



Construction Contract
Closeout Audit of
Police Training Academy
Project No. 21086

for

City of Corpus Christi



ISSUE DATE: NOVEMBER 14, 2024 – REVISED FINAL REPORT

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EXECUTIVE SUMMARY

Talson Solutions, LLC (Talson), an independent construction auditing and advisory firm, conducted a Construction Contract Closeout Audit of the City of Corpus Christi's (the City) Police Training Academy for City Public Health and Safety Project No. 21086 (Project). Fulton Coastcon General Contractors (Fulton) is the general contractor under a lump sum agreement (Agreement) with a current value of \$21.4 million. Engineering design and construction administration services are being provided by Turner Ramirez & Associates, Inc. (TRA).

The closeout audit primarily focused on contractual compliance by Fulton but also included assessing the City's construction and engineering management of capital program areas including construction cost and change management, project administration, progress status, and cost reporting. Talson's audit objectives were to verify Fulton's compliance with the Agreement, adherence to established controls and procedures, and assess the completeness and allowability of construction costs. The audit focused on the City, Fulton, and TRA's activities from Project commencement through August 2024.

The City issued a Notice of Substantial Completion to Fulton on August 30, 2024, which was delayed from the contractual Substantial Completion date of July 12, 2024. The City and Fulton are working together to reconcile final Project costs and anticipates issuing a change order to establish the final Agreement cost. Communication of Project details and administration of financial controls between the City, Fulton, and TRA was deemed adequate and timely with minor exceptions.

The audit resulted in no findings of non-compliance. Five observations were identified and discussed with the City. Of note, as detailed in Observation No. 2, an allowance totaling \$172,257 for unforeseen conditions or scope of work changes was created after contract execution by utilizing value engineering savings. Change Order No. 3 memorialized these changes to the Agreement as a zero cost change order. The administration and payment for cost events resulting from changes to the work should continue to be verified and validated and affirmation by the City that spending thresholds established for the Project were not circumvented through the establishment of this allowance pay item.

As part of the audit, Talson also noted that a Risk Analysis Worksheet was partially completed, however, it did not contain a robust listing of potential risks and the potential impact to the Project and proposed mitigation measures. The absence of managing risk per the City's Risk Management Procedure QA.2 was an observation in three of the four previous audits. Other observations related to discrepancies within work activity descriptions within Fulton's bid proposal documents that were conveyed into the City's pay estimates.

The audit included a detailed review of various Project documents and interviews with representatives of the City and Fulton. The City Auditor's Office and Engineering Services Department were accessible and provided beneficial support to the audit. A summary of the audit results was shared during an October 8, 2024, Audit Closeout Briefing.

PROJECT BACKGROUND

The Project scope of work consists of the construction of a new two-story building estimated at 32,000 square feet. The building features large training classrooms, administrative offices, resource room, research library, armory, physical training spaces, an outdoor track and secure patrol car parking. The new facility is designed to maintain the current Phase 1A campus aesthetics for a unified and cohesive campus. The program is anticipated to be utilized for both training of cadets and a Regional Police Training Academy.

On February 15, 2023, the City of Corpus Christi entered into an Agreement with Fulton for construction services at a lump sum of \$21.1 million. Substantial completion was to occur within 494 calendar days from the Notice to Proceed date of March 6, 2023. The City issued the Notice of Substantial Completion to Fulton on August 30, 2024, which is slightly past the contractual date of July 12, 2024. The City issued three (3) change orders increasing the contract value by \$328,702 to \$21.4 million. Change Order No. 3 created an allowance pay item in the amount of \$172,257 for unforeseen conditions or changes in the work utilizing savings from a value engineering exercise. This change order was issued as a zero-cost change order.

As of Payment Estimate No. 19 for the period of August 1 to August 30, 2024, Fulton has invoiced approximately ninety-six percent (96%) of the adjusted contract value. The pay estimate shows a paid to-date amount for the new allowance item totaling \$155,329 for unforeseen conditions or change in the work. The City is anticipating an underrun for this new pay item in the approximate amount of \$16,928. A final change order, reconciling unearned amounts for work not performed and outstanding approved cost events for changes to the work, will need to be issued as part of the Project closeout process and to allow Fulton the ability to submit the final pay estimate.

