

The City of Fort Lauderdale
Fort Lauderdale Aquatic Center Renovation
Consulting Report



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July 25, 2024

Pat Reilly
City Auditor
100 N. Andrews Avenue
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Dear Mr. Reilly:

Pursuant to our engagement letter dated August 23, 2017 and as extended on August 18, 2020, Carr, Riggs & Ingram LLC's ("CRI", "we", "us", "our") were engaged to provide consulting services to the City of Fort Lauderdale Community Redevelopment Agency ("City", "Owner"). We hereby submit the results of our procedures to provide assistance in the cost verification of project costs related to Fort Lauderdale Aquatic Center Renovation ("the Project").

Our services were performed in conformity with Statements on Standards for Consulting Services of the AICPA and did not constitute an audit in accordance with generally accepted auditing standards. Accordingly, we expressed no opinion on any of the items reviewed.

Because of the special nature of our services under the applicable statement of work, this report is not suited for any purpose other than to assist the Owner, and this report is intended solely for the Owner's use, and is not intended to be and should not be used by anyone other than the Owner.

We disclaim any intention or obligation to update or revise the observations contained herein, whether as a result of new information, future events, or otherwise. Should additional documentation or other information become available that impacts the observations made in this report, we reserve the right to amend our observations and summary documents accordingly.

Respectfully submitted,

A handwritten signature in black ink that reads "Carr, Riggs & Ingram, L.L.C." in a cursive style.

Carr, Riggs & Ingram, LLC
Melbourne, Florida

Executive Summary

Overall

The Owner entered into an Agreement ("Agreement") with Hensel Phelps. ("Hensel Phelps", "Design Builder", and "DB") where the basis of payment was the Cost of the Work plus a Fee with a Guaranteed Maximum Price (GMP). The Agreement was executed on August 21, 2018 for the project known as "Fort Lauderdale Aquatic Center Renovation" ("Project"). The GMP proposal was approved by the Owner on August 30, 2018 for of the Project. The total construction phase GMP, before change orders, was \$26,995,368.

Scope and Objective

CRI was engaged to conduct construction contract compliance services for the Aquatic Center renovation. Our services included:

- Construction contract review and cost proposal review
- Monthly pay application reviews
- Construction contract compliance cost verifications (closeout)

Results Summary

Pay Application Reviews

Pay Application reviews identified potential job cost, contingency, and DB fee adjustments. Management evaluated these adjustments with the DB and obtained **credits totaling \$504,215** towards project expenses.

This amount does not include other various items identified by CRI that were subsequently resolved without the need for credits but resulted in continuing cost avoidance or reduced risk exposure for the Owner. See Results Matrix – Observation One below.

Construction Closeout Verification Costs and Fee Differences

Our interviews and detailed testing resulted in total project costs differences identified as follows:

Adjustments/Overbillings:		
Vehicle Expenses	2	\$ (47,258)
Fee Adjustment - for cost of work differences		(2,835)
Total Proposed Adjustments		\$ (50,093)

See below and Exhibit A.

Industry Standard Practices

We noted opportunities for improvements to mitigate the risk of unauthorized expenses, increase transparency, and improve recordkeeping, including, timely documented approval of owner change orders and detail support for all amounts therein.

Audit Fees

Our pay application review and Construction Contract Cost Verification Closeout audit procedures identified overpayments of more than the Agreement threshold for DB reimbursement of audit fees totaling \$41,000. See Observation Three in the Results Matrix.

Total Recovery/Cost Savings: \$652,701 – See Exhibit A. CRI's scope included a contract review, GMP review, review of 51 monthly pay applications, entitlement and cost verification of significant change orders during the project, and the comprehensive, construction closeout cost verification audit.

Background

Contract Delivery Method

The type of contract delivery method utilized for the Project was Design Build. This means that the Owner enters into one contract rather than two for the design and construction of the project. Often the construction firm will team and form a partnership or joint venture with a designer (Architect Engineer) to enter into one Design Build contract with the Owner. Also, similar to a construction manager at risk, the DB enters into subcontracts with each of the trades and suppliers that are procured to perform the construction. The Design Build team manages the subcontractors and does not typically do construction except for some self-performed work as allowed by the contract documents.

