



Calvin, Giordano & Associates, Inc.
E X C E P T I O N A L S O L U T I O N S TM

April 11, 2020

Mr. Juan Carlos Jurado
General Manager
Continental Construction USA, LLC
1395 Brickell Avenue, Suite 780
Miami, FL 33134

Project Name: Downtown Fort Lauderdale Mobility Hub Streetscape Project
Project No: 12126
Bid No: 12292-296
County: Broward
RE: Letter of Concern

Mr. Jurado,

Please accept this letter of concern as an official notification documenting our concern regarding Continental Construction's slow progress on the above referenced project. Today is day number 135 (42.7%) on the contract and we haven't seen adequate productions on the field. The amount billed through February is only 16.5% due to the lack of construction progress. The latest construction schedule shows a completion date of November 20th, 2020. However, based on the current construction progress we estimate the project completion to be in January 2021, which is unacceptable to the City and I'm sure is not acceptable to the contractor. The contract includes a Liquidated Damages amount of \$1,000/Day that will be implemented for each day we are delayed beyond the last allowable day of the contract (November 20th, 2020).

The lack of production is documented in our daily work reports that typically show only 2 to 4 workers per day. The number of days of no work (not including weekends) total 11 since last month. In addition, we encountered many issues with the contractor's progress that will require your attention and includes untimely submittal/procurement of documents (i.e. audio-video preconstruction record, material test reports, delivery tickets, pay request documentation, shop drawing submittals, MOT permits, Broward County permits, RFI's, Change Order documentation), failure to schedule the asphalt operation with proper advance notice, & failure to properly coordinate required meetings. We also have concerns that the required DBE participation of 7% as per contract may not be reached, which is a violation of the contract and may prevent the City from cost reimbursements from the MPO.

As you are aware this is an important City project with MPO oversight. This project will include comprehensive FHWA audits throughout the life of the contract. Any negative comments by the FHWA may result in suspension of funds on to the City on this project and on future projects. Therefore, it is essential that we schedule a meeting with you directly within the next 7 days to discuss the concerns detailed in this letter and to collectively come up with an action plan to ensure that the project is completed on time. In addition, we are requesting the submittal of a schedule update detailing the contractor's plan to ensure timely project completion in November 2020.

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If you have any questions, please don't hesitate to contact me at any time.

Thank you,

Moe Mabrouk, PE
Senior Project Engineer
Calvin, Giordano & Associates, Inc.

Copy: File

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Civil Engineering / Roadway
& Highway Design
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CAM 21-0307

FORT LAUDERDALE

MIAMI-DADE

WEST PALM BEACH

CLEARWATER/TAMPA

ESTERO

PORT ST. LUCIE

Exhibit 1
Page 2 of 14



October 9, 2020
Mr. Juan Carlos Jurado
General Manager
Continental Construction USA, LLC
1395 Brickell Avenue, Suite 780
Miami, FL 33134

Project Name: Downtown Fort Lauderdale Mobility Hub Streetscape
Improvements
Project No: 12126
Bid No: 12292-296
County: Broward
**RE: Letter of Concern for Lack of Urgency to Complete the Project
Within the Approved Contract Time**

Mr. Jurado,

Please accept this letter as a notification documenting our concern regarding Continental Construction's lack of urgency to complete the project within the approved contract time evidenced by the small number of workers (if any) documented on site each day, particularly with the subcontractors. Please note, the expectation of completion of the project is by the contract end date of November 15, 2020. Below are excerpts from the project specifications relating to this issue:

- Section 01001, 1.1, B.:
 - The Contractor shall complete all work within the number of calendar days stipulated in the Contract unless an extension in the time of completion is granted by the CITY'S PROJECT MANAGER, as stated in the Instructions to Bidders.
- Section 01001, 2.1, C.:
 - The Contractor shall have sufficient manpower, equipment, and material to complete the project.
- Section 01010, 1.6, A.:
 - Time is of the essence in completing this project. Because time is of the essence the CONTRACTOR shall commit the necessary resources to this project to complete it in a timely manner. Those resources may include multiple working crews, working, overtime, etc. Because time is of the essence, the CONTRACTOR'S construction progress will be closely monitored on a weekly basis. The Construction progress will be measured with the construction schedule submitted by the CONTRACTOR. If the ENGINEER determines that the CONTRACTOR does not meet the Critical

TRANSPORTATION AND MOBILITY DEPARTMENT

290 NORTHEAST 3RD AVENUE, FORT LAUDERDALE, FLORIDA 33301

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Path Method (CPM) as specified in Section 01311, the CONTRACTOR will be required to commit those resources necessary to ensure the completion of the project in a timely manner including working overtime, adding other work crews, etc. All costs incurred to implement measure to complete the work in a timely manner will be borne by the CONTRACTOR at no additional cost to the OWNER.

