019. Two change orders, (Exhibit 3 A and B), were approved during the construction that extended the final completion date to January 8, 2020. Extended construction delays due to the lack of productivity and unsuitable quality of work by the Contractor resulted in the project site not meeting the engineering specifications, plans and ADA regulations.

On January 8, 2020, a Notice of Liquidated Damage, (Exhibit 4), was issued to Continental notifying them that the liquidated damages would incur commencing January 9, 2020. The Final Site Inspection Report, dated March 6, 2020, was provided to Continental, followed by discussions on March 9, 2020 between Mr. David Davilla of Chen Moore and Associates (Engineer of Record) and Continental, and a site visit with Continental on March 11, 2020, to identify the defective items in the Final Inspection Report.

On March 27, 2020, a Notice of Final Punch List and Defective Items, (Exhibit 5), was issued to Continental, which included the Final Site Inspection Report dated March 6, 2020; Punch List Site Discussion dated March 11, 2020; Notice of Non-conformance

Report 005 dated February 11, 2020; Notice of Nonconformance Report 006 dated February 21, 2020; and Notice of Non-conformance Report 007 dated February 28, 2020.

Continental was required to submit a complete mean and method documentation to the Engineer or Record for each correction work listed on the Final Punch List and Defective Items within three business days from March 27, 2020 and obtain approval from the Consultant prior to performing any correction work at the project site. Per the contract, 30 calendar days was given to perform all final punch list and defective items.

On April 17, 2020, staff received an e-mail from Jose Rafael Gomez F., (Chief Operating Officer, Continental), stating, *"We are planning to start the modifications on Monday 27th, and we estimate 2 weeks to complete (based on the EOR methods), and should be able to submit your work schedule by "early next week", therefore please take this email as the 7 day notice."*

The March 27, 2020 notice was not adhered to within the specified time frame and the required work schedule was not submitted to the City by the Consultant. The Notice to Stop Work, (Exhibit 6), was issued to the Continental on April 24, 2020.

Pursuant to the Contract, Article 17 – Notice to Suspend and Intent to Terminate Contract, Section 17.2. City's Right to Terminate, Subsection 17.2.4, the City may proceed to terminate the Contract:

If Contractor fails to begin the Work within fifteen (15) calendar days after the Project Initiation Date, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to ensure the prompt completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or if Contractor shall fail to perform any material term set forth in the Contract Documents, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, Project Manager may give notice in writing to Contractor and its Surety of such delay, neglect or default, specifying the same.

Notice to Suspend and Intent to Terminate Contract was sent to Continental Construction USA, LLC, on June 3, 2020 (corrected because of an error in the project name in one area of the document and resent on June 15th).

Resource Impact

The City is requesting a final credit for this project. The previous final invoice (Pay Application #4) dated February 11, 2020, was reviewed and rejected. Request for revisions were sent via email on March 2, 2020 and no response has been received as of

the date of this letter. City staff has reviewed the status of this project. To date, Continental Construction is obligated to pay the City \$19,648.47 as liquidated damages, due to non-compliance with the contract issues.

Strategic Connections

This item supports the *Press Play Fort Lauderdale 2024* Strategic Plan, specifically advancing:

- The Internal Support Focus Area
- Goal 8: Be a leading government organization that manages all resources wisely and sustainably
- Objective: Maintain financial integrity through sound budgeting practices, prudent fiscal management, cost effective operations, and long-term planning

This item advances the *Fast Forward Fort Lauderdale 2035* Vision Plan: We Are United.

Attachments

Exhibit 1 – Contract

Exhibit 2 – Notice to Proceed

Exhibit 3 – A & B - Change Orders

Exhibit 4 – Notice of Liquidated Damages

Exhibit 5 – Notice of Final Punch List and Defective Items

Exhibit 6 – Notice to Stop Work

Exhibit 7 – Notice to Suspend and Intent to Terminate Contract

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