

SECTION VI COST PROPOSAL PAGE

Proposer Name: R. L. Townsend & Associates, LLC

Proposer agrees to supply the services at the prices bid below in accordance with the terms, conditions and specifications contained in this RFQ.

Proposal – Cost Information

Construction Contract Audit Services	Firm, Fixed Project Cost
1) Las Olas Blvd Corridor Improvement Project- Garage	\$ 120,000
2) Las Olas Blvd Corridor Improvement Project – Open space	\$ 120,000
3) Aquatics Center Improvements Project	\$ 120,000
Total Project Cost	\$ 360,000

NOTE: Pricing should be included in this RFQ, but it MUST be submitted in a separate SEALED PACKET/ENVELOPE. The Proposer shall label both packets/envelopes according to the requirements in Section IV of this RFQ. Sealed Pricing will be opened upon selection of short list of proposers. Should the pricing be included in the same packet as the proposal, and not be kept separate, the proposal may be deemed non-responsive. Do NOT include pricing on the Flash Drive Copies.

Note: The above pricing reflects the level of on-site construction audit presence requested in the RFP document. Cost savings may be realized if some meetings, etc. can be handled via conference calls, PC Meetings, etc.

Submitted by:

Rich Townsend
Name (printed)

Rich Townsend
Signature

April 7, 2017
Date

Co-Owner
Title

**ORIGINAL
BID**



RESPONSE TO REQUEST FOR PROPOSAL

RFP No. 571-11919

CONSTRUCTION CONTRACT AUDIT SERVICES

Submitted by:

R. L. Townsend & Associates, LLC

5056 Tennyson Parkway, Suite 100

Plano, TX 75024

(972) 403-1829

www.rltownsend.com

R. L. TOWNSEND
& ASSOCIATES LLC

Knowledge | Perspective | Partnership

Response to Request for Proposal RFP No. 571-11919
Construction Contract Audit Services for City of Ft. Lauderdale

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1. EXECUTIVE SUMMARY

Business Entity

Legal Name:	R.L. Townsend & Associates, LLC
Type of Entity:	Limited Liability Corporation
State of Formation:	Texas
States Authorized to do Business:	All 50 States

R. L. Townsend & Associates has been in continuous operation since 1984 as a specialty construction audit services provider. The firm is co-owned by Rich Townsend and Debbie Townsend who serve as the executive officers of the corporation and who manage the day-to-day construction audit services provided by our professional associates.

Our firm currently consists of 15 construction audit professional staff dedicated 100% to providing construction audit and construction cost control consulting services to organizations throughout the United States.

Main Office

R. L. Townsend & Associates, LLC
5056 Tennyson Pkwy, Suite 100
Plano, TX 75024

Our main office will be the office that will service this contract. If necessary, a satellite office will be established in the Ft. Lauderdale metro area.

Other

- Our firm has no litigation or pending litigation related to the services we provide.
- No client relationships have been severed for reasons other than convenience.

Key Firm Personnel to be Assigned the City of Ft. Lauderdale Construction Audits

- Rich Townsend – Audit Team Leader
- Clay Addison – Senior Construction Auditor
- Christopher Irpino – Senior Construction Auditor

The above listed audit key personnel will be supported as necessary by our firm's available Construction Auditor and Construction Audit Assistant resources. Bios for our proposed key personnel to be assigned to the requested services for the City of Ft. Lauderdale are included on the next three pages.

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Construction Contract Audit Services for City of Ft. Lauderdale**

Bios of Key Consultant Personnel Proposed for City of Ft. Lauderdale Construction Audits

(Page 1 of 3)



Rich Townsend
Executive Construction Cost Control Consultant

Rich Townsend founded R. L. Townsend & Associates in 1984 to perform construction audits for organizations throughout the United States. Since 1985, he has also been active as a seminar leader for professional development training programs for contract auditing and construction cost control. He continues to serve as the engagement manager for construction audit consulting services for higher education, health care, retail, government, and oil & gas organizations.

Certifications

- Certified Construction Auditor
- Certified Internal Auditor
- Certified Public Accountant

Education

- Waynesburg College
- B.S., Accounting

Associations

- National Association of Construction Auditors
- The Institute of Internal Auditor

Partial List of Construction Audit Clients

Higher Education

- University of Texas Systems (Austin, Dallas, El Paso, Galveston, Houston, Tyler)
- Texas A&M University System
- Johns Hopkins University
- University of Pennsylvania
- San Francisco State University
- University of San Francisco
- Pepperdine University
- University of San Diego
- University of Utah

Healthcare

- University of Texas Southwest Medical Center (Dallas, TX)
- University of Texas Medical Branch (Galveston, TX)
- University of California – Irvine Medical Center (Irvine, CA)
- Scripps Hospital (San Diego, CA)
- Sharp Hospital (San Diego, CA)

Real Estate

- Prometheus Group (Multi Family Residential Projects)
- USAA Real Estate (Multi Family Residential Projects)

Government

- Port of Seattle – SEATAC Airport – NorthStar Terminal
- City of Austin – Bergstrom International Airport – Infrastructure
- City of Cape Coral – Water and Wastewater Infrastructure
- Pima County (Tucson, AZ) – Water and Wastewater Infrastructure

Other

- Magellan Midstream Partners - Oil pipeline
- Lowe's
- Whole Foods

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Bios of Key Consultant Personnel Proposed for City of Ft. Lauderdale Construction Audits
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Clay Addison
Senior Construction Auditor

Clay Addison has more than 30 years of experience in construction management. Prior to joining R. L. Townsend & Associates in 2015, Clay had an extensive career with Belk, Inc. As the Director of Construction and Purchasing, Clay was responsible for overseeing all of Belk's new store and major renovations projects.

Certifications

LEED AP (Leadership in Energy and Environmental Design Accredited Professional)
CCCA (Certified Construction Contacts Administrator)

Education

Clemson University, Clemson, SC
B.S., Building Science and Construction Management

Associations

National Association of Construction Auditors
The Institute of Internal Auditors
Association of Fraud Examiners

Partial List of Construction Audit Clients

Higher Education

- Texas A&M University System

Healthcare

- Houston Methodist Hospitals (Houston, TX)
- CaroMont Regional Medical Center (Mount Holly, NC)

Public School Districts

- Conroe ISD (Conroe, TX)

Real Estate

- USAA Real Estate (Commercial Office Buildings)
- USAA Real Estate (Multi Family Residential Projects)
- Stoneleigh Companies (Multi Family Residential Projects)

Other

- Cyrus One – Regional Data Centers
- Lowe's – Regional Data Center

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Bios of Key Consultant Personnel Proposed for City of Ft. Lauderdale Construction Audits
(Page 3 of 3)



Chris Irpino
Senior Construction Auditor

Prior to joining R.L. Townsend and Associates in 2008, Chris had 20 years of experience working for a large multinational corporation. Beginning with global facilities design and construction project management, he transitioned into construction contract control and audit services. His collaboration with R. L. Townsend & Associates on capital project audits resulted in substantial cost recovery savings of well over \$10M.

Certifications

Certified Construction Auditor

Education

Indiana University
M.B.A., Operations Management
University of Illinois
B.S., Engineering (*cum laude*)

Associations

National Association of
Construction Auditors

Partial List of Construction Audit Clients

Higher Education

- University of Texas Systems (Austin, Dallas, El Paso, Galveston, Houston, Tyler)
- Texas A&M University System
- Baylor University
- Johnson & Wales
- University of Houston
- University of Pennsylvania

Healthcare

- MD Anderson Cancer Center (Houston, TX)
- Houston Methodist Hospitals (Houston, TX)
- University of Texas Medical Branch (Galveston, TX)
- CoxHealth Hospital (Springfield, MO)

Commercial

- The Richards Group
- Texas Instruments (Dallas, TX)

Real Estate

- Stoneleigh Companies
- SBR Real Estate Holdings

Other

- Port of Seattle – SEATAC Airport – NorthStar Terminal
- USAA

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Construction Contract Audit Services for City of Ft. Lauderdale

2. QUALIFICATIONS AND EXPERIENCE

R. L. Townsend & Associates has been providing construction audit services for organizations throughout the United States since 1984.

Type of Entity: Limited Liability Corporation
(firm is registered as a legal entity in the state of Florida)

Address: 5056 Tennyson Dr., Suite 100
Plano, TX 75024

Phone: 972-403-1829

Fax: 214-853-5287

E-mail: rltownsend@rltownsend.com

Web Site: www.rltownsend.com

Point of Contact: Rich Townsend (972-679-6762)

Our firm is currently involved in performing construction audit activity on construction projects with a combined construction contract value of approximately \$5 billion.

During the last 5 years, we have assisted owner organizations achieve audit-related cost recovery and/or cost avoidance savings totaling more than \$25 million.

We specialize in providing construction auditing/construction cost control consulting services that the City of Fort Lauderdale has specified in this RFQ.

We have performed similar construction auditing services for the following governmental organizations:

1. The City of Cape Coral, Florida
2. The City and County of Denver, Colorado
3. The City of Austin, Texas
4. The City of Phoenix, Arizona
5. Pima County; Tucson, Arizona
6. The City of Fort Worth, Texas

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QUALIFICATIONS AND EXPERIENCE (continued)

In addition to providing construction auditing services, Rich Townsend has been active since 1985 in providing technical professional development training seminars for organizations throughout this United States and Canada.

The seminars provided are entitled either *“Effective Auditing of Construction Activity”* or *“Controlling Construction Costs”*.

The following are a few examples of local government organizations that have received one of the referenced in-house training seminars presented by Rich Townsend:

1. Broward County, Florida
2. City of Cape Coral, Florida
3. Miami-Dade County (Internal Audit)
4. Miami-Dade County and Sewer Authority
5. Tampa Airport Authority
6. Pinellas County, Florida
7. City of Phoenix, Arizona
8. City of Grand Prairie, TX
9. State of Montana (Internal Audit)

Sustainable Business Practices

Our firm uses PC and Cloud based technology to maintain files related to the construction audit services we provide. This is not only environmentally friendly but it also provides several levels of secure encrypted electronic document backup. Company files are backed up with at least three generations of off-site electronic file storage ensuring sustainability in the event of any loss of equipment or catastrophic damage to our main office facilities.