One cause for the delays in the construction schedule can be attributed to a lack of proactiveness to determine and advise of construction issues that require clarification or changes from the Engineer of Record. Often times issues were brought up during that corresponding work operation instead of in advance during the survey layout.

Another cause for the delays is due to the lack of work effort by the subcontractors. Attached is a log of all the work documented from the start of the project. The log shows that the landscape/irrigation subcontractor has worked a total of 28 out of the last 130 days since June of this year. The log also shows that the electrical subcontractor has worked a total of 45 out of the last 160 days since May of this year.

Below is a summary of the work remaining to complete the project (not including inspections and permit closeouts):

- **Phase 1:**
 - **Flagler Ave:** Irrigation, landscaping, pedestrian light pole fixtures, electrical wiring and connections, asphalt paving, stamped asphalt, pavement markings, bench
 - **NW 2nd St:** Irrigation, landscaping, pedestrian light pole fixtures, electrical panel, electrical wiring and connections, asphalt paving, pavement markings, benches, trash receptacles
- **Phase 2:** Milling of deficient areas, asphalt paving, pavement markings, bench, trash receptacle
- **Phase 3:** Correction of failed area by Broward County, irrigation, landscaping, pedestrian light pole fixtures, electrical wiring and connections, asphalt paving, stamped asphalt, pavement marking
- **Phase 4:**
 - **NW 1st St:** Irrigation, landscaping, pedestrian light pole fixtures, electrical wiring and connections, asphalt paving, pavement marking, benches, trash receptacle
 - **NW 1st Ave:** Concrete sidewalk, irrigation, landscaping, street light poles, pedestrian light pole fixtures, electrical wiring and connections, asphalt paving, pavement marking, benches, trash receptacles, bike racks

As of today, there are 36 calendar days left until the final contract day. Article 5.2 of the contract defines Substantial Completion as 286 calendar days from the Notice to Proceed.

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This duration has been extended to calendar day 327 due to the 41-day time extension that was granted, which is October 16, 2020. Based on the current amount of remaining work in each phase, these criteria cannot be met in any particular phase, let alone the entire project. Furthermore, Specification 02810, 3.18, D. states that the irrigation system shall be operational at least one month prior to substantial completion. This time has already passed. Please provide a recovery plan to complete the project within the contract time to avoid incurring liquidated damages.

Moving forward, all project status meetings will begin with addressing the matters outlined in this letter before proceeding with the agenda items. It is imperative and expected that additional resources are activated Monday, October 12, 2020 to meet the requirements of the contract documents to complete the project on time. The City, Calvin Giordano and Associates, and Kimley Horn agree with these outstanding items and look forward to Continental's recovery plan and actions to complete the outstanding items.

If you have any questions or concerns, please contact me via email at KrThompson@fortlauderdale.gov or Felix Garcia at fgarcia@cgasolutions.com

Sincerely,

Kristin Thompson
Program Manager

CC:

Ben Rogers, City of Fort Lauderdale Transportation and Mobility Department Director
Felix Garcia, Calvin Giordano CEI Department Project Administrator
Matt Gibson, Kimley Horn Engineer of Record
File

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October 26, 2020
Mr. Juan Carlos Jurado
General Manager
Continental Construction USA, LLC
1395 Brickell Avenue, Suite 780
Miami, FL 33134

Project Name: Downtown Fort Lauderdale Mobility Hub Streetscape
Improvements
Project No: 12126
Bid No: 12292-296
County: Broward
**RE: Second Notice - Letter of Concern for Lack of Urgency to
Complete the Project Within the Approved Contract Time**

Mr. Jurado,

Please accept this letter as the *second* notification documenting our concern regarding Continental Construction's lack of urgency to complete the project within the approved contract time evidenced by the small number of workers (if any) documented on site each day, particularly with the subcontractors. Please note, the expectation of completion of the project is by the updated contract end date of November 29, 2020. There have been attempts to address the recovery plan, but as highlighted in this letter, minimal progress has been made since the issuance of the first letter of concern. Below are excerpts from the project specifications relating to this issue:

- Section 01001, 1.1, B.:
 - The Contractor shall complete all work within the number of calendar days stipulated in the Contract unless an extension in the time of completion is granted by the CITY'S PROJECT MANAGER, as stated in the Instructions to Bidders.
- Section 01001, 2.1, C.:
 - The Contractor shall have sufficient manpower, equipment, and material to complete the project.
- Section 01010, 1.6, A.:
 - Time is of the essence in completing this project. Because time is of the essence the CONTRACTOR shall commit the necessary resources to this project to complete it in a timely manner. Those resources may include multiple working crews, working overtime, etc. Because time is of the essence, the CONTRACTOR'S construction progress will be closely