AUDIT APPROACH

Talson conducted the audit in alignment with the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors. Those standards require planning and performing the audit to obtain satisfactory and appropriate evidence to provide a reasonable basis for observations and conclusions within a detailed audit plan based on the audit objectives. Talson believes that the evidence obtained provides a reasonable basis for our observations and conclusions based on our audit objectives.

Talson utilized a comprehensive risk-based approach to assess compliance with contract provisions and identify any risks to successful Project completion, specifically within budget and on-time. Talson assessed Project Management's (e.g., City, general contractor, designers, and subcontractors) alignment with industry best practices throughout the engagement, facilitated knowledge-sharing discussions, and collaborated with the project teams to ensure transparency of the audit work but also maintained independence.

WORK PERFORMED

Talson reviewed Project documents followed by fieldwork in the City's offices on June 17 and 18, 2024. Fieldwork consisted of a site visit, a review of documents, and Project team interviews. Specific audit activities included reviewing the following:

1. Lump Sum Agreement between the City and Fulton inclusive of terms and deliverables.
2. Owner Change Order No. 1, 2 and 3 to confirm proper approval, reasonableness, and appropriateness of changes ensuring the work is not duplicated. Review of contract-allowed costs and mark-ups, review of supporting documentation, and timely billing by Fulton.
3. Fulton's Payment Estimate No. 15, inclusive of supporting documentation: Material on Hand and change order billing.
4. Project documentation: RFIs, submittals, meeting minutes, and a monthly schedule update to determine any potential risks that may warrant further review.
5. Professional Services Agreement between the City and TRA, including terms, conditions, Scope of Services, and task list with a billing breakdown by phase.
6. Project administration by the City, Fulton and TRA.

A complete list of documents reviewed and interviews conducted is listed in *Appendix A*.

SCHEDULE OF FINDINGS, OBSERVATIONS AND RECOMMENDATIONS

The audit yielded no Findings and five Observations. The following classifications are provided to ensure alignment within our approach and methodology. For this assessment, the definition of a *Finding* and an *Observation* are as follows:

- *Finding* is an issue where a party (the City or other) is non-compliant with a contractual provision, a stated policy, or procedure. A finding may also be identified in situations of impact to the schedule or budget, or an immediate control risk has been identified. Corrective action must be taken, and a management response provided.
- *Observation* does not mean there is an issue of non-compliance; however, the auditor has determined that the issue poses a potential risk of becoming a finding in the future and *may* require a management response. An observation might also be a process enhancement that can be incorporated in a project going forward or on future capital projects.

The following *Observations* have been discussed with the City:

Observation No. 1

The Progress meeting minutes are deficient of detail recording the Project status, missing documentation of verbal direction given, and any issues or outstanding items that may impact the timely Project completion. Meeting minutes are an official record of the Project's status and progress and can be instrumental in the resolution of claims or disputes, if any. Article 20.04.B

Progress Meeting indicates that the Owner Authorized Representative (OAR) will prepare minutes of meetings. Fulton prepares the meeting minutes.

Recommendation

The City should create a meeting minute template to be used City-wide on all design and construction projects. By creating a meeting minute template, the City will ensure that the design and construction meetings discuss the topics listed in *Article 20.04.B, Progress Meeting* to ensure project progress, issues, and directions given are recorded with satisfactory detail so they can be used in the resolution of potential claims or disputes.

Contract Article 20.04.B Progress Meeting identifies a minimum of nine agenda topics that the attendees should be prepared to discuss. They include:

- 1) Status of overall Project schedule
- 2) Contractor's detailed schedule for the next month
- 3) Anticipated delivery dates for equipment, if applicable
- 4) Coordination with the Owner
- 5) Status of documents
- 6) Information or clarification of the Contract Documents
- 7) Claims and Proposed Modifications to the Contract
- 8) Field observations, problems, or conflicts
- 9) Maintenance of quality standards

The City has agreed with this observation from previous construction audits and has committed to developing a meeting minute template to be used on all design and construction projects. Engineering Services has established December 31, 2024 as the target date for completing the meeting minute template.