Contract Compensation Structure

The compensation structure of the contract was a cost plus (cost reimbursable) plus a negotiated fee (profit and overhead). Unless other specified in the contract documents, the costs billed to the Owner must be fully supported by third party documentation such as vendor invoices, receipts, payroll records, and subcontractor payment applications etc. in order to be paid (reimbursed) by the Owner. Additionally, internal charges or allocations must be supported by a reasonable methodology.

During the construction phase, the DB's team's compensation consists of general conditions and general requirements plus the DB Fee (overhead and profit).

General Conditions/General Requirements: includes direct labor and supervisory/administrative personnel paid to the DB team to manage/administer the project. Also includes the general costs the DB incurs to manage the job site as a whole: job trailer and utilities, temporary utilities, select office furniture, security provisions, safety items, temporary toilets, permanent utility connection fees, barriers, select equipment rental, cleaning and dumpsters, insurance, and bonds.

Construction Phase Fee (fee, mark-up) – the negotiated overhead and profit the Owner is to pay to the DB. This is to be the only overhead and profit. Everything billed to the Owner is to be at actual cost unless the amount is fixed in the contract.

Cost of Work section of the Agreement – Article 9.2.2

9.2.2, A -The term Cost of the Work shall mean costs necessarily incurred and paid by the DESIGN/BUILD FIRM in the proper performance of the work. Such costs shall not be included in the Fees (also see 9.1). The Cost of the Work shall include only the items set forth below in this Article.

- Article 9.2.2, B Direct Cost Items
- Article 9.2.2, C Costs not to be included in the cost of work

Owner Direct Purchases (ODP): This represents purchases of materials made directly by the Owner from the supplier on behalf of the various subcontractors (trades) who are performing the construction. Since government entities are exempt from state and local sales tax, as long as the government entity follows the Florida Statute in setting up and administering the ODP program with the DB, the Owner realizes tax savings on the materials that the Owner directly purchases from the supplier. Since the materials are paid directly by the Owner, these amounts must be removed from the GMP by way of a deductive change order (contract amendment) to the GMP. The deductive change order includes the tax savings.

Background

Project Recap

The following chart provides the financial recap of the construction cost activity from the approval of the original GMP throughout the construction phase to closeout – before CRI proposed differences in Project Costs – Exhibit A.

Description		Approval Date	Amount
Original Contract Amount/GMP		8/21/2018	\$ 26,995,368
CO1	30% Design Fee for 27M Tower	2/6/2020	\$ 185,218
CO2	Department of Health & Building Code Change	2/6/2020	\$ 230,620
CO3	100% Design Fee for 27M Tower & Deck	3/10/2020	\$ 501,493
CO4	Deep Foundations for 27M Tower & Deck	3/10/2020	\$ 413,883
CO5	North Observation Deck	6/29/2020	\$ 2,769,201
CO6	27 Meter Dive Tower Construction	6/29/2020	\$ 5,101,060
CO7	Owner Contingency Budget Transfer	8/20/2020	\$ -
CO8	Owner Direct Purchase of 27-M Precast	10/20/2020	\$ (2,215,233)
CO9	FPL Delays, Unforeseen Conditions, and Owner Upgrades	12/3/2020	\$ 1,191,727
CO10	Owner Direct Purchase of Pool Deck Material	2/2/2021	\$ (179,800)
CO11	Owner Direct Purchase Additional 27-M Precast	3/16/2021	\$ (148,337)
CO12	Owner Contingency Budget Transfer	7/15/2021	\$ -
CO13	Omega Timing System Change, Unforeseen Conditions, Revised Scoreboard Signage, and Time Extension	10/28/2021	\$ 114,347
CO14	Budget Transfer	1/11/2022	\$ (74,734)
CO15	Owner-Directed Scope Change, Unforeseen Changes, and Owner-Directed Delay Costs	4/21/2022	\$ -
CO16	Owner-Directed Scope Increases and Unforeseen Changes	7/27/2023	\$ 13,155
CO17	Contractor Contingency Balance at Project Completion	8/15/2023	\$ (8,072)
CO18	PO funding correction for prior ODP change orders and staff support for closeout audit expense	10/17/2023	\$ 6,033
CO19	Remove remaining contract balance - See Exhibit A		\$ (57,393)
Amended Contract Amount/GMP			\$ 34,838,536
Additive Change Orders			\$ 10,526,737
Deductive Change Orders (ODP + CO14+ CO17+CO19)			\$ (2,683,569)
Net Changes			\$ 7,843,168
Total Project Cost (non-ODP CO plus original GMP before sales tax savings)			\$ 37,381,906
Project Savings on Sales Tax			\$ (178,036)
Total Project Costs - net			\$ 37,203,870