**Response to Request for Proposal RFP No. 571-11919
Construction Contract Audit Services for City of Ft. Lauderdale**

QUALIFICATIONS AND EXPERIENCE (continued)

Firm Size – Professions by Discipline

Professionals by Title	Current
Construction Audit Executive Managers - Principals	2
Senior Construction Auditors	5
Construction Auditors	3
Construction Audit Assistants	5
Total	15

Current Professional Staff

The following is a listing of the professional construction audit resources currently employed with our firm. The following list reflects the education, experiences, licenses and certifications of our personnel:

Position	Name	College Degree or Masters Degree* from	Licenses and Certifications	Years of Business Experience	Years of Construction Audit Experience
Executive Manager - Principal	Debbie Townsend	Cal State Fullerton	CPA, CIA, CCA, CFE	30 +	20 +
Executive Manager - Principal	Rich Townsend	Waynesburg University	CPA, CIA, CCA	40+	40 +
Senior Construction Auditor	Patricia Farrell-Shear	Central CT State	CCA, PMP	25 +	9
Senior Construction Auditor	Ed Matisoff	Bently University	CCA, CMA	25+	11
Senior Construction Auditor	Anna Nicodemus	State Univ. of NY	CPA, CIA, CFE	25+	2
Senior Construction Auditor	Chistopher Irpino	Univ. of Illinois*	CCA	25+	11
Senior Construction Auditor	Clay Addison	Clemson University	CCCA, LEED AP	25+	2
Construction Auditor	Sarah Carraher	Univ. of TX at Dallas*	CIA	3	2
Construction Auditor	Kyle Smith	Baylor University		5	1
Construction Auditor	Rachel Townsend Smith	Baylor University	EIT	5	1
Construction Audit Assistant	Lanna Bacchus	Univ. of North Texas		5	3
Construction Audit Assistant	Ashley Humphries	Univ. of North Texas		8	2
Construction Audit Assistant	Shomaila Gardezi	Univ. of Guelph		10 +	2
Construction Audit Assistant	Gevonia Brown	Louisiana Tech		20+	1
Construction Audit Assistant	Arbelina Medina	Univ. of TX at Dallas		1	1

CPA = Certified Public Accountant; CIA = Certified Internal Auditor; CCA = Certified Construction Auditor; CFE = Certified Fraud Examiner; CMA = Certified Management Accountant; PMP = Project Management Professional; CCCA = Certified Construction Contract Administrator; EIT = Engineer in Training

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Construction Contract Audit Services for City of Ft. Lauderdale

3. APPROACH TO SCOPE OF WORK

Understanding of the City's Needs, Goals, and Objectives

We understand the scope of work anticipated by this RFP includes construction audits of the following projects:

1. The Las Olas Boulevard Corridor Improvement Project - Phase 1 (Budget \$21 million)
 - Construction Start: April 2018
 - Construction End Date: April 2018
2. The Las Olas Boulevard Corridor Improvement Project - Phase 2 (Budget \$28 million)
 - Construction Start: April 2018
 - Construction End: April 2019
3. Aquatics Center Improvements (Budget \$18 million)
 - Construction Start: Early spring 2018
 - Construction End: Summer 2019

We understand the goals of these project audits are as follows:

- Cost management
- Risk identification and management
- Financial control
- Identify and minimize overcharges on the project
- Reduce litigation risk through better project control and information

We further understand the concept for this engagement is to have an audit presence throughout the construction process to ensure that contract terms are fulfilled, that the City receives exactly what it is paying for, to mitigate against cost overruns, unidentified risks and potential fraud, it is not to determine quality of materials or design, etc.

We understand the selected firm will be required, at a minimum, to be on site regularly, attend all contractor and city construction meetings, inspections and all other construction events, review the "pencil copy" monthly pay estimates as well as the supporting source documents at contractors' offices for all pay estimates.

Note: Our firm believes that real-time, proactive construction auditing is one of the best ways to effectively execute construction audit oversight of major construction projects.

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Construction Contract Audit Services for City of Ft. Lauderdale

APPROACH TO SCOPE OF WORK (continued)

We further understand the anticipated construction auditing services will include the following scope of services for each project to be audited:

Overall Scope of Services for Contract Compliance Audits:

- Test and monitor controls per the base contract and applicable amendments
- Review payment applications
- Test for contract compliance
- Test and evaluate change orders
- Identify potential overcharges and recommend action to the owner
- Recommend control improvements during the audit process
- Site visits

Specific scope of services will include, but is not limited to, the review and verification of:

- Payment application, processing and administration
- Labor hours, wages and/or stipulated rates charged to the project
- Labor burden costs including benefits, unemployment insurance, workers' compensation and other elements charged to project
- Accounting systems (e.g. payroll audits, rates, cost segregation and overhead)
- Overhead rates and/or labor multipliers
- Materials and equipment costs
- Procurement of subcontractors
- Subcontractors' cost charged to project
- Contingency usage
- Change order processes and controls
- Contractor owned equipment rentals/small tools and other construction costs
- General liability, commercial auto liability and other insurance costs
- Home office overhead costs
- Fees and mark-ups of any kind
- Bond expenses
- Permit expenses
- Verification of proper sales and use tax charges
- Allowable and unallowable cost reviews
- Project closeout

Response to Request for Proposal RFP No. 571-11919 Construction Contract Audit Services for City of Ft. Lauderdale

APPROACH TO SCOPE OF WORK (continued)

R. L. Townsend & Associates Methodology and Approach to the Project

Rich Townsend will serve as the lead construction auditor for the projects to be audited. He will be assisted as necessary by the following Senior Construction Auditors:

- Mr. Clay Addison, Certified Construction Contract Administrator
- Mr. Christopher Irpino – Certified Construction Auditor

Rich Townsend will work with the two Senior Construction Auditors to perform the required construction audit work during all key construction audit activities during the life of this engagement.

In person, meetings with key Client and Contractor personnel will be held as necessary to effectively coordinate and perform the agreed upon construction audit services.

It is anticipated that approximately 50% of the construction audit services will be performed in Ft Lauderdale (and/or the contractor's offices if not in Ft. Lauderdale) and the remaining 50% of the work will be performed at the R. L. Townsend offices.

Scheduling Methodology (Timeline)

Upon receipt of Notice to Proceed, we will schedule (at a minimum) monthly trips to the project site and the applicable contractor offices to conduct the agreed upon construction audit work.

Our construction audit services will be performed on a continuous basis until all the projects are finished and the final invoices from the construction contractor(s) are submitted and processed for payment.

We anticipate the construction audit services to begin during mid-2017 and extend thru the fall of 2019 in order to cover all three of the construction projects covered by this RFP.

Current Workload

Our firm has a steady workload of construction audit engagements which we are currently completing. Since most of our construction audit engagements take place over periods of 1 to 3 years, we are able to add 3 to 5 new construction audit engagements for any one client at any time.

Response to Request for Proposal RFP No. 571-11919 Construction Contract Audit Services for City of Ft. Lauderdale

APPROACH TO SCOPE OF WORK (continued)

Technological Capabilities

R. L. Townsend & Associates uses technology to tie the many aspects of producing a quality audit together. Cloud computing is an integral part of our company operation. All files are securely stored on a cloud based server, and our files are able to be accessed, edited and reviewed by our audit team members at anytime from anywhere.

Firm Responsiveness to any Potential Audit Problems

We do not anticipate any problems to arise in connection with the performance of these audits with the City of Fort Lauderdale. In the event of non-cooperation by a construction contractor in providing access to records, etc., we would work with appropriate representatives to professionally resolve any potential audit related issues.

Our firm has been successful at completing construction audits for our customers without any significant problems or resistance from the contractors subject to audit.

Examples of Construction Audit Reports

See Exhibits "A", "B", "C" and "D" for examples of our construction audit reports format.

4. REFERENCES

Reference:	1	2	3
Client Name:	City of Cape Coral	City of Denver	City of Austin
Client Address:	Cape Coral, Florida	Denver, Colorado	Austin, Texas
Client Contact Person:	Margaret Krym - City Auditor (Retired 3-31-2017)	John Carlson - Deputy Director - Office of the Auditor	Patrick Johnson - Assistant City Auditor
Client Email Address:	mkrym@capecoral.net	John.Carlson@denver.org	Patrick.Johnson@austintexas.gov
Client Telephone Contact:	(239) 478-3028	(720) 913-5068	(512) 974-1333
Description of Construction Project:	Water Treatment Facility	New Airport Hotel	Airport Apron Expansion
Total Cost of Construction Project:	Approximately \$100 million	Approximately \$365 million	Approximately \$12 million
Construction Contractor:	MWH Global/Americas	Mortenson Construction	Austin Bridge & Rood and Chasco Contracting
Description of Construction Audit Engagement:	Construction contract compliance/cost verification audit.	Assist City Auditor Office with interim audit assessment of management of construction contract by Airport	Construction contract compliance audit conducted after project completion.

5. SUBCONTRACTORS

Our firm does not use subcontractors.

**Response to Request for Proposal RFP No. 571-11919
Construction Contract Audit Services for City of Ft. Lauderdale**

6. REQUIRED FORMS

Proposal Certification

STATEMENT OF QUALIFICATION CERTIFICATION

Please Note: All fields below must be completed. If the field does not apply to you, please note N/A in that field.

If you are a foreign corporation, you may be required to obtain a certificate of authority from the department of state, in accordance with Florida Statute §607.1501 (visit <http://www.dos.state.fl.us/>).

Company: (Legal Registration) R. L. Townsend & Associates, LLC

Address: 5056 Tennyson Pkwy, Suite 100

City: Plano State: TX Zip: 75024

Telephone No. 972-403-1829 FAX No. 214-853-5287 Email: rltownsend@rltownsend.com

Does your firm qualify for MBE or WBE status: MBE WBE

ADDENDUM ACKNOWLEDGEMENT - Proposer acknowledges that the following addenda have been received and are included in the proposal:

<u>Addendum No.</u>	<u>Date Issued</u>	<u>Addendum No.</u>	<u>Date Issued</u>
1	3/27/2017		

VARIANCES: State any variations to specifications, terms and conditions in the space provided below or reference in the space provided below all variances contained on other pages of bid, attachments or bid pages. No variations or exceptions by the Proposer will be deemed to be part of the bid submitted unless such variation or exception is listed and contained within the bid documents and referenced in the space provided below. If no statement is contained in the below space, it is hereby implied that your bid/proposal complies with the full scope of this solicitation. If this section does not apply to your bid, simply mark N/A. **If submitting your response electronically through BIDSYNC you must click the exception link if any variation or exception is taken to the specifications, terms and conditions.**

The below signatory hereby agrees to furnish the following article(s) or services at the price(s) and terms stated subject to all instructions, conditions, specifications addenda, legal advertisement, and conditions contained in the bid/proposal. I have read all attachments including the specifications and fully understand what is required. By submitting this signed proposal I will accept a contract if approved by the City and such acceptance covers all terms, conditions, and specifications of this bid/proposal. The below signatory also hereby agrees, by virtue of submitting or attempting to submit a response, hereby agrees that in no event shall the City's liability for respondent's indirect, incidental, consequential, special or exemplary damages, expenses, or lost profits arising out of this competitive solicitation process, including but not limited to public advertisement, bid conferences, site visits, evaluations, oral presentations, or award proceedings exceed the amount of five hundred dollars (\$500.00). This limitation shall not apply to claims arising under any provision of indemnification or the City's protest ordinance contained in this competitive solicitation.

