



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

**#21-0307**

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

**FROM:** Chris Lagerbloom, ICMA-CM, City Manager

**DATE:** March 16, 2021

**TITLE:** Motion Approving the Termination of Agreement for the Downtown Mobility  
Hub Streetscape Improvements Project – Continental Construction USA,  
LLC. - **(Commission District 2)**

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**Recommendation**

Staff recommends the City Commission approve a termination for cause, effective March 18, 2021, for the Downtown Mobility Hub Streetscape Improvements Project agreement – Continental Construction USA, LLC., Project No. P12626.129 Invitation Bid No. 12292-296.

**Background**

On September 3, 2019, the City Commission approved the contract award for Continental Construction USA, LLC, (CAM #19-0777). Staff has encountered numerous issues with the contractor, Continental Construction since inception. A summary of issues are as follows:

- Lack of productivity due to inadequate number of workers onsite throughout life of project
- Untimely submittal of material test reports
- Inadequate equipment and materials that did not meet construction standards per the contract documents
- Stop work orders issued due to noncompliance per contract documents
  - Closure without an approved Maintenance of Traffic permit
  - Demolished/Damaged Private Property before easements and/or approval from the City were in place
  - Broward County stop work orders for sidewalk/concrete failures, not having proper densities, and no paperwork onsite
- Additional costs in Consulting Engineering Services and Engineer of Record fees due to extensions of the project time
- Inability to fulfill the Disadvantage Business Enterprise (DBE) requirement
- Failure to aggressively pursue work as documented by the number of days of no work performed

- Failure to submit complete, accurate and timely pay requests with all required backup documentation
- Failure to submit timely RFI's to address field issues prior to allow adequate time for review and resolution.
- Failure to procure and extend required permits in a timely manner
- Failure to provide an acceptable construction schedule with a logical critical path
- Failure to pay subcontractors promptly per contract requirements

On April 11, 2020, Continental Construction received a letter of concern due to lack of urgency to complete the project within the approved contract time. October 9, 2020, another letter of concern was issued, which required a recovery plan to address the lack of urgency to complete the project on time. Various correspondences were sent to the contractor throughout this project, including, but not limited to, letters of concern, a Notice to Cure, and Notices of Nonconformance (See exhibits 1, 2 and 3), in addition to the earlier indicated, a Notice to Stop Work (Exhibit 4), (which was subsequently rescinded once an agreement was made on how to commence) was issued. Despite all these correspondences, minimal progress was made throughout the course of the contract duration.

Pursuant to Article 17 – Suspension of Work and Termination, Section 17.2.4 of the Contract, the City may proceed to terminate the Contract as follows:

17.2.4: 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.

On March 3, 2021, Procurement issued a final Notice to Cure to Continental, confirming that the City and Continental agree that all project activities must be completed by March 10, 2021.

Additional back-up is available as requested.

### **Resource Impact**

There is no fiscal impact associated with this action item. Contractor will be paid per contract agreement.

### **Strategic Connections**

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

- Internal Support
- Goal 8: Build 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 Prosperous.

**Attachments**

Exhibit 1 – Letters of Concern

Exhibit 2 – Notice to Cure

Exhibit 3 – Notices of Nonconformance

Exhibit 4 – Notice to Stop Work

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