Observation No. 2

Engineering Services created an allowance item within the approved Agreement amount by engaging in a value engineering exercise with Fulton. The accepted value engineering items netted savings in the amount of \$172,257, which were allocated to a new pay item, Line Item A-N1 Unforeseen Conditions. Engineering Services' intention is to use the allowance to fund changes in the work without issuing a change order modifying the Agreement amount. For this Project, the value for change orders requiring City Council approval was lowered from \$50,000 to \$25,000. The creation of the allowance allows Engineering Services to bypass City Council approval for changes in the work and may introduce an opportunity for the misuse of funds without City Council oversight.

Change Order No. 3 executed on March 4, 2024, memorialized the accepted value engineering credits to existing pay items totaling (\$172,257) and the creation of an allowance pay item in a corresponding additive amount of \$172,257. This change order is a zero-cost change to the Agreement amount. The administration of Change Order No. 3 and the payment for approved

changes to the work require verification and validation, along with confirmation that the creation of the allowance is allowable and does not circumvent approval thresholds established by City Council for extra work cost events on this Project.

Recommendation

Engineering Services should develop a guideline identifying the circumstances when it's appropriate to and the process for creating an allowance item after the bid and award of an Agreement to ensure the City's approval thresholds established for change orders on the Project are not being circumvented.

Observation No. 3

Section 01 23 10 - Alternates and Allowances specifies the maximum percentage allowed for A2 - Bonds and Insurance as 2% of the bid price. Section 01 29 01 - Payment and Measurement specifies how payment will be made for Bid Item A2 - Bond and Insurance. Fulton when developing the bid price, exceeded the allowable 2% for the bond and insurance line item and included other costs at approximately 4%. During Talson's interview, Fulton indicated that their bid price for Bid Item A2 – Bond and Insurance included costs for general conditions/ general requirements. The general conditions/ general requirements costs are for support of construction activities, such as, project management staff, field office and office equipment and supplies, safety and supplies, handling of materials, etc. and are compensable costs.

Recommendation

The City and Fulton should identify and verify the costs for general conditions/ general requirements that were include in Bid Item A2 – Bonds and insurance and agree on method for payment of these costs or reallocation of the costs, if deemed appropriate, and at the discretion of Engineering Services.

Observation No. 4

The bid form included two bid items for scopes of work that were not included in the contract documents, Bid Item J3, Entrance Floor Mats & Frames and Bid Item Q5, Gravity Sanitary Sewer and Catch Basin. Fulton's bid form included a lump sum amount for each of these two bid items, respectively \$6,012 and \$326,153, for a total of \$332,165. During the construction phase, Fulton submitted RFI 61 and RFI 102 advising the City of the errors on the bid form and requested the bid amounts be moved into other bid items within the contract to allow for payment. The City responded that payment would be made for Bid Items J3 and Q5 citing GC 17.05.A as justification for payment.

Recommendation

The City should prior to soliciting bids review the bid form for accuracy with the plans and specifications to ensure the bid items represent the work to be performed.

Observation No. 5

The risk analysis worksheet was completed by Engineering Services. However, Talson observed that the risks identified were not robust in their description of the risk, the potential impact to the project, and proposed mitigation measures of the identified risks. The risk analysis worksheet is not dated, therefore, Talson is unable to confirm what phase of the project the risks were identified. Additionally, it is unclear if the City continues to perform risk analysis throughout the life of the Project or until all identified risks have been closed or adequately mitigated.

Recommendation

Engineering Services should ensure that Project Managers are following and adhering to QA.2 Risk Management Procedure specific to the development of a risk register, the completion of the risk analysis spreadsheet, documentation of risk meetings and workshops, and the monthly updating of risks to the Project until risks have been retired or mitigated.

Collective Observations Management Response:

Observation No. 1

Management concurs that meeting minutes could improve. A new template has been developed, implemented, and shared with Internal Audit and Talson.