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monitored on a weekly basis. The Construction progress will be measured with the construction schedule submitted by the CONTRACTOR. If the ENGINEER determines that the CONTRACTOR does not meet the Critical Path Method (CPM) as specified in Section 01311, the CONTRACTOR will be required to commit those resources necessary to ensure the completion of the project in a timely manner including working overtime, adding other work crews, etc. All costs incurred to implement measure to complete the work in a timely manner will be borne by the CONTRACTOR at no additional cost to the OWNER.

One cause for the delays in the construction schedule can be attributed to a lack of proactiveness to determine and advise of construction issues that require clarification or changes from the Engineer of Record. Often times issues were brought up during that corresponding work operation instead of in advance during the survey layout.

Another cause for the delays is due to the lack of work effort by the subcontractors. Attached is a log of all the work documented from the start of the project. The log shows that the landscape/irrigation subcontractor has worked a total of 28 out of the last 130 days since June of this year. The log also shows that the electrical subcontractor has worked a total of 45 out of the last 160 days since May of this year.

Below is a summary of the progress of the Recovery Plan:

- **Week of 10/12/20**
 - Roadway Restoration on 4th Street from 10/14/20 to 10/16/20
 - Mill Final Lift - **INCOMPLETE, SCHEDULED FOR NEXT WEEK**
 - Pave Final Lift - **INCOMPLETE, SCHEDULED FOR NEXT WEEK**
 - Rolling Straightedge Inspection/Report - **PENDING RE-PAVING OF 1ST LIFT OF ASPHALT**
 - Roadway Restoration on 2nd Street/1st Street from 10/13/20 to 10/15/20
 - Pave First Lift - **(ASSUMING THIS IS PHASE 3) COMPLETE, BUT INTERSECTION OF 2ND ST & 1ST AVE NEEDS TO BE RE-MILLED IN SOME AREAS**
 - Rolling Straightedge Inspection/Report – **PUSHED OUT TO NEXT WEEK, PENDING**
 - Landscaping Installation along Flagler Ave, 1st Street, 2nd Street, 4th Street and 1st Avenue from 10/12/20 to 10/17/20
 - Planting - **PENDING RFI RESPONSE FOR SOME LANDSCAPE MATERIAL, UPDATED RELOCATION PLAN SENT ON 10/24/20, INCOMPLETE**
 - Irrigation - **INCOMPLETE**
 - Fixture Installation from 10/15/20 to 10/16/20 – **NOT STARTED UNTIL THE FOLLOWING WEEK**

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- Electrical Panel Installation installed on 10/12/20 – **COMPLETE, PENDING INSPECTIONS**
- Wiring Activities will end on 10/14/20 – **INCOMPLETE (PENDING WIRING OF FIXTURES)**
- 24" x 24" Pavers from 10/12/20 to 10/14/20 - **COMPLETE, EXTRA MATERIAL STILL ON SITE**
- **Week of 10/19/20**
 - Roadway Restoration on 1st Street/1st Avenue from 10/19/20 to 10/20/20
 - Pave Final Lift - **PENDING STRAIGHTEDGE REPORT, MILLING OF DEFICIENT AREAS**
 - Rolling Straightedge Inspection/Report - **COMPLETE, REPORT PENDING**
 - Roadway Restoration on 4th Street/2nd Street from 10/20/20 to 10/21/20
 - Pave Final Lift - **PENDING STRAIGHTEDGE REPORT, MILLING OF DEFICIENT AREAS**
 - Rolling Straightedge Inspection/Report – **COMPLETE EXCEPT FOR 4TH ST, REPORT PENDING**
 - Pole Installation on 1st Avenue complete by 10/23/20 – **WORK NOT STARTED, PUSHED OUT TO NEXT WEEK**
 - Fixture Installation from 10/19/20 to 10/23/20 – **WORK STARTED, INCOMPLETE**
 - Electrical Panel Installation installed on 10/12/20 – **COMPLETE, PENDING INSPECTIONS**
 - Permeable Paver Installation 10/19/20 to 10/21/20 – **WORK STARTED, INCOMPLETE**
 - Stamped Asphalt pending mockup inspection this week - **DATE TBD**
 - Landscaping Installation along Flagler Ave, 1st Street, 2nd Street, 4th Street and 1st Avenue from 10/12/20 to 10/17/20
 - Planting - **PENDING RFI RESPONSE FOR SOME LANDSCAPE MATERIAL, UPDATED RELOCATION PLAN SENT ON 10/24/20, INCOMPLETE**
 - Irrigation Inspections with City Parks & Rec. Dept. from 10/19/20 to Date TBD - **PENDING**