Objectives & Approach

Objectives

The objectives of the construction contract compliance engagement were to determine if costs were incurred and billed in accordance with the terms and conditions of the contract and properly supported to identify any opportunities for process or contract improvements, including better practices.

Approach

Engagement / Project Planning

We held onsite entrance conferences with the City Auditor and an Assistant City Auditor of the City Auditor's Office (CAO) and the Project Manager (PM) for the Beach Community Redevelopment Agency (CRA) to establish overall project administration logistics and to gain a better understanding of the project and key activities and processes especially related to the monthly pay application submission and approval process.

Contract review and Cost Proposal (GMP) Review

We performed contract reviews and GMP proposal reviews early in the project cycle to provide for greater clarity and specificity in the contract and GMP proposal and to help facilitate cost avoidance/recovery. We proposed contract language improvements focusing on the key economic terms such as specificity of allowable vs. disallowable costs, change order mark-up and approval process, labor and burden rates, fee, etc.

Monthly Pay Application Reviews

The objective of the payment application review was to determine that the amount invoiced is a reasonable representation of work completed or stored to date and the charges billed on the payment application are in accordance with the terms and conditions of the contract. Our payment application (PA) checklist consists of 25 steps, which include the following: vouching compensation and expenses (general conditions/requirements) to proper support, verifying subcontractor pay applications were properly included/signed, and validating approval for contingency usage, owner direct purchases, and change orders (CO). We performed site visits to review the status/progress of the project on an as needed basis.

Construction contract compliance cost verifications (closeout)

The objectives of the construction contract compliance close-out cost verification procedures were to ensure costs were incurred and billed in accordance with the terms and conditions of the contract. The construction contract compliance cost verification goes beyond the monthly pay application reviews to the project records (including the job cost detail report).

Objectives and Approach

Detailed Testing

1. Obtained and inspected the final pay application and the DB's reconciliation to job cost.
2. Obtained and tested DB's fee, general conditions, general requirements (including fixed fees/percentages) and other non-subcontractor costs - for contract compliance and source documentation.
3. Obtained and inspected various subcontracts (over 90% of total subcontract value), buyout log, all related change orders (including contingency usage); source documentation inspected included:
 - Original executed subcontract
 - Change order authorization
 - Change order pricing
 - Subcontractor pay applications
 - Lien waivers/proof of payment
 - Subcontractor bids (sample)
4. Reviewed job cost to identify possible related party charges.
5. Reviewed job cost posting dates for potentially disallowable charges.
6. Reviewed job cost for proper credits of a sample of material expense adjustments identified during the pay application reviews conducted for pay applications 1 through 51.
7. Recalculated the guaranteed maximum price and contract value based on the DB's records and contract documents.
8. Verified that GMP closeout / completion procedures were followed.
9. Reviewed results with the DB team; reviewed with Owner's construction program management.

Reporting

Issued our final deliverable with various proposed adjustments to the final contract value, as well as, provided various observations/recommendations for improvement for the Owner's consideration.