Observation No. 2

Management disagrees. Engineering followed our already establish change order process.

Observation No. 3

Management agrees with the observation but does not agree with the recommendation. The City is not responsible for identifying or verifying Fulton's general conditions costs. The City pays according to contract terms. Steps will be taken to better communicate the 2% cap and the allowance aspect of the pay item on the bid form and to ensure that all staff understand to check for bid conformance. This will be completed by Q2 FY25.

Observation No. 4

Management agrees. Current policy already includes reviews of all bid forms for accuracy. There was an error in the bid form that was not identified by existing processes. Engineering will take steps to provide better review of bid forms prior to advertisement by Q2 FY25.

Observation No. 5

Management agrees. Engineering continues to provide training on this procedure to department and operating department's staff.

Closeout Audit of Police Academy

Appendix A: Documents Reviewed & Interviews Conducted

Documents Reviewed: City of Corpus Christi

Construction Agreement executed February 14, 2023
Consolidated Plans and Specifications, dated October 13, 2022
Tabulation of Bids, dated August 10, 2022
Construction Status Report for May 2024, dated May 16, 2024
Notice of Award Letter, dated December 20, 2022
Notice to Proceed, dated March 6, 2023
Weekly Project Meeting No. 43 Minutes, dated January 18, 2024
Project Schedule, dated December 1, 2023
Fulton Coastcon General Construction, Change Order No. 1, dated August 3, 2023
Fulton Coastcon General Construction, Changer Order No. 2, dated August 28, 2023
Fulton Coastcon General Construction Change Order No. 3, dated January 10, 2024
Pay Estimate No. 1, dated April 20, 2023
Pay Estimate No. 15, dated May 6, 2024
Request for Bids No. 4421, dated October 16, 2022
Request for Bids No. 4421 Addendum No. 1, dated November 9, 2022
RFI Log, dated June 14, 2024
Submittal Log, dated June 14, 2024
Risk Analysis Worksheet, undated
May Schedule Update, dated June 3, 2024
Subcontractor List, dated June 14, 2024
Post Bid Finalized VE List, undated
PC Tracking Log, dated July 18, 2024

Documents Reviewed: Fulton Coastcon Corporation

Contract Documents for Construction of Police Training Academy, dated February 14, 2023
Certificate of Liability Insurance, dated December 15, 2023
PC/RCO Log, dated June 14, 2024

Documents Reviewed: Turner, Ramirez, & Associates, Inc.

Executed Professional Services Contract, dated March 29, 2021
Professional Services Contract Amendment No. 1, dated May 3, 2022
Professional Services Contract Amendment No. 2, dated October 11, 2022
Professional Services Contract Amendment No. 3, dated December 20, 2022
Fee Proposal Addendum, dated January 20, 2022
Invoice No. 2020-15-017, dated March 26, 2024

Project Management Team Interviews:

City of Corpus Christi

Joe Johnson – Assistant Director of Engineering
Curtis Weis – Senior Project Manager
Isaac Perez – Design Project Manager
Chris Shull – Construction Manager, AGCM

Fulton Coastcon General Contractors

Frank Malone – Project Manager
Tim Dollar – Superintendent
Mike Lippincott – Vice President

October 30, 2024


George H. Holland
City Auditor
Corpus Christi, Texas

Re: Construction Contract Closeout Audit Report: Police Training Academy Project No. 21086

We have carefully reviewed the issues presented in the audit report referenced above, and our plans to correct the issues are described here within.

We are committed to correcting the issues in the audit report by implementing the action plans in a timely fashion.

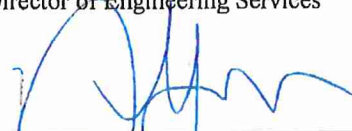
Sincerely,



Jeffrey H. Edmonds
Director of Engineering Services

10/30/2024

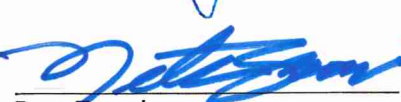
Date



Neiman Young
Assistant City Manager

10/31/24

Date



Peter Zanoni
City Manager

11.1.24

Date