As of today, there are 38 calendar days left until the final contract day. Addendum #2 dated 7/12/19 of the contract defines the Final Completion Date as 226 working days after the date when the Contract Time commences to run as provided in the Notice to Proceed. This duration has been extended to due to the 41-day time extension that was granted, which extends the final contract day to November 29, 2020. Based on the current amount of remaining work in each phase including punch list work, these criteria cannot be met in

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any particular phase, let alone the entire project. Furthermore, Specification 02810, 3.18, D. states that the irrigation system shall be operational at least one month prior to substantial completion. This time has already passed. Please provide a recovery plan to complete the project within the contract time to avoid incurring liquidated damages.

Moving forward, all project status meetings will begin with addressing the matters outlined in this letter before proceeding with the agenda items. It is imperative and expected that additional resources are activated the week of Monday, October 26, 2020 to meet the requirements of the contract documents to complete the project on time. The City, Calvin Giordano and Associates, and Kimley Horn agree with these outstanding items and look forward to Continental's recovery plan and actions to complete the outstanding items.

If you have any questions or concerns, please contact me via email at KrThompson@fortlauderdale.gov

Sincerely,

Kristin Thompson
Program Manager II

CC:

Ben Rogers, City of Fort Lauderdale Transportation and Mobility Department Director
Felix Garcia, Calvin Giordano CEI Department Project Administrator
Matt Gibson, Kimley Horn Engineer of Record
File





November 13, 2020
Mr. Juan Carlos Jurado
General Manager
Continental Construction USA, LLC
1395 Brickell Avenue, Suite 780
Miami, FL 33134

Project Name: Downtown Fort Lauderdale Mobility Hub Streetscape
Improvements
Project No: 12126
Bid No: 12292-296
County: Broward
**RE: Third Notice - Letter of Concern for Lack of Urgency to
Complete the Project Within the Approved Contract Time**

Mr. Jurado,

Please accept this letter as the *third* notification documenting our concern regarding Continental Construction's lack of urgency to complete the project within the approved contract time evidenced by the small number of workers (if any) documented on site each day, particularly with the subcontractors. Please note, the expectation of completion of the project is by the updated contract end date of November 29, 2020. There have been attempts to address the recovery plan, but as highlighted in this letter, the amount of progress that has been made since the issuance of the first letter of concern is not substantial enough to complete the project on time. Below are excerpts from the project specifications relating to this issue:

- Section 01001, 1.1, B.:
 - The Contractor shall complete all work within the number of calendar days stipulated in the Contract unless an extension in the time of completion is granted by the CITY'S PROJECT MANAGER, as stated in the Instructions to Bidders.
- Section 01001, 2.1, C.:
 - The Contractor shall have sufficient manpower, equipment, and material to complete the project.
- Section 01010, 1.6, A.:
 - Time is of the essence in completing this project. Because time is of the essence the CONTRACTOR shall commit the necessary resources to this project to complete it in a timely manner. Those resources may include multiple working crews, working overtime, etc. Because time is of the essence, the CONTRACTOR'S construction progress will be closely

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monitored on a weekly basis. The Construction progress will be measured with the construction schedule submitted by the CONTRACTOR. If the ENGINEER determines that the CONTRACTOR does not meet the Critical Path Method (CPM) as specified in Section 01311, the CONTRACTOR will be required to commit those resources necessary to ensure the completion of the project in a timely manner including working overtime, adding other work crews, etc. All costs incurred to implement measure to complete the work in a timely manner will be borne by the CONTRACTOR at no additional cost to the OWNER.

One cause for the delays in the construction schedule can be attributed to a lack of proactiveness to determine and advise of construction issues that require clarification or changes from the Engineer of Record. Often times issues were brought up during that corresponding work operation instead of in advance during the survey layout.

Another cause for the delays is due to the lack of work effort by the subcontractors. Inadequate Maintenance of Traffic mobilization, the absence of equipment and resources deployed consistently throughout the project to accomplish the assigned tasks throughout the course of the recovery plan have not been consistent to meet the contract deadline.