1. Pay Application Review Cost Recovery

With each monthly PA review, we provided the City Project Manager with real-time specific observations and our recommended actions/adjustments for charges that were not properly supported by the DB or potentially disallowable based on the economic terms and conditions of the contract documents. Examples include:

- Duplicate payroll & craft labor charges
- Stale invoices/charges; duplications
- Legal Costs
- Training & Team Meetings
- Temporary Office - excess
- Inaccurate change order markup
- Missing third-party support (e.g. vendor invoice, receipt) various charges
- IT charges exceeding maximum allowable
- Disallowable auto allowances
- Unsigned Subcontractor PA's
- Intern Lodging costs

Pay Application reviews identified job cost, contingency, and DB fee adjustments. Management evaluated our proposed adjustments with the DB and obtained **credits totaling \$504,215** towards project expenses. This amount does not include other various items identified by CRI that were subsequently resolved without the need for credits but resulted in continuing cost avoidance or reduced risk exposure for the Owner.

Refer to Exhibit B for cost recovery/credits detail.

2. Vehicle Expenses (\$47,258)

During our monthly pay application review and closeout testing, we noted the DB billed the Owner for vehicle expenses consisting of allowances or fixed monthly fees, fuel, and maintenance and repairs of work vehicles totaling \$157,294. Allowances are meant to simplify accounting for vehicle utilization and provide consistent monthly costs for work vehicles covering all associated costs (i.e., acquisition, repairs, maintenance, fuel, insurance, and registration). Itemized vehicle expense should not be charged in addition to allowances. When actual vehicle cost method is used it should always be supported by actual, reasonable expense incurred. For positions with monthly allowances specified in the Agreement, we recalculated the allowance-based expense and compared to amounts charged to the pay applications. We identified overpayments of \$2,529.

Position	Estimator	Project Engineer
Monthly Allowance(Agreement)	\$ 700	\$ 700
Project Use (months)	3	32
Total Expense (agreement rate)	\$ 2,100	\$ 22,400
Expense to Pay Applications	\$ 1,957	\$ 25,072
Difference	\$ (143)	\$ 2,672
Total Difference	\$ 2,529	

For vehicle expense not associated with an allowance specified in the agreement, we estimated reasonable vehicle costs based on MSRP, sales tax, and registration expenses allocated over the vehicle useful life (8 years for passenger vehicles and 10 years for pick-up trucks). We compared our estimate and DB monthly flat rates charged to the pay applications and identified overpayments of \$44,729:

Vehicle	2017 Chevy			
	Pickup/2020 Ford		2015/2020 Ford	2019 Toyota
	Ford Fusion	Pick Up	Pick Up	Camry
	Project	Area	Project	Project
Position	Manager	Superintendent	Superintendent	Manager
MSRP	\$ 30,688	\$ 36,518	\$ 36,518	\$ 27,865
Sales Tax	2,148	2,556	2,556	1,951
Initial Registration	225	225	225	225
Vehicle Registration Renewal	180	225	225	180
Total Cost	\$ 33,241	\$ 39,524	\$ 39,524	\$ 30,221
Useful Life - mo.	96	120	120	96
Monthly Cost	\$ 346	\$ 329	\$ 329	\$ 315
Project Use (months)	6	32	33	36
Reasonable Project Cost	\$ 2,078	\$ 10,540	\$ 10,869	\$ 11,333
Amount Charged in PA	\$ 3,119	\$ 20,705	\$ 24,250	\$ 31,475
Difference	\$ 1,041	\$ 10,165	\$ 13,381	\$ 20,142
Total Difference	\$ 44,729			

We are not contesting amounts charged to the pay applications for fuel, maintenance, or repairs. It should also be noted that the DB's general liability insurance covers passenger vehicles and no additional insurance costs need be incurred for this project. Refer to Exhibit A for proposed adjustment to project costs.

3. Audit Fees (\$41,000)

The Agreement between the Owner and the DB included provisions for payment of audit fees if overpayments by the Owner exceeded \$35,000 and were identified through the audit (Article 26.2).