Submitted by:

Rich Townsend
Name (printed)
April 7, 2017
Date:

Rich Townsend
Signature
Co-Owner
Title



Revised 4/15/15

Response to Request for Proposal RFP No. 571-11919
Construction Contract Audit Services for City of Ft. Lauderdale

Non-Collusion Statement

NON-COLLUSION STATEMENT:

By signing this offer, the vendor/contractor certifies that this offer is made independently and free from collusion. Vendor shall disclose below any City of Fort Lauderdale, FL officer or employee, or any relative of any such officer or employee who is an officer or director of, or has a material interest in, the vendor's business, who is in a position to influence this procurement.

Any City of Fort Lauderdale, FL officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement.

For purposes hereof, a person has a material interest if they directly or indirectly own more than 5 percent of the total assets or capital stock of any business entity, or if they otherwise stand to personally gain if the contract is awarded to this vendor.

In accordance with City of Fort Lauderdale, FL Policy and Standards Manual, 6.10.8.3,

3.3. City employees may not contract with the City through any corporation or business entity in which they or their immediate family members hold a controlling financial interest (e.g. ownership of five (5) percent or more).

3.4. Immediate family members (spouse, parents and children) are also prohibited from contracting with the City subject to the same general rules.

Failure of a vendor to disclose any relationship described herein shall be reason for debarment in accordance with the provisions of the City Procurement Code.

NAME

RELATIONSHIPS

In the event the vendor does not indicate any names, the City shall interpret this to mean that the vendor has indicated that no such relationships exist.

Rich Townsend



**Response to Request for Proposal RFP No. 571-11919
Construction Contract Audit Services for City of Ft. Lauderdale**

Local Business Preference (LBP)

LOCAL BUSINESS PREFERENCE CERTIFICATION STATEMENT

The Business identified below certifies that it qualifies for the local BUSINESS preference classification as indicated herein, and further certifies and agrees that it will re-affirm its local preference classification annually no later than thirty (30) calendar days prior to the anniversary of the date of a contract awarded pursuant to this ITB. Violation of the foregoing provision may result in contract termination.

- (1) _____
Business Name is a **Class A** Business as defined in City of Fort Lauderdale Ordinance No. C-12-04, Sec.2-199.2. A copy of the City of Fort Lauderdale current year Business Tax Receipt **and** a complete list of full-time employees and evidence of their addresses shall be provided within 10 calendar days of a formal request by the City.
- (2) _____
Business Name is a **Class B** Business as defined in the City of Fort Lauderdale Ordinance No. C-12-04, Sec.2-199.2. A copy of the Business Tax Receipt **or** a complete list of full-time employees and evidence of their addresses shall be provided within 10 calendar days of a formal request by the City.
- (3) _____
Business Name is a **Class C** Business as defined in the City of Fort Lauderdale Ordinance No. C-12-04, Sec.2-199.2. A copy of the Broward County Business Tax Receipt shall be provided within 10 calendar days of a formal request by the City.
- (4) _____
Business Name requests a **Conditional Class A** classification as defined in the City of Fort Lauderdale Ordinance No. C-12-04, Sec.2-199.2. Written certification of intent shall be provided within 10 calendar days of a formal request by the City.
- (5) _____
Business Name requests a **Conditional Class B** classification as defined in the City of Fort Lauderdale Ordinance No. C-12-04, Sec.2-199.2. Written certification of intent shall be provided within 10 calendar days of a formal request by the City.
- (6) R. L. Townsend & Associates, LLC
Business Name is considered a **Class D** Business as defined in the City of Fort Lauderdale Ordinance No. C-12-04, Sec.2-199.2. and does not qualify for Local Preference consideration.

BIDDER'S COMPANY: R. L. Townsend & Associates, LLC

AUTHORIZED COMPANY PERSON: Rich Townsend
NAME

Rich Townsend
SIGNATURE

 04/07/2017
APR 7 2017
DATE

October 25, 2013

Response to Request for Proposal RFP No. 571-11919
Construction Contract Audit Services for City of Ft. Lauderdale

Contract Payment Method

CONTRACT PAYMENT METHOD BY P-CARD

THIS FORM MUST BY SUBMITTED WITH YOUR RESPONSE

The City of Fort Lauderdale has implemented a Procurement Card (P-Card) program which changes how payments are remitted to its vendors. The City has transitioned from traditional paper checks to payment by credit card via MasterCard or Visa. This allows you as a vendor of the City of Fort Lauderdale to receive your payment fast and safely. No more waiting for checks to be printed and mailed.

Payments will be made utilizing the City's P-Card (MasterCard or Visa). Accordingly, firms must presently have the ability to accept credit card payment or take whatever steps necessary to implement acceptance of a credit card before the commencement of a contract.


Please indicate which credit card payment you prefer:

Master Card

Visa Card

Company Name: R. L. Townsend & Associates, LLC

Rich Townsend
Name (printed)

Rich Townsend
Signature 

4/7/2017
Date:

Co-Owner
Title

Response to Request for Proposal RFP No. 571-11919
Construction Contract Audit Services for City of Ft. Lauderdale

Sample Insurance Certificate

CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 1/3/2017														
<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p> <p>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).</p>																
PRODUCER Scarbrough Medlin & Associates 5700 Granite Pkwy, #500 Plano TX 75024	CONTACT NAME: SHERRI HAGMANN PHONE (A/C, No. Ext.): (214) 423-3333 FAX (A/C, No.): (214) 423-3350 E-MAIL ADDRESS: sherri@scarbrough-medlin.com															
INSURED R.L. Townsend & Assoc. LLC 5056 Tennyson Pkwy Suite 100 Plano TX 75024	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;">INSURER(S) AFFORDING COVERAGE</th> <th style="width: 20%;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A <u>Utica Lloyds of Texas</u></td> <td></td> </tr> <tr> <td>INSURER B <u>Utica Mutual Insurance Company</u></td> <td></td> </tr> <tr> <td>INSURER C <u>Graphic Arts Mutual Insurance</u></td> <td></td> </tr> <tr> <td>INSURER D <u>Westchester Fire Insurance Co</u></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A <u>Utica Lloyds of Texas</u>		INSURER B <u>Utica Mutual Insurance Company</u>		INSURER C <u>Graphic Arts Mutual Insurance</u>		INSURER D <u>Westchester Fire Insurance Co</u>		INSURER E:		INSURER F:	
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COVERAGES CERTIFICATE NUMBER: 17.18 Liability REVISION NUMBER:																
<p>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.</p>																
INSR LTR	TYPE OF INSURANCE	ADDITIONAL SUBROGATION WAIVED	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS										
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		5005321	1/1/2017	1/1/2018	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMPIOP AGG \$ 2,000,000 Blanket AI PNC \$										
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		5005321	1/1/2017	1/1/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$										
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$		5005371	1/1/2017	1/1/2018	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$										
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> Y <input type="checkbox"/> N/A	5005283	1/1/2017	1/1/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000										
D	Professional Liability		TBD	1/1/2017	1/1/2018	Occurrence: \$1,000,000 Aggregate: \$3,000,000										
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)																
CERTIFICATE HOLDER				CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE DON MEDLIN/SHAGMA												
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ACORD 25 (2014/01) The ACORD name and logo are registered marks of ACORD INS025 (2014/01)																

Response to Request for Proposal RFP No. 571-11919
Construction Contract Audit Services for City of Ft. Lauderdale

Business License

***State of Florida
Department of State***

I certify from the records of this office that R.L. TOWNSEND & ASSOCIATES, LLC is a Texas limited liability company authorized to transact business in the State of Florida, qualified on September 1, 2016.

The document number of this limited liability company is M16000007024.

I further certify that said limited liability company has paid all fees due this office through December 31, 2017, that its most recent annual report was filed on April 3, 2017, and that its status is active.

I further certify that said limited liability company has not filed a Certificate of Withdrawal.

*Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capital, this
the Third day of April, 2017*



Ken DeFries
Secretary of State

Tracking Number: CC3422245971

To authenticate this certificate, visit the following site, enter this number, and then follow the instructions displayed.

<https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication>

Response to Request for Proposal RFP No. 571-11919
Construction Contract Audit Services for City of Ft. Lauderdale

RFP Addenda #1



City of Fort Lauderdale • Procurement Services Division
100 N. Andrews Avenue, 619 • Fort Lauderdale, Florida 33301
954-828-5933 Fax 954-828-5576
purchase@fortlauderdale.gov

ADDENDUM NO. 1

RFP No. 571-11919
TITLE: Construction Contract Audit Services

ISSUED: March 27, 2017

This addendum is being issued to make the following change(s):


1. Section 3.2 Scope of Services: 1st paragraph has been replaced and shall now read:
The CAO is the contract manager for this construction services audit engagement; as such, the CAO contract manager will review and approve all pay applications and/or other related contract issues for the duration of the contract for the selected firm. Additionally, the Scope of Services does not delineate every detail and minor work tasks required to be performed; any and all additions, substitutions and changes must be discussed with the CAO contract manager prior to implementation.

The concept for this engagement is to have an audit presence throughout the construction process to ensure that contract terms are fulfilled, that the City receives exactly what it is paying for, to mitigate against cost overruns, unidentified risks and potential fraud, it is not to determine quality of materials or design, etc. The selected firm will be required, at a minimum, to be on site regularly, attend all contractor and city construction meetings, inspections and all other construction events, review the "pencil copy" monthly pay estimates as well as the supporting source documents at contractors' offices for all pay estimates.

All other terms, conditions, and specifications remain unchanged.

AnnDebra Diaz, CPPB
Senior Procurement Specialist

Company Name: R. L. Townsend & Associates, LLC
(please print)

Bidder's Signature: *Rich Townsend* 

Date: 04/07/2017

Response to Request for Proposal RFP No. 571-11919
Construction Contract Audit Services for City of Ft. Lauderdale

Cost Proposal Page (without pricing)

SECTION VI - COST PROPOSAL PAGE

Proposer Name: R. L. Townsend & Associates, LLC

Proposer agrees to supply the services at the prices bid below in accordance with the terms, conditions and specifications contained in this RFQ.

Proposal – Cost Information

Construction Contract Audit Services	Firm, Fixed Project Cost
1) Las Olas Blvd Corridor Improvement Project- Garage	\$
2) Las Olas Blvd Corridor Improvement Project – Open space	\$
3) Aquatics Center Improvements Project	\$

Total Project Cost \$ See details in separate sealed envelope

NOTE: Pricing should be included in this RFQ, but it **MUST** be submitted in a separate **SEALED PACKET/ENVELOPE**. The Proposer shall label both packets/envelopes according to the requirements in Section IV of this RFQ. Sealed Pricing will be opened upon selection of short list of proposers. Should the pricing be included in the same packet as the proposal, and not be kept separate, the proposal may be deemed non-responsive. Do **NOT** include pricing on the Flash Drive Copies.