Below is a summary of the progress of the Recovery Plan update issued 10/31/20:

Week of 11/02/2020

- Roadway Restoration on 4th Street/2nd Street/1st Street/1st Ave

The scope of the restoration work includes the following sub activities:

1. Mill Final Lift
2. Pave Final Lift
3. Rolling Straightedge Inspection/Report

-Landscaping Installation along Flagler Ave, 1st Street, 2nd Street, 4th Street and 1st Avenue from 11/02/2020 to 11/06/2020

1. Planting/Irrigation – Pending approved Landscape permit for species affected as a result of City comments.

-Fixture Installation and wiring will resume from 11/02/2020 to 11/06/2020

-Electrical Panel installed on 10/12/20 – Inspection scheduled for 11/04/2020

-Pole Installation on 1ST Avenue is scheduled to be completed by 11/06/2020. Original completion date delayed due to on-site theft of the subject pole bases during week of 10/26/2020.

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-Permeable Paver Installation will resume from 11/02/2020 to 11/06/2020 – Completion Pending RFI 065.

The scope of this activity includes the following sub activities:

1. Mock for review
2. Paver installation

-Stamped Asphalt Mock activity is tentatively scheduled for 11/03/2020.

-RRFB Installation is scheduled to commence from 11/04/2020 to 11/05/2020.

-Bench Installation is scheduled to resume from 11/02/2020 to 11/04/2020.

-Bike Rack and trash can installation and disposal of existing trash cans remains pending City direction.

-Traffic Signs are scheduled to be installed between the dates of 11/05/2020 to 11/10/2020 pending delivery schedule.

Week of 11/09/20

-Peripheral Landscaping Installation along Flagler, 1st Street, 2nd Street, 4th Street and 1st Avenue will resume from 11/09/2020 to 11/13/2020.

1. Planting/Irrigation – Pending approved Landscape permit for species affected as a result of City comments.

The proper parties will be notified in advance of scheduled weekend work activities as per contract requirements.

-Punchlist items can be simultaneously addressed during the week of 11/09/2020 to 11/13/2020

As of today, there are 16 calendar days left until the final contract day. Article 5.2 of the contract defines Substantial Completion as 286 calendar days from the Notice to Proceed. This duration has been extended to calendar day 371 due to the 41-day time extension and 1 weather day that was granted, which is November 29, 2020. Based on the current amount of remaining work in each phase, these criteria cannot be met in any particular phase, let alone the entire project. Furthermore, Specification 02810, 3.18, D. states that the irrigation system shall be operational at least one month prior to substantial completion. This time has already passed. We look forward to reviewing the updated recovery plan to complete the project within the contract time to avoid incurring liquidated damages. I have attached the breakdown of liquidated damages per the contract:

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ARTICLE 16 – LIQUIDATED DAMAGES

16.1 Upon failure of the Contractor to complete the Work within the time specified for completion, the Contractor shall pay to the City the sum of One Thousand Dollars (\$1000.00) for each and every calendar day that the completion of the Work is delayed beyond the time specified in this Agreement for completion, as fixed and agreed liquidated damages and not as a penalty, so long as the delay is caused by the Contractor. Should an act of God or the acts or omissions of the City, its agents or representatives, in derogation to the terms of this Agreement cause the delay, the Contractor shall not be responsible for the delay nor liquidated damages. Liquidated damages are fixed and agreed upon between the Parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the City as a consequence of such delay and both parties desiring to obviate any question of dispute concerning the amount of damages and the cost and effect of the failure of the Contractor to complete the Work on time. Liquidated damages shall apply separately to each portion of the Work for which a time of completion is given. The City shall have the right to deduct from or retain any compensation which may be due or which may become due and payable to the Contractor the amount of liquidated damages, and if the amount retained by the City is insufficient to pay in full such liquidated damages, the Contractor shall pay all liquidated damages in full. The Contractor shall be responsible for reimbursing the City, in addition to liquidated damages or other damages for delay, for all costs of engineering, architectural fees, and inspection and other costs incurred in administering the construction of the Project beyond the completion date specified or beyond an approved extension of time granted to the Contractor whichever is later. Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the Contractor shall not give rise to a claim by Contractor for damages for increase in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the City's contractors and subcontractors, Florida Power and Light Company, AT&T, and Florida East Coast Railway, LLC.

Moving forward, all project status meetings will begin with addressing the matters outlined in this letter before proceeding with the agenda items. It is imperative and expected that additional resources are activated as meet the requirements of the contract documents to complete the project on time. The City looks forward to Continental's update to the recovery plan and actions to complete the outstanding items.

If you have any questions or concerns, please contact me via email at KrThompson@fortlauderdale.gov

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Sincerely,

Kristin Thompson
Program Manager II

CC:

Ben Rogers, City of Fort Lauderdale Transportation and Mobility Department Director

Felix Garcia, Calvin Giordano CEI Department Project Administrator

Matt Gibson, Kimley Horn Engineer of Record

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