If an audit inspection or examination in accordance with this Article, and finds the Construction Manager overcharged CITY, the Construction Manager shall pay to CITY the Overcharged Amount, which is defined as the total aggregate overcharged amount together with interest thereon (such interest to be established at the rate of 12% annum – calculated based on the Overcharged Amount...If the Overcharged Amount is equal to or greater than \$35,000, the Construction Manager shall pay to CITY the Overcharged Amount (including any accrued interest as defined above) and the Audit Amount, which is defined as the total aggregate of CITY's reasonable audit costs

CRI's scope included a contract review, GMP review, review of 51 monthly pay applications, entitlement and cost verification of significant change orders during the project (change orders 1-9), and the closeout cost verification audit after the project's completion. We identified savings/cost recovery of \$554,308 (before considering the audit fee reimbursement and the change order to remove the remaining contract balance of \$57,393). – See Exhibits A and B.

The audit fees associated with the audit of change orders 1-9 and the closeout cost verification audit procedures after the project's completion (see page 6 above for detail of procedures performed) were approximately \$82,000. *

*Through negotiations by the City with the DB, the recovery amount of the audit fee was reduced by half to \$41,000. See Exhibit A.

Exhibit A - Project Costs & Recovery
City of Fort Lauderdale Redevelopment Agency
Fort Lauderdale Aquatic Center Renovation Cost Verification

Project Costs		
Calculation of the construction cost plus fee	Obs.	Total
DB Job Costs before Pay Application Review		\$ 33,299,274
Credits obtained through CRI Pay Application Review	1	(504,215)
DB Job Cost Detail		\$ 32,795,059
Adjustments per CRI:		
Vehicle Expenses	2	\$ (47,258)
Revised construction cost before DB Fee Adjustment		\$ 32,747,801
Calculation of DB Management Fee:		
Original DB Fee		\$ 775,633
Additional fee through contingency		775,633
Fee via Change Order		549,604
Fee before CRI Adjustment		\$ 2,100,870
Fee Adjustment for CRI cost of work differences	2 x 6%	(2,835)
Revised DB Fee		\$ 2,098,035
Revised construction costs plus DB fee		\$ 34,845,836
Calculation of Adjusted GMP:		
Original GMP		\$ 26,995,368
Change Order: 1 - 18 net (see project recap above)		7,900,561
Change Order: 19 - remove remaining contract balance*		(57,393)
Adjusted GMP Amount		\$ 34,838,536
Recap - Savings/Cost Recovery		
PA Review adjustments/realized savings - credited	1	\$ (504,215)
Vehicle expenses adjustment	2	(47,258)
DB Fee Adjustment	Above	(2,835)
Change Order 19 - remove remaining contract balance*		(57,393)
Audit Fees*	3	(41,000)
Total City project savings/cost recovery		\$ (652,701)
Overbillings - not credited/unpaid (Vehicle, DB Fee)		\$ (50,093)
Audit Fees*	3	(41,000)
Total Due to the City*		\$ (91,093)

*Negotiation between the City and the DB related to the overbillings, CRI audit fees and the remaining contract balance for a settlement of \$148,486 (\$57,393+\$91,093). DB to issue a final deductive change order of \$57,393 and issue a check to the City for \$91,093.

EXHIBIT B – Pay Application Review Cost Recovery City of Fort Lauderdale Redevelopment Agency Fort Lauderdale Aquatic Center Renovation Cost Verification Cost Recovery/Credits		
Item	Description/Type of Duplicate/Disallowable Charges	Amount Credited
1	Legal Fees - disallowable charge (related to subcontractor)	\$ 97,500
2	Change Orders 1 - 9 - overbilling of DB Fee only - 6% vs. 5% Fee	98,071
3	Structure Group SG Payroll Funding	45,525
4	Payroll / craft labor duplicate/overbillings (multiple incidents)	34,468
5	Stale Invoice review - duplicate billings - (multiple invoices)	31,418
6	IT charges billed above \$1.34/hour	31,092
7	Temp office - disallowable/overbilling	9,603
8	Training & Team Meetings	11,522
9	Intern lodging - 4 months - disallowable charge	3,897
10	Sub bond - subcontractor - not reimbursable	1,633
11	Defensive Driving course	1,418
12	Custom face masks - disallowable	1,231
13	Various other disallowable / duplicate billings (6 items)	1,913
15	TSG - missing payroll support	40,308
16	Cartaya And Associates Architects - Louis Berger CA Settlement	94,616
		\$ 504,215