Submitted by:

Rich Townsend
Name (printed)

April 7, 2017
Date

Rich Townsend

Signature

Co-Owner
Title



Construction Audit Report

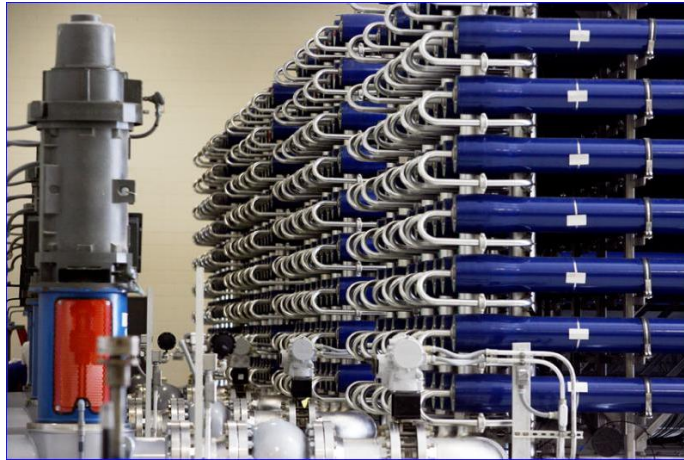
Prepared for:

The City of Cape Coral, Florida

Project Audited: North Cape RO Water Treatment Plant

Audit of Charges for Design, Construction, and Program Management

Program Manager: MWH Americas, Inc.



Report Submitted by:

R. L. Townsend & Associates, Inc.

www.rltownsend.com

(972) 403-1829 or (972) 679-6762

Plano, Texas

October 30, 2013

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Background - MWH Master Agreement and Related Work Authorizations

The City of Cape Coral, Florida (City) and MWH Americas, Inc. (MWH) entered into an AGREEMENT FOR PROGRAM MANAGEMENT AT RISK SERVICES FOR WATER, WASTEWATER & IRRIGATION FACILITIES on September 10, 2004.

The following is a summary of the approximate totals (i.e. rough-order-of magnitude estimates) of the Work Authorizations issued to MWH by the City over the life of this contract:

Breakdown of Scope of Work Performed by MWH	UEP Projects (1)	FEP Projects (2)	Totals
Design and Pre-Construction Related Work Authorizations	\$ 11,000,000	\$ 38,000,000	\$ 49,000,000
Construction Related Work Authorizations	\$ 213,000,000	\$ 388,000,000	\$ 601,000,000
Program Management	\$ 10,000,000	\$ 15,000,000	\$ 25,000,000
Approximate Totals	\$ 234,000,000	\$ 441,000,000	\$ 675,000,000

Notes:

- (1) UEP Projects generally related to underground utility lines for water, wastewater and irrigation.
- (2) FEP Projects generally related to plant facilities for water and wastewater treatment.

Background – Audit Objective and Scope

On October 7, 2011, the City of Cape Coral issued R. L. Townsend & Associates, Inc. a \$60,000 purchase order to conduct an audit of project related records to verify the accuracy and appropriateness of the amounts billed by and paid to the Program Manager at Risk (MWH) in connection with the design and construction of the North Reverse Osmosis (RO) Water Treatment Plant as summarized below:

Work Authorization Number	W-6	W-6C.1	W-6C.2	Totals
Month-Year Authorized	March 2005	May 2006	January 2007	
Scope of Work Covered by Work Authorization	Design Costs for North RO Plant	Site and Civil Construction Costs for North RO Plant	Construction Costs for North RO Plant	Totals
Original Amount of Work Authorization (Not Including Approved Program Management Maximums)	\$ 3,391,500	\$ 6,884,589	\$ 90,204,241	\$ 100,480,330
Approved Program Management Fees	\$ 142,433	\$ 240,961	\$ 3,157,148	\$ 3,540,542
Total Work Authorization GMP Approved	\$ 3,533,933	\$ 7,125,550	\$ 93,361,389	\$ 104,020,872
Percent of Approved Program Management Fees	4.2%	3.5%	3.5%	

The audit conducted involved the following:

1. A detailed review of the MWH master agreement and the three approved amendments to the master agreement.
2. A detailed review of documentation related to the three Work Authorizations (summarized above).
3. A detailed review of documentation related to the Project Deviation Notices (PDN's) and related change orders or contingency use authorizations issued to MWH in connection with the three Work Authorizations (summarized above).
4. Interviews and limited scope audit reviews of job costs records for four of the major construction subcontractors who performed the majority of the construction work on the North RO plant.
5. Detailed reviews of invoice documentation submitted by MWH to support the costs billed for the construction of the North RO plant.
6. A limited scope review of documentation maintained by MWH and the City related to the annual labor cost audits (for the years 2005 through 2011) that were conducted by MWH in accordance with the terms of the agreement.
7. A limited scope review of a sample of payroll records maintained at the Colorado offices of MWH to test the accuracy of the data used by MWH in their annual labor cost audits.
8. A review of the contractual "business ethics expectations" with key MWH personnel and North RO plant construction subcontractor personnel.
9. A limited scope overview of all Work Authorizations issued to MWH by the City over the life of the contract.
10. A limited scope overview of MWH billings for Program Management for all Work Authorizations issued by the City over the life of the contract.

Audit Report – Background Information

Background Information on Construction Costs Billed by MWH

General Background Related to MWH Charges for Design, Construction and Program Management

In general, the process used by the City and MWH to arrive at the \$49 million in Work Authorizations issued for “design” was as follows:

- a. MWH estimated the number of hours it would take for their staff to perform the agreed upon design and pre-construction services.
- b. MWH applied the agreed upon contractual “labor rates” and an estimated amount for annual labor cost escalation to arrive at the amount proposed.
- c. MWH then added the contractually agreed upon 10% for ODC’s (Other Direct Costs) to arrive at a total proposed fixed price contract amount.
- d. The resulting total design Work Authorization amounts were reviewed and approved by the City.
- e. The total Work Authorizations amounts were subject to change orders for scope of work increases or decreases.
- f. The total approved Work Authorization amounts were billed to the City on a percentage of completion basis.
- g. The amounts billed to the City were not billed on an hourly basis and the hourly rates were not included in the annual labor rate audit analysis that was performed by MWH.

Generally, the process used by the City and MWH to arrive at the \$601 million in Work Authorizations issued for “construction” was as follows:

- a. For each construction related Work Authorization, MWH prepared a Guaranteed Maximum Price (GMP) proposal which included their estimated reimbursable Cost of Work, General Expenses, fees and contractor controlled contingency amounts. The proposed GMP amounts were generally arrived at as follows:
 - 1) MWH obtained competitive bids from subcontractors who would perform the construction work shown on the design documents prepared by MWH
 - 2) MWH estimated the number of hours it would take for their construction staff to manage the project and prepare a labor cost estimate using the agreed upon contractual “labor rates”
 - 3) MWH estimated the numbers of hours it would take for their engineering staff to provide construction related engineering support during the construction phase of the project and prepare a labor cost estimate using the agreed upon contractual “labor rates”
 - 4) MWH estimated their reimbursable General Conditions and other reimbursable General Expenses
 - 5) MWH added the contractually agreed allowable percentage fee for overhead and profit
- b. Engineering and construction management labor was billed at the agreed upon hourly rates times the applicable hours recorded on the employee time sheets. The hourly rates billed were included in the annual labor rate audit analysis that was performed by MWH.
- c. Reimbursable costs plus fees were billed to the City at actual Not-to-Exceed the Approved GMP as adjusted by any change orders.

For the most part, it is our understanding that the process used by MWH and the City to arrive at the \$25 million approved for Program Management Services was as follows:

- a. Each Work Authorization contained a proposed amount for approved MWH Program Management services labor and Other Direct Expenses.
- b. The proposed amounts included in each Work Authorization were calculated at either 4.2% or 3.5% of the proposed design or construction GMP amount. According to MWH, the 4.2% was the percentage that was originally stated in the contract and it was later mutually agreed to be reduced to 3.5%.
- c. It is our understanding that the amounts billed to the City for Program Management Services were based on the hours recorded on the applicable employee time sheets times the contractually agreed upon labor rates.
- d. The labor billings for Program Management were included in the annual labor audit true-up calculations that were prepared by MWH.

Audit Report - Executive Summary and Qualification Notes

QUALIFICATION NOTES:

- a) The estimates for “All MWH Work Authorizations” included in this report are intended to be “order of magnitude estimates” based on projections derived from the audited numbers from our North RO plant review.
- b) The overall purpose of this audit was to provide the City with an audit assessment of the appropriateness of the amounts billed to the City for the North RO plant in accordance with the terms of the MWH contract and any applicable Florida Statutes, and to provide the City with general observations regarding the administration of the overall MWH contract. The deliverable of this audit is intended to be management advisory services in nature only.
- c) It should be noted that this audit was not a forensic audit. It was our understanding that if the City believed that a forensic audit/investigation was necessary that they would contract for that effort separately.

General Audit Related Conclusions:

- 1. For the North RO plant, our review concluded that MWH billed the City in accordance with the terms of the contract as amended from time to time during the term of the agreement.
- 2. For the North PO Plant and all of the other Work Authorizations issued to MWH, we recommend that the City consider the applicability of Section 287.055 of The Florida Statutes which require “...*the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting.*” According to information provided to the City over the life of the contract and summarized by our audit, the average wages rates used to bill the City for labor provided by MWH were overstated by an average of approximately 5% over the life of the contract.
- 3. Our review concluded the following would be important for the City to further examine:

Report Section	Description
1	Reconciliation of Contractually Agreed Upon Labor Refunds and the Impact on Amounts Billed for Program Management
2	Analysis of Labor Rates Used by MWH for Billings by the Hour for Construction Phase Engineering, Construction Management and Program Management
3	Analysis of Labor Rates Used to Price Lump Sum Contracts for Pre-Construction Engineering Services
4	Analysis of Construction Costs Incurred that Were Funded by Authorized Contingency Amounts Included in the Construction Work Authorizations
5	Analysis of Amount Paid to North RO Plant Electrical Subcontractor for Performance and Payment Bond Costs
6	Audit Analysis of Contract Clause Related to Business Ethics Expectations

GENERAL NOTE:

MWH was provided the opportunity to review and respond to the content of this report. They are in the process of finalizing their response and MWH will provide it to the City when they finish their review of this report.

Audit Report – Section 1

Reconciliation of Contractually Agreed Upon Labor Refunds and the Impact on Amounts Billed for Program Management

The City and MWH negotiated an agreement, which is documented in Amendment #3 to the contract that provided for annual comparisons of the average actual wages paid to employees, versus the average wage rate estimates used by MWH to calculate their contractual hourly billing rates.

