



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

**#21-1125**

---

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

**FROM:** Alain E. Boileau, City Attorney

**DATE:** November 16, 2021

**TITLE:** Motion to Approve Settlement Agreement and Release between the City of  
Fort Lauderdale and Continental Construction USA, LLC - **(Commission  
Districts 1, 2, 3 and 4)**

---

**Recommendation**

It is recommended that the City Commission approve the Settlement Agreement and Release between the City of Fort Lauderdale, Florida and Continental Construction USA, LLC, in substantially the form attached.

**Background**

On July 9, 2019, the City Commission ("City") entered into a contract, (the "Project Number 12434"), with Continental Construction USA, LLC ("Continental") for the SW 2<sup>nd</sup> Avenue Median Parking Project ("Parking Project"), for various streetscape and landscape improvements in the City of Fort Lauderdale. The Notice to Proceed to commence construction was issued on September 11, 2019. On July 7, 2020, the City terminated the agreement with Continental due to non-compliance, unsuitable quality of work and extended construction delays resulting from the lack of productivity by Continental.

On September 3, 2019, the City, awarded a contract, (the "Project Number 12126") to Continental, for the Downtown Fort Lauderdale Mobility Hub Streetscape Improvements Project, ("Mobility Hub"). The agreement is dated September 12, 2019, and the project commenced in November 2019, the purpose of which was to provide multi-modal shared-use paths, streetscape elements and buffered bicycle lanes throughout the Mobility Hub in Downtown Fort Lauderdale. On March 16, 2021, the Mobility Hub project was suspended, as the agreement with Continental was terminated by the City, due to a series of complications and unforeseen delays.

The Parties have reached a settlement agreement that resolves all issues in the referenced matters. The material terms of the settlement are as follows:

1. Within 15 days of Continental fulfilling their obligations pursuant to the settlement agreement, the City agrees to remit a lump sum payment of

\$300,577.36, which represents amounts due and owing at the time of termination, and Continental agrees to accept this amount in full and final settlement of all claims asserted or which could have been asserted regarding or arising from Project No. 12126 and Project No. 12434.

2. Continental and the City will execute a mutual release from, including but not limited to, any and all past, present or future claims, demands, wages, attorney's fees, liens, obligations, actions, causes of action, third-party claims, warranties (whether express or implied and whether based on statute, common law or otherwise) rights, damages, costs, judgements, expenses and compensation of any nature whatsoever, whether known or unknown, and whether fixed or contingent, arising out of the contracts between City and Continental regarding Project No. 12126 and Project No. 12434.

### **Resource Impact**

There will be a fiscal year impact to the City in the amount of \$300,577.36.

<i>Funds available as of November 9 , 2021</i>					
ACCOUNT NUMBER	INDEX NAME (Program)	CHARACTER CODE/ SUB-OBJECT NAME	AMENDED BUDGET (Character)	AVAILABLE BALANCE (Character)	AMOUNT
129-P12626.129- 6599	FTA-DOWNTOWN MOBILITY HUB PROJECT 2017	CAPITAL OUTLAY / CONSTRUCTION	\$3,465,000	\$533,853	\$300,577.36
PURCHASE TOTAL ►					\$300,577.36

### **Attachment**

Exhibit 1 – Settlement Agreement and Release

---

Prepared by: Alain E. Boileau, City Attorney, City Attorney's Office

Charter Officer: Alain E. Boileau, City Attorney, City Attorney's Office