



Public Works Department

Facilities Management Division

115 S Andrews Avenue, Room 501 • Fort Lauderdale, Florida 33301 • 954-357-5500 • FAX 954-357-6136

TO: Brenda Billingsley, Director
Purchasing Division

FROM: Scott Campbell, Director
Facilities Management Division

DATE: May 9, 2018

SUBJECT: **Recommendation to Terminate Agreement with Allied Contractors, Inc.**
 Bid/Contract No.: T1144107B1
 FMD Project No.: 2062-11
 Purchase Order No.: FMD0000557
 Project Title: Medical Examiner North Building Roof Replacement
 Project Location: 5301 SW 31st Avenue
 Fort Lauderdale, FL, 33312

The Facilities Management Division (FMD) issued a Notice to Proceed to Allied Contractors, Inc. (Allied) on March 24, 2016 under Job Order Contract No. T1144107B1 for the Medical Examiner North Building Roof Replacement (Project). The project value was \$352,014.51 and the time for completing the project was ninety (90) calendar days.

In April 2017 FMD issued thirteen (13) Notices of Non-Conforming Work. The notices included the nature of non-conformance and referenced the contract document section with which the work was not in compliance. Allied did not provide required written responses to any of the notices.

In May 2017 FMD also notified Allied of quality assurance test results which included test failures at eight (8) out of nine (9) different test locations. Subsequent to notification of failed quality assurance tests, Allied contested the test method used and requested that FMD retest all locations using an alternate test method allowed by the contract. In good faith, FMD accommodated Allied's request and procured services for additional testing at the County's cost. Results from the second, alternate quality assurance test were issued in November 2017 again showing failures at the same eight (8) out of nine (9) test locations.

Due to non-conforming work, failed uplift tests and other extenuating issues such as unfinished work which caused damage to the building, FMD has denied all pay requests subsequent to Pay Request #1 which was approved earlier in the project. The total amount of Pay Request #1 was \$74,780.00 less 10% retainage. In October 2017, Allied filed a lawsuit against the County for non-payment for work performed.

On December 19, 2017, FMD issued an Intent to Terminate Agreement for Cause pursuant to Section 12 (b) of the contract. Allied's surety company, Capitol Specialty Insurance Company was included in the notice. The Intent to Terminate Agreement for Cause was based on the previously issued Notices of Non-Conforming Work and failed uplift tests.

On December 29, 2017, Allied responded to FMD's Intent to Terminate Agreement for Cause with a proposed work plan to rectify the issues. FMD and consultant reviewed the plan, however it was determined to be insufficient as it did not include a viable work plan for correcting items identified by the Notices of Non-Conforming Work or a manufacturer-approved plan for remedial repairs required by the Architect of Record for addressing uplift test failures. Since failures and required remedies were previously communicated to Allied no additional response was provided by FMD.

On January 29, 2018, Capitol Specialty Insurance Company responded to FMD's Intent to Terminate Agreement for Cause. The surety requested information and stated that its performance obligations will not be initiated until the contract is terminated for default.

If recommendation to terminate is approved, FMD will submit to the Board of County Commissioners for termination for cause. FMD with the County Attorney's Office will pursue Allied's performance bond.

c: Bertha Henry, County Administrator, County Administration
 Mike Kerr, Deputy County Attorney, County Attorney
 Keoki Baron, Assistant County Attorney, County Attorney
 Thomas Hutka, Department Director, Public Works Department
 Dr. Craig Mallak, Chief Medical Examiner, OMETS
 Ian Harvey, Construction Project Manager, Facilities Management Division
 Ian Mitchell, Expansion Project Administrator, Facilities Management Division
 Claudja Henry, Contract/Grant Administrator Senior, Facilities Management Division

In accordance with Procurement Code Section 21.119, Authority to Debar or Suspend, the Director of Purchasing, in consultation with the Office of the County Attorney, will review if vendor should be debarred or suspended for cause from consideration of future contracts. The cause for debarment or suspension, if determined, will be in accordance with Section 21.119.b.4, for violation of contract provisions (deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts).

Reviewed by: **CONSTANCE S. MANGAN**
 Purchasing Manager

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 ou=PU, ou=Users, cn=CONSTANCE S. MANGAN
 Date: 2018.05.24 11:47:41 -0400

Approved by: **BRENDA
 BILLINGSLEY**
 Director of Purchasing

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 ou=Users, cn=BRENDA BILLINGSLEY
 Date: 2018.05.24 13:12:27 -0400