The annual labor cost comparison analysis worksheets were prepared by MWH and presented to the City contract administrator for acceptance. Once the proposed credits were accepted by the City, MWH processed the agreed upon credit on one of the MWH Program Management Invoices.

The following is a summary of the labor credits issued and the resulting impact on the amount billed and paid by the City for Program Management services:

Total Labor Billed by MWH for Program Management Services as of 9-28-2012	\$ 23,487,806
10% of Program Management Labor Billed for Other Direct Costs (ODC's)	\$ 2,348,781
Total Billed to the City for Program Management Services	\$ 25,836,587
2005 Labor Credit Issued By MWH - Credited on Program Management Invoice dated 10-6-2009	\$ (20,085)
2006 Labor Credit Issued By MWH - Credited on Program Management Invoice dated 10-6-2009	\$ (99,471)
2007 Labor Credit Issued By MWH - Credited on Program Management Invoice dated 10-6-2009	\$ (109,592)
2008 Labor Credit Issued By MWH - Credited on Program Management Invoice dated 6-7-2010	\$ (37,795)
2009 Labor Credit Issued By MWH - Credited on Program Management Invoice dated 5-2-2011	\$ (26,141)
Net Billed to City After Credits for Annual Labor Cost Comparison Refunds	\$ 25,543,503

According to the MWH Invoice for Program Management Services dated 9-28-2012, the maximum approved by the City for Program Management Services totaled \$25,569,158. However, the total amount billed to and paid by the City for Program Management Services amounted to \$25,836,587 (before applying the agreed upon credits for the annual labor audit adjustments).

The following is a summary of the refund due to the City to account for the amount billed in excess of the Program Management Services amounts approved by the City:

Total Billed to the City for Program Management Services (before application of annual labor credits)	\$ 25,836,587
Maximum Amount Billable for Program Management Services per Approved Work Authorizations	\$ 25,569,159
Net Billing by MWH in Excess of Approved Maximum Billable for Program Management Services	\$ 267,428

The following is a calculation of the current refund due from MWH to the City to properly account for the approved maximum billable for Program Management services and the application of the agreed upon annual labor credits:

Total Approved Amount Billable for Program Management Services per Approved Work Authorizations	\$ 25,569,159
2005 Labor Credit Issued By MWH - Credited on Program Management Invoice dated 10-6-2009	\$ (20,085)
2006 Labor Credit Issued By MWH - Credited on Program Management Invoice dated 10-6-2009	\$ (99,471)
2007 Labor Credit Issued By MWH - Credited on Program Management Invoice dated 10-6-2009	\$ (109,592)
2008 Labor Credit Issued By MWH - Credited on Program Management Invoice dated 6-7-2010	\$ (37,795)
2009 Labor Credit Issued By MWH - Credited on Program Management Invoice dated 5-2-2011	\$ (26,141)
2010 Labor Credit Issued by MWH - Not Yet Applied	\$ (14,425)
Adjusted Maximum Amount Billable for Program Management Services After Application of Agreed Upon Annual Labor Credits (Per Audit)	\$ 25,261,650
Actual Amount Paid by City for Program Management Services as of 9-28-2012	\$ 25,543,503
Current Refund Due to City (Per Audit)	\$ 281,853

Audit Report – Section 1
Reconciliation of Contractually Agreed Upon Labor Refunds and the Impact on Amounts Billed for Program Management
(Continued)

Background related to Program Management Services Fees

MWH sent a letter dated 4-21-2005 detailing several contract clarifications to the master agreement that was dated 9-10-2004.

Two of the MWH proposed contract clarifications addressed the subject of Program Management services and related Other Direct Costs as follows:

Program Management

The Program Contract was signed on September 10, 2004. The Program Management Work Authorization was approved by City Council on Feb 22, 2005. MWH was actively engaged in many aspects of the Program Management tasks from the initial contract signing date in order to meet the aggressive schedule for providing the necessary facilities to ensure continuation of water and wastewater services for the City. MWH proposes to allocate Program Management costs as appropriate against the WA PS-I from the effective date (September 10, 2004) of the Program Contract.

Program Management Services - Other Direct Costs

MWH proposes to bill a fixed cost of 10% of the professional services fee to compensate for Other Direct Costs.

The City sent a letter dated 6-2-2005 addressing the contract clarifications MWH requested in their 4-21-2005 letter. The applicable sections of the letter stated:

Program Management

No action required, Council Approved WA PS-I on February 22, 2005.

Program Management Services — Other Direct Costs

The program management services fee is 4.2% of the Work Authorization. Invoices for other direct costs are allowed providing that such costs do not exceed the 4.2% total allocation for program management fees.

The proposed amounts to be allocated to MWH for Program Management Services were included in the individual Guaranteed Maximum Price (GMP) proposals submitted to and approved by the City Council. The mutually agreed to and approved percentages for the Program Management Services varied from 3.5% to 4.2% over the life of the contract.

MWH has indicated that the contract allowed them to charge 4.2% of Work Authorizations for Program Management and that they voluntarily reduced their charges to 3.5% since they did not believe they would need the entire 4.2% to cover the labor associated with Program Management.

As a result, MWH does not believe that the City should limit their charges for program Management to the \$25,569,159 approved in the Work Authorizations approved by the City.

MWH sent a letter to the City documenting the proposed reduction of the 4.2% for Program Management Charges. A copy of that letter is shown on the next page of this report.

Audit Report – Section 1

**Reconciliation of Contractually Agreed Upon Labor Refunds and the Impact on Amounts Billed for Program Management
(Continued)**



June 9, 2006

Elizabeth Schultz
Contract Specialist
City of Cape Coral
PO. Box 150027
Cape Coral, FL 33915-0027

Proposed Reduction to Program Services Work Authorization (WA), PS-1

Dear Ms. Schultz:

The Program Management Work Authorization (PS-1) was approved by City Council in February 2005 and awarded to MWH in March 2005. While the PS-1 WA itself contains no funding, it provides the framework for addressing the funding of Program Management Services. The intent of the agreement was to provide a mechanism to fund the required program related expenses by applying a percentage 'surcharge' to approved design and construction related Work Authorizations. It was agreed that the initial percentage would be 4.2% based on five years of history with the City's Utility Expansion Program (UEP). This method proved remarkably accurate in providing sufficient funding for the desired level of service during the first two years of this contract.

However, as the Program enters the construction phase of the major projects, the Work Authorization values have increased dramatically, resulting in contributions to the PS-1 WA in excess of projected needs. MWH has proposed, with the City's concurrence, to reduce the PS-1 'surcharge' percentage from 4.2% to 3.5% for future Work Authorizations. This reduction would be effective beginning with the SW4 UEP (UEP1C) and Everest Treatment Plant Rerate (WWIC.3) proposals scheduled for approval by Council on June 12, 2006. This proposed administrative change to Work Authorization PS-1 reflects the current projected workload and Program expense forecast. Further equitable adjustment requests (up or down) may be requested should conditions materially change from the current shared plan.

This downward adjustment results in a positive cash flow benefit to the City and highlights the flexibility and foresight of the city's chosen PS-1 funding approach. Please contact me at 573-5959 should you have any questions regarding this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry A. Laws".

Larry A. Laws, PE
Program Manager, MWH

2503 Del Prado Blvd. South
Suite 430
Cape Coral, Florida
33904

Tel: 239 573 9959
Fax: 239 573 9007

Delivering Innovative Projects and Seamless Workflows

**Recommendations for Enhancements to Construction Manager-at-Risk Contract
to be used for Future Construction at Austin-Bergstrom International Airport**

Prepared for:

**City of Austin
Office of the City Auditor**



Report Prepared By:

R. L. Townsend & Associates, LLC
www.rltownsend.com

(972) 403-1829
Plano, Texas

July 10, 2015

Introduction

The Austin-Bergstrom International Airport (ABIA) is currently in the pre-construction phase of a major construction project involving the expansion of the airport taxiways, runways, and terminal to accommodate larger aircraft than the airport currently handles.

ABIA in affiliation with the City of Austin Public Works Department is planning to use the Construction Manager-at-Risk (CMAR) delivery method which is widely accepted as one of the best ways to deliver large construction projects of this nature.

The City has experience with the use of CMAR contracts and is in the process of updating their current standard CMAR contract for use in requesting proposals for the upcoming construction work at the airport.

Our review of the City’s current CMAR contract provisions found many best practice contract provisions. However, we would recommend the City incorporate a few additional contract provisions and/or make modifications to some of the existing provisions to increase the City’s ability to effectively minimize the risks of paying more than necessary for the construction work to be managed by the Construction Manager (CM).

It is critical that the changes to the City’s standard CMAR contract documents be made before the prospective CMAR’s are asked to submit pricing proposals for their fees, pre-construction costs, and general conditions costs.

In order to assist the readers of this report better assess the significance of the proposed CMAR agreement document enhancements, we are providing the following summary of the significant costs typically incurred on a CMAR contract for this type of construction project along with an “worst case estimate” of potential excess costs that might be incurred by the City if the construction contract enhancements are not effectively implemented:

	Theoretical Range of Costs on a \$100 million CMAR Contract	Worst Case Estimate of Potential Excess Cost	Notes
Third Party Subcontracts	\$ 75,000,000	\$ 7,500,000	(1)
CM Self-Performed Subcontract Costs	\$ 13,000,000	\$ 2,600,000	(2)
CM Supervisory Labor & Labor Burden	\$ 5,000,000	\$ 1,000,000	(3)
CM General Conditions/General Requirements Costs	\$ 1,200,000	\$ 240,000	(4)
CM Provided Insurance (unless Owner uses OCIP)	\$ 1,000,000	\$ 500,000	(5)
CM Provided Performance Bond	\$ 800,000	\$ 160,000	(6)
Subtotal Cost of Work	\$ 96,000,000	\$ 12,000,000	
CM Fee	\$ 4,000,000	\$ 500,000	(7)
Total CM Contract Guaranteed Maximum Price	\$ 100,000,000	\$ 12,500,000	

Note (1) – Controlling Costs Related to Third Party Subcontracts

On typical CMAR construction projects, third party subcontracts (and CM self-performed subcontracts if not performed by third party subcontractor) represent the largest construction cost components of a CMAR contract (i.e. typically 75% to 90% of the total construction costs paid to a CMAR).

The two most significant concerns related to the procurement of third party subcontracts are as follows:

1. Potential lack of effective competitive bidding by third party subcontractors
2. Potential collusion between CM procurement representatives and subcontractors

Note (1) – Controlling Costs Related to Third Party Subcontracts
(Continued)

The City’s current CMAR agreement has the following “best practice” contract language which is designed to assist the City provide oversight into the procurement of the project subcontractors:

5.7.7 Bids and/or Competitive Sealed Proposals. The Owner requests and requires that all bids or proposals be made available to the Owner and the Principal Architect/Engineer in accordance with the following process and procedures.

5.7.7.1 CM Solicitation. *In coordination with Owner and in accordance with Texas Local Government Code Chapter 252 and/or Section Texas Government Code 2269.255-256, CM shall develop Subcontractor interest in the Project, and each respective Work Package, and, as the Construction Documents are completed, publicly advertise and solicit bids and/or competitive sealed proposals from Subcontractors to perform all major elements of the Work other than the minor work that may be included in CM's General Conditions Costs. CM shall conduct pre-bid and/or proposal conferences in order to explain the scope of the available work to interested Subcontractors. In the case of competitive sealed proposals, CM and Owner shall jointly agree on the criteria for determination of best value for award of competitive sealed proposals. CM shall receive and open all such Subcontractor proposals in a manner that does not disclose the contents of the proposals during the selection process. Owner and A/E shall attend the opening of all bids and/or competitive sealed proposals. CM shall comply with the Owner’s M/WBE Ordinance and Procurement Program policies and procedures in evaluating the impact of each Subcontractor selection to the Compliance Plan. All proposals will be made public within seven Calendar Days after the date of final selection. CM will follow this process in the development of each Construction Trades Package for each Work Package. CM shall submit CM's standard form of subcontract for the Project to Owner for review and approval in order to verify that it contains provisions required by the Contract Documents that are protective of the interests of Owner and conforms to the requirements of the Contract Documents. Subcontracts shall not be awarded on the basis of cost of the work plus a fee without the prior written consent of Owner's Representative.*

While the above contract provision contains several “best practice” concepts (such as Owner and A/E firm representatives at competitive proposal openings and oversight of the establishment of the criteria for determining best value, etc.), we highly recommend the City add a contract provision to deal with situations where there is inadequate normal competitive bidding by subcontractors. The following should be considered:

- The construction business is currently extremely busy in the State of Texas (especially in Austin, Texas) and it is becoming increasingly difficult for CM’s to get a normal number of competitive bids from interested qualified subcontractors. As a result, many CM’s are reporting that they have only received one bid for some major scope of work (such as concrete). This increases the risk of the City paying an excessive amount for the work where there was inadequate normal competition.
- In other cases, CM’s are reporting that the available bidders are not capable of handling the necessary project workload and as a result they are recommending they negotiate a “best value” contract with a single subcontractor.

In those situations where there is only one bidder or only one trade contractor qualified or available to perform a particular subcontract scope of work and where the amount of the subcontract will be “significant” (say more than \$1 million, we recommend that the CM agreement have contract language requiring that the subcontract work be done on a Cost plus Fee with a Guaranteed Maximum (GMP) subcontract where the subcontract maximum allowable Fee is stated in the CM agreement and the respective subcontract agreements.

Note (1) – Controlling Costs Related to Third Party Subcontracts
(Continued)

For these non-competitive GMP subcontract situations, we suggest the CM contract state a maximum of a 7.5% to 10% subcontractor Fee on the subcontractor's own cost of labor, material and equipment; and 5% subcontractor fee on work that is performed by a specialty sub-subcontractors. Therefore, we recommend adding the following provision (or a suitable alternative) to the City's standard CM contract:

5.7.7.1.1 AWARDS FOR SUBCONTRACT WORK WHERE THERE IS ONLY ONE RESPONSIVE COMPETITOR

For major scope of work bid packages typically performed by subcontractors that are normally awarded after receiving adequate competitive sealed bids or competitive sealed proposals, whenever only one qualified subcontractor is available to do the work or whenever only one subcontractor submits a responsive bid, CM may only award such subcontracts on a cost plus fee basis subject to an agreed upon Guaranteed Maximum Price (GMP) for the subcontract work. The GMP will be based on the amount of the competitive sealed bid or competitive sealed proposal submitted by the subcontractor. GMP subcontract awards will provide for payment in an amount equal to the Cost of the Work (as defined in this agreement) and will not to exceed the agreed upon subcontract guaranteed maximum price (GMP). All terms and provisions of any such subcontract award for will be consistent with the terms and conditions of this agreement with respect to the reimbursable and non-reimbursable Cost of Work. All savings under any such cost plus fee with GMP subcontracts shall be applied to reduce the Cost of the Work under this Agreement and the Guaranteed Maximum Price of this Agreement. The maximum fees payable to the subcontractor on self-performed work will be 7.5% on the contractually defined reimbursable cost of self-performed labor, labor burden, materials, and equipment. The maximum fees payable to the subcontractor on specialty sub-subcontract work necessary for the scope of work will be at 5% of the cost of the sub-subcontract work.

In recent years, there have been documented cases of CM's participating in various forms of kickbacks schemes or bid rigging arrangements with subcontractors resulting in significant excess costs to Owners on CM projects. Therefore, in addition to the above contract provision, we recommend that the City incorporate a specific "Business Ethics Expectations" contract provision into the agreement that requires all CM key personnel and all subcontractor key personnel to specifically acknowledge the City's expressly stated Business Ethics Expectations. We recommend that these expectations be communicated to all prospective subcontractors in the invitations to bid documents, at any pre-construction meetings, etc. We recommend that provisions similar to the following be incorporated into the next update of City's standard CM agreement:

5.7.7.1.2 BUSINESS ETHICS EXPECTATIONS

During the course of pursuing contracts with the City and while performing contract work in accordance with this agreement, CM agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the City's best interests.

CM shall take reasonable actions to prevent any actions or conditions which could result in a conflict with the City's best interests. These obligations shall apply to the activities of CM employees, agents, subcontractors, subcontractor employees, consultants of contractor, etc.

Note (1) – Controlling Costs Related to Third Party Subcontracts
(Continued)

CM employees, agents, subcontractors, material suppliers (or their representatives) should not make or cause to be made any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, substantially discounted work, or any other considerations to the City's representatives, employees or their relatives.

CM, CM employees, agents or subcontractors (or their relatives) should not receive any cash payments, commissions, employment, gifts, entertainment, free travel, loans, free work, or substantially discounted work or any other considerations from subcontractors, or material suppliers or any other individuals, organizations, or businesses receiving funds in connection with the project.

CM shall not receive the benefit of discounted bids on other jobs at the expense of bids or change orders on this project.

It is expected that a designated City representative (_____) be notified as soon as possible whenever anyone aware of these business ethic expectations believes there has been a failure to comply with the provisions of this article or an attempt to have someone violate the spirit of these business ethics expectations.

The telephone number to report any concerns related to any possible violations of these Business Ethics Expectations is ___ - ___ - _____. Notifications may be made anonymously.

CM representatives and/or subcontractor representatives familiar with the project may be asked and agree to provide when asked, a Certified Management Representation Letter in a form agreeable to the City stating that they are not aware of any situations violating the business ethics expectations outlined in this contract or any similar potential conflict of interest situations in connection with this project.

CM agrees to include this clause in all contracts with subcontractors and material suppliers receiving more than \$10,000 in funds in connection with the project.

CM and any other third party receiving more than \$10,000 in connection with this project shall permit interviews of employees and audits of its records by authorized City representative(s) to evaluate compliance with the spirit of these business ethics expectations. Such reviews and audits will encompass all dealings and activities of CM's employees, agents, representatives, vendors, subcontractors, and other third parties paid by Contractor.

CM agrees to implement a program requiring their key employees sign acknowledgements that they have read and understand these Owner's Business Ethics Expectations and the related obligations outlined in this contract.

Note (2) – Controlling Costs Related to CM Self- Performed Work

Many CM's bid on some self-performed trade contractor bid packages. The City's current CMAR contract contains the following provision:

5.7.7.2 CM Self-Perform. CM may seek to perform portions of the Work itself, other than the minor work that may be included in the CM's General Conditions Costs, if CM submits its proposal for those portions of the Work in the same manner as all other Subcontractors. If CM intends to submit a proposal for such Work, it shall notify Owner prior to soliciting proposals and all such bids and/or sealed proposals will be submitted directly to Owner or its designated representative. If Owner determines that CM's proposal provides the best value for Owner, CM will be awarded that portion of the Work. Owner's determination in such matters is final.

Many CM's will submit self-perform bids on concrete, carpentry, masonry, or what they describe as "General Trades" scope of work bid packages. Most CM's bid these self-performed bid packages as lump sum subcontracts the same as any other subcontractor. However, it is not uncommon for these self-performed work bid packages to have no other responsive bidders. As a result, the CMs often evaluate their self-performed work bids as the "best value" for the project when there is limited normal competition to validate the appropriateness of their self-performed work bid.

Therefore, we recommend that the City include the following provision (or a suitable alternative) in the next update of the standard CMAR agreement before they solicit CM price proposals for the upcoming new airport construction work:

5.7.7.2.1 CM Self-Perform Work GMP Contracts. CM may bid to "self-perform" work that is typically performed by trade subcontractors on a cost plus fee basis subject to an agreed upon guaranteed maximum price for the "self-performed work". Any subcontract for "self-performed work" will provide for payment in an amount equal to the Cost of the Work (as defined in this agreement) and will not exceed the agreed upon subcontract guaranteed maximum price (GMP). All terms and provisions of any subcontract for "self-performed work" will be consistent with the terms and conditions of the prime CM agreement with the exception of the agreed upon Fee percentage. All savings under any such subcontract for "self-performed work" shall be applied to reduce the Cost of the Work under this Agreement and the Guaranteed Maximum Price of this Agreement. For purposes of defining "self-performed work" subject to this contract provision, any division of Contractor, or any separate Contractor or subcontractor that is partially owned or wholly owned by the Contractor or any of their employees or employee's relatives will be considered a related party entity and will be subject to this provision regarding "self-performed work". No self-performed work will be allowed to be performed on a lump sum basis. The maximum fees payable to the Contractor on self-performed work will be 7.5% on the contractually defined reimbursable cost of self-performed labor, labor burden, materials, and equipment. The maximum fees payable to the Contractor on specialty sub-subcontract work necessary for the self-performed scope of work will be at 5% of the cost of the sub-subcontract work. Whenever the CM is awarded a GMP subcontract for a self-performed bid package, if the CM sub-subcontracts more than 30% of the bid package work to one or more other trade contractors, then no self-performed work fees will apply to the cost of any such sub-subcontracted work.

Note: The CM will not be entitled to the self-performed work fees on General Trades scope of work bid packages that are typically included in General Conditions or General Requirements.

Note 3 – Controlling Costs Related to CM Labor and Labor Burden Charges

On typical CM projects, the CM's charges for labor and labor burden (payroll, taxes, insurance and benefits) for their project supervisory personnel can range from 3% to 5% of the total project construction costs. CM labor charges for non-supervisory staff (craft workers, etc.) can represent an additional 3% to 5% of total construction costs. If the CM self-performs any major trade contract bid packages, the craft labor will be charges will be a much more significant portion of the total construction costs.

Many CM's seek to establish pre-agreed upon "all inclusive" fixed labor rates to charge to cover their employee labor and labor burden costs. However, there is a risk that these labor rates may allow the CM to recover significantly more than their actual cost of employee labor and labor burden resulting in significant additional construction costs for the Owner. For purposes of this report, we will refer to this excess cost as "Hidden Fee" and in some cases the amount of "Hidden Fee" in fixed labor rates has ranged from 10% to 20% of the CM's charges for labor. Therefore, if the CM's charges to labor totaled \$10 million, the "Hidden Fee" could be as much as \$1 million to \$2 million excess cost to the Owner.

The following is an excerpt from the current City CMAR contract which would allow the CM to charge for their labor at "fixed rates" stated in an Exhibit to the CMAR contract.

7.3 Cost of the Work.

7.3.1 Included Costs. *The Cost of the Work shall include only the following:*

- .1 Wages or salaries of employees of CM actually performing minor portions of the Work as permitted by law and the Contract Documents or, with Owner's agreement, at locations off the Site.*
- .2 Wages or salaries of CM's supervisory and administrative personnel approved by the Owner or otherwise authorized under the Contract Documents when stationed at the site and working full time on the Project or working off-site to assist in the production or transportation of material and equipment necessary for the Work in accordance with the **CM's Supervisory and Administrative Personnel Cost Schedule** attached hereto as **Exhibit 4**.*
- .3 Costs incurred by CM for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by CM, but only to the extent such costs are based on wages and salaries paid to employees of CM covered under Subsections 7.3.1.1 through 7.3.1.2 above. Notwithstanding the foregoing, the costs under this Subsection 7.3.1.3 are included within the rates for the employees as set forth in **Exhibit 4**.*

Many Owners do not consider the costs of employee "bonuses/incentives/rewards" as reimbursable labor or labor burden costs. Similarly, many Owners do not allow CM's to be reimbursed for employee vehicle costs. However, if those Owner's allow the CM to bill for labor at "fixed" labor billing rates, these costs can easily be included in the "fixed" labor billing rates resulting in additional cost to the Owner.

Therefore, it is critical for Owner's to do a better job of defining what labor and labor burden costs they intend to reimburse and which costs they do not intend to reimburse and to make all CM labor charges auditable.

Note 3 – Controlling Costs Related to CM Labor and Labor Burden Charges
(Continued)

We recommend the City replace their current CMAR contract language regarding reimbursable labor cost contract with the following (or a suitable alternative):

7.3.1 Reimbursable Cost of the Work

Note: The term “Contractor” refers to either the CM and/or or any lower tier subcontractor or sub-subcontractor working on a Cost Plus Fee contract agreement.

The term Reimbursable Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project.

7.3.1.1.1 In the event the Contractor operates and maintains a fabrication shop to assemble pre-fab materials for installation at the job-site, the contractor’s direct fab shop labor and labor burden cost will be considered Costs to Be Reimbursed. However, the contractor’s shop overhead such as plant and equipment, depreciation, taxes, utilities, etc. will be considered covered by the contractually stated Contractor Fee.

7.3.2 Labor and Labor Burden Costs

1.2.1 Wages of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner’s approval, at off-site workshops.

1.2.1.1 *Cost to be reimbursed will be the actual wages paid to the individuals performing the work.*

1.2.2 Wages or salaries of the Contractor’s supervisory and administrative personnel when stationed at the site with the Owner’s approval. No Contractor personnel stationed at the Contractor’s home or branch offices shall be charged to the Cost of the Work. Non-field office based Contractor management and support personnel are expected to provide service and advice from time to time throughout the job and their time devoted to project matters is considered to be covered by the Contractor’s Fee.

1.2.3 Wages and salaries of the Contractor’s supervisory or administrative personnel *who would normally be stationed at the field office in accordance with Article 1.2.2 but who become engaged*, at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

Employee bonuses/incentives/rewards will not be considered reimbursable labor or labor burden costs and will be considered non-reimbursable costs to be covered by the Contractor’s Fee.

1.2.4 Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Subparagraphs 1.2 1 through 1.2.3.

Note 3 – Controlling Costs Related to CM Labor and Labor Burden Charges
(Continued)

- 1.2.4.1 *When computing actual costs chargeable to the Cost of the Work for payroll taxes, the Contractor shall give proper consideration to the annual limitations of the wages subject to applicable payroll taxes. The Contractor may accomplish this through the use of an accounting system which computes actual costs for payroll taxes when incurred up to the wage limit cut-off and allocated same to all jobs by individual based on the time worked on each job by the individual. Alternatively the Contractor may use an estimated net effective payroll tax percentage to allocate payroll tax costs during the year and make appropriate adjustments at the end of the year or at the end of the project (whichever is more appropriate) to adjust the costs to actual net payroll tax cost. Using the latter approach, if 50% of the wages paid to an employee during the year were chargeable to the Cost of the Work, then only 50% of the actual annual costs of payroll taxes would be allocable to the Cost of the Work, etc.*
- 1.2.4.2 *When applicable, Cost of the Work shall include the actual net cost to the Contractor for worker's compensation insurance attributable to the wages chargeable to the Cost of the Work per this agreement. The actual net cost of worker's compensation shall take into consideration all cost adjustments due to experience modifiers, premium discounts, policy dividends, retrospective rating plan premium adjustments, assigned risk pool rebates, any applicable weekly maximums, etc. The Contractor may charge an estimated amount for worker's compensation insurance costs, but will make appropriate cost adjustments to actual costs within 45 days of receipt of actual cost adjustments from the insurance carrier.*
- 1.2.4.3 *Overtime wages paid to salaried personnel (if approved in advance in writing by the Owner) will be reimbursed at the actual rate of overtime pay paid to the individual. No time charges for overtime hours worked on the project will be allowed if the individual is not paid for the overtime worked.*
- 1.2.4.4 *Any overtime premium or shift differential expense to be incurred by Contractor for hourly workers shall require Owner's advance written approval before the incremental cost of the overtime premium or shift differential will be considered a reimbursable cost. If the Contractor is required to work overtime as a result of an inexcusable delay or other coordination problems caused by the Contractor or anyone they are responsible for, the overtime premium and/or shift differential expense portion of the payroll expense and related labor burden costs will be considered as cost not to be reimbursed.*

Note 3 – Controlling Costs Related to CM Labor and Labor Burden Charges
(Continued)

1.2.4.5 *Reimbursable labor burden costs will be limited to payroll taxes, worker’s compensation insurance (when applicable), the employer’s portion of union benefit costs for union employees working on the project, and the actual verifiable fringe benefit costs incurred by Contractor for non-union individuals working on the project subject to the following maximum percentages for the following reimbursable non-union fringe benefit costs only. The following maximums (as a percentage of reimbursable actual wages by individual) shall apply for each of the following types of fringe benefit costs specifically attributable to the each of the non-union personnel working on the project:*

Medical Insurance, Dental, Life & AD&D Insurance	12.00%
Actual cost of Holiday, vacation and other paid time not worked	10.00%
Actual cost of direct Pension Plan Contributions to vested Employee Accounts for employees working on the job, direct contributions to Simplified Employee Pension Plans accounts, or direct contributions to employee 401K matching plans (offset by any pension plan forfeitures returned to the Contractor)	10.00%

Note: For non-union personnel, no other fringe benefit costs (other than the 3 specific categories listed immediately above shall be considered reimbursable Cost of the Work. Any labor burden costs that are in excess of the amounts considered reimbursable or are otherwise not considered reimbursable under the terms of this agreement are intended to be covered by Contractor FEE. Note: Contractor current annual costs related to frozen employee pension plan benefits, employee stock Ownership Plans (ESOP), Phantom Stock plan costs, stock options, and other similar related costs are considered to be covered by Contractor FEE.

Construction Audit Report

Prepared for:

Pima County Regional Wastewater Reclamation Department

Project # 03.03.S-140790-0408:

**Roger Road Wastewater Treatment Plant to Ina Road
Water Pollution Control Facility Plant Interconnect**

Construction Manager at Risk:

Sundt/Kiewit Joint Venture

Report Submitted By:

R. L. Townsend & Associates, Inc.
www.rltownsend.com

(972) 208-1222
Plano, Texas

June 16, 2011

Audit Background

As a part of an overall program of controlling construction costs, Pima County Regional Wastewater Reclamation department engaged R.L. Townsend & Associates, Inc. to perform an audit review of the contract documents, the construction contract billings, and the related Construction Manager at Risk (CMAR) records associated with construction of the Roger Road Wastewater Treatment Plant to Ina Road Water Pollution Control Facility Plant Interconnect.

Project Background

The following is a breakdown of the key components of the audited construction contract values as of application dated 4-30-2011:

Description	Original GMP	Revised GMP as of 3-31-2011
Direct Construction Costs	\$ 18,261,101	\$ 17,981,614
CMAR Contingency	\$ 580,500	\$ 580,500
Direct Construction Costs	\$ 18,841,601	\$ 18,562,114
Indirect Costs - General Conditions	\$ 1,178,595	\$ 1,178,595
Indirect Costs - PL & PD Insurance	\$ 264,513	\$ 260,898
Indirect Costs - Z-25 Insurance (1.55% of Subcontracts)	\$ 136,338	\$ 138,137
Indirect Costs - Builders Risk Insurance	\$ 21,642	\$ 21,346
Indirect Costs - GC Bond	\$ 137,471	\$ 135,187
Subcontractor Default Insurance (1% of Subcontracts)	\$ 87,960	\$ 89,234
Subtotal Direct Construction Costs and Indirect Constructions Costs	\$ 20,668,120	\$ 20,385,511
Home Office Overhead at 4.75% of Direct and Indirect	\$ 981,736	\$ 968,312
Subtotal of Direct-Indirect and Home Office Overhead	\$ 21,649,856	\$ 21,353,823
Contractor Fee at 5% of	\$ 1,082,493	\$ 1,067,691
Subtotal	\$ 22,732,348	\$ 22,421,514
Tucson Sales Tax at 8.1% of 52% Cost Plus Fee	\$ 622,366	\$ 613,856
Marana Sales tax at 10.6% of 39% of Cost Plus Fee	\$ 610,841	\$ 602,489
Pima County Sales Tax at 6.1% of 9% of Cost Plus Fee	\$ 81,120	\$ 80,011
Subtotal	\$ 24,046,675	\$ 23,717,870
Owner Contingencies	\$ 1,150,600	\$ 1,848,184
Totals	\$ 25,197,275	\$ 25,566,054

The following is a summary of the final audited cost plus fee due Sundt and the related refund due to the County:

Description	Reimbursable Costs Plus Fees Per Audit
Sundt Labor Costs	\$ 844,677
Kiewit Labor Costs	\$ 141,034
Sundt Equipment Costs	\$ 274,093
Sundt Material Costs	\$ 268,247
Major Material Purchase Orders	\$ 6,472,581
Subcontracts	\$ 12,560,465
Subtotal Reimbursable Direct and General Conditions Costs	\$ 20,561,097
Indirect Costs - PL & PD Insurance	\$ 275,000
Indirect Costs - Z-25 Insurance (1.55% of Subcontracts)	\$ 194,687
Indirect Costs - Builders Risk Insurance	\$ 41,104
Indirect Costs - GC Bond	\$ 146,845
Subcontractor Default Insurance (1% of Subcontracts)	\$ 125,605
Subtotal Direct Construction Costs and Indirect Constructions Costs	\$ 21,344,338
Home Office Overhead at 4.75% of Direct and Indirect	\$ 1,013,856
Contractor Fee at 5% of Cost of Work	\$ 1,067,217
Subtotal	\$ 23,425,411
Total Sales Tax	\$ 1,431,774
Subtotal	\$ 24,857,185
	\$ -
Total Cost Plus Fee plus Sales Tax Due Contractor	\$ 24,857,185
Adjustment for Amount over Approved GMP	\$ -
Amount Billable by Contractor	\$ 24,857,185
Amount Billed as of March 31, 2011	\$ 25,106,542
Refund Due County Per Audit	\$ (249,357)

The following is a summary of the previously approved GMP contract amount and a calculation of the final credit change order that should be processed to balance the contract amount to the audited cost plus fees, etc.

Approved GMP as of 3-31-2011	\$ 25,566,054
Final Audited Cost Plus Fee	\$ 24,857,185
Final GMP Cost Savings Credit Change Order Due County	\$ (708,869)

The agreed upon credit is documented in the "Final Balancing Construction Contract Change Order shown on the following page of this report.

PIMA COUNTY REGIONAL WASTEWATER RECLAMATION DEPARTMENT

PROJECT: Construction Manager At Risk Services
For Roger Road Wastewater Treatment
Plant to Ina Road Water Pollution Control
Facility Plant Interconnect

CONTRACTOR: Sundt/Kiewit Joint Venture
2620 South 55th Street
Tempe, AZ. 85282

CONTRACT NO.: 03-03-S-141878-0309

AMENDMENT NO.: Eight (8)

FUNDING: 2004 Sewer System Revenue Bonds and
WIFA/ARRA Funds

CONTRACT	
NO.	03-03-S-141878-0309
CHANGE ORDER NO.	08
This number must appear on all invoices, correspondence, and documents pertaining to this contract.	

CONTRACT TERM: 3/25/09 - 12/31/20	ORIGINAL CONTRACT AMOUNT:	\$ 25,197,276.00
TERMINATION PRIOR AMENDMENT: 12/31/10	PRIOR AMENDMENT(S):	\$ 368,778.00
TERMINATION THIS AMENDMENT: 6/30/11	AMOUNT THIS AMENDMENT:	\$ (708,869.00)
	REVISED CONTRACT AMOUNT:	\$ 24,857,185.00

FINAL BALANCING CONSTRUCTION CONTRACT CHANGE ORDER

WHEREAS, COUNTY and CONTRACTOR have entered into the Contract referenced above; and

WHEREAS, COUNTY engaged the services of a consultant, R.L. Townsend & Associates, Inc. to perform an audit review of the contract documents, the construction contract billings, and the related project records; and

WHEREAS, COUNTY and CONTRACTOR have agreed on the result of the audit dated June 16, 2011 and the resulting final credit balance of \$708,869.00 due COUNTY; and

WHEREAS, COUNTY Procurement Code 11.16.010D requires a final balancing change order to decrease the amount of the contract to reflect the agreed final contract value; and

NOW, THEREFORE, it is agreed as follows:

The total amount of compensation for this contract shall be decreased from \$25,566,054.00 to \$24,857,185.00.

The effective date of this Change Order shall be June 16, 2011.

All other provisions of the Contract, not specifically changed by this Change Order, shall remain in effect and be binding upon the parties.

IN WITNESS THEREOF, the Procurement Director has affixed his signature to this Change Order on the date written below.

APPROVED:


Procurement Director

6/20/11
Date

R. L. TOWNSEND & ASSOCIATES, INC.

Construction Cost Control Consultants
www.rltownsend.com

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Plano, Texas 75023
Phone: (972) 403-1829 or (972) 679-6762
rltownsend@rltownsend.com

October 8, 2014

Mr. John Carlson, CIA, CRMA, CGAP
Deputy Director
Office of the Auditor
City and County of Denver
201 West Colfax Avenue
Denver, Colorado 80202

Submitted via E-mail to: John.Carlson@denvergov.org

Re: **Audit Related Observations and Recommendations Denver International Airport Hotel and Transit Center**

This memo is a summary of observations and recommendations related to the management and administration of the Construction Manager/General Contractor (CM/GC) agreement with Mortenson, Hunt, Saunders (MHS) – a Tri-Venture which currently has a Guaranteed Maximum Price (GMP) totaling \$365 million for the construction of the South Terminal Redevelopment Program scope of work related to the Westin Hotel and the Public Transportation Center at the Denver International Airport (DIA).

The amended and restated CM/GC Agreement with MHS that was signed on May 12, 2012 contains the following right to audit provision:

ARTICLE XXV - EXAMINATION OF RECORDS

- A. *Records of the Contractor's direct personnel, Contractor and reimbursable expenses pertaining to this Project and records of accounts between the City and the Contractor shall be kept on a generally recognized accounting basis. The Contractor agrees that the Manager and the Auditor of the City or any of their duly authorized representatives, until the expiration of three (3) years after the final payment under this Agreement, shall have access to and the right to examine any books, documents, papers and records of the Contractor, involving transactions related to this Agreement, without regard to whether the work was paid for in whole or in part with federal funds or was otherwise related to a federal grant program. The Contractor, upon request by either shall make all such books and records available for examination and copying in Denver, Colorado.*

Recommendation:

Since this is a “reimbursable cost” (as defined in the contract) plus fee construction contract agreement with total billings that may reach \$365 million; the City should make specific plans to engage a qualified resource to conduct due diligence audits of the project records maintained by the City, the Tri-Venture parties and as may be necessary any applicable subcontractors, to assist DIA management in the determination that there have been no material third party overbillings to the City.

At a minimum, the recommended construction audit activity should begin no later than three months before substantial completion of the project and continue until the final change order and invoice is submitted by MHS. The City may also want to consider periodic interim audits prior to substantial completion to address any potential problems that may be better addressed during the project that at the conclusion of the project.

From: Rich Townsend - R. L. Townsend & Associates, Inc.
 To: John Carlson, CIA, CRMA, CGAP - Deputy Director - Office of the Auditor - **City and County of Denver**
 Re: Audit Related Observations and Recommendations Denver International Airport Hotel and Transit Center
 Date: October 8, 2014
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Major Subcontracts Awarded on Best Value Selection Basis

To accommodate the aggressive project schedule, the base contract amounts of the following major subcontracts were established through a series of negotiated change orders rather than the more traditional design-bid-build approach.

Subcontractor	Current Lump Sum Subcontract Amount
Burgess - Mechanical	\$ 41,780,054
Sturgeon - Electrical	\$ 37,565,793
Harmon - Window Wall	\$ 26,946,623
Canam - Steel	\$ 19,365,015
Spacecon - Interior Finish	\$ 13,467,540
Johnson Controls - Controls	\$ 9,918,677
Total	\$ 149,043,702

The procurement method for the above listed subcontracts was described as “best value selection process” which according to MHS incorporated the following:

The combination of estimated cost, proposed team, firm’s past experience and resume, MBWE participation, written proposal, interview, bondability, etc. is used to select the preferred Subcontractor. Proposals are based on complete Construction Documents where the Subcontractor’s initial pricing is sufficient to enter into a full Subcontract Agreement in order for Work to Begin.

Audit Comment: In our experience, the above procurement method is not unusual for these types of subcontractors for large, complex, fast track projects.

Exhibit L- Special Conditions to the restated and amended CM/GC agreement contains the following contract provision that is intended to apply to negotiated adjustments to the contract via change order:

SC-27 General Condition 1104, ADJUSTMENT OF CONTRACT AMOUNT

F. Price Reduction for Defective Cost or Pricing Data. *If it is later determined that pricing adjustments to the contract were not correct due to incomplete or inaccurate pricing data by the Contractor or any Subcontractor or Supplier or that lower prices were reasonable available, the price shall be reduced accordingly and the Contract Amount modified by an appropriate change order.*

Recommendation:

As part of the overall due diligence construction audit work to be performed for the project, the City should ensure that the detailed pricing components of all of the negotiated subcontracts are effectively audited to serve as a validation of the cost reviews already performed by the project management representatives during the negotiation of the base contract amounts and any subsequent major change orders issued to the project subcontractors.

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Billable Costs for MHS Supervisory Labor

At the present time, the total estimated charges by MHS for construction phase supervisory labor could total approximately \$21 million. For the construction phase of the project, the re-stated CM-GC contract agreement provides for MHS to be paid 140% of supervisory direct salary costs to cover the costs of labor burden and home office overhead.

A portion of the 140% addition to supervisory wages would typically cover the contractor's cost of labor burden such as payroll taxes, insurance and fringe benefits. We estimate that actual costs of labor burden would average no more than 40% of supervisory direct salary costs. Therefore, we estimate that at least 100% of the supervisory labor markup would cover home office overhead which is typically part of the CM/GC FEE.

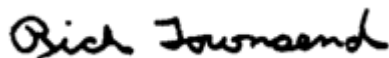
We estimate that the effective additional Contractor Fee (to cover MHS home office overhead) included in the MHS charges for construction phase supervisory labor will amount to at least \$8,000,000 which is the equivalent of at least 2.5% in additional Contractor Fee. Therefore, the total payments to MHS for overhead (at least 2.5% of Cost of Work) and profit (at 4.25% of Cost of Work) result in an effective CM/GC Fee of at least 6.75%.

According to DIA project management representatives, at the time the contract was negotiated, they understood that they were agreeing to pay for contractor home office overhead in the 140% in addition to the agreed upon 4.25% percentage fee for Contractor Profit. DIA project management representatives indicated that the combined charges for MHS profit and overhead were warranted given the importance of the project and the risks that MHS was taking on to deliver the project on schedule.

Recommendation:

As part of the due diligence construction audit work to be performed, we recommend that the amounts billed for direct salary of supervisory personnel be verified to ensure that DIA was billed accurately and appropriately.

Submitted by:
R. L. Townsend & Associates, Inc.



Rich Townsend
CEO