



**Parks Department – 2012 Capital
Improvement Program Bond
Audit Report A2020-09**

Issued by the
Internal Audit Office
January 15, 2021

**City of El Paso
Internal Audit Office
Parks Department – 2012 CIP Bond Audit A2020-09**

EXECUTIVE SUMMARY

The Internal Audit Office has concluded its audit of the 2012 Quality of Life Bond Projects for the Parks and Recreation Department. The audit focused on construction activities for the Chamizal Recreation Center. Based on the results of the audit, two findings were identified. Finding #1 is considered significant in nature and Finding #2 is considered regular in nature. A definition of a “*Significant Finding*” and “*Regular Finding*” can be found on Page #4 of this report.

Listed below is a summary of the findings identified in this report.

1. A review of the Construction Inspector’s Daily Job Reports and Project General Logs for the “*Chamizal Recreation Center*” during the period of July 1, 2020 to September 30, 2020, identified the following:
 - No Construction Inspector’s Daily Job Reports or Project General Logs were completed to record the daily construction activities/events at the jobsite as required by the Capital Improvement Department’s – *Project Delivery Manual* during the period reviewed.
 - The last available Construction Inspector’s Daily Job Report was completed on May 8, 2020. No Construction Inspector’s Daily Job Reports were completed from May 9, 2020 through September 30, 2020.
 - Construction photos were taken by the Construction Inspector from July 1, 2020 to September 30, 2020 in lieu of completing the Daily Job Reports.

2. The Capital Improvement Department (CID) does not have documented Policies and Procedures to address when Change Orders require City Council’s approval for Construction Manager at Risk (CMAR) Projects. A CMAR Contract is a project delivery method which entails a commitment by the Construction Manager to deliver the project within a Guaranteed Maximum Price. Our review of CID’s Policies and Procedures identified the following:
 - Under a Construction Manager at Risk type construction contract with a Guaranteed Maximum Price (GMP):
 - CID staff is obtaining City Council approval only when the GMP is exceeded. This procedure is not documented in the CID’s *Project Delivery Manual*.
 - Under a Low Bid or Best Value type construction contract:
 - CID’s *Project Delivery Manual* states that City Council must approve any individual Change Order with a cost greater than \$100,000.00.

For a detailed explanation of the finding, please refer to the body of this report.

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BACKGROUND

In 2012, the City of El Paso voters approved a Quality of Life Bond of \$473.2 million for new amenities and renovations around the City. Part of the 2012 Quality of Life Bond includes a \$195 million allocation for parks, recreation, and open space improvements. The Parks and Recreation Projects include, but not limited to:

- New Parks, Recreation Centers, Community Centers, Senior Centers, and Skate Parks.
- Citywide canopy installation and walk-trails.
- Park and field improvements.
- A 92-acre Eastside Regional Park with a 50-meter Competition Pool.

The “*New Community Centers*” include the following projects:

- The Chamizal Recreational Center and Library.
- The Alameda Recreational Center, Library, and Flat Fields.
- The Lomaland Recreational Center.

The new Community Centers Construction Projects are managed by Abacus Project Management Inc. under a Professional Management Services Agreement and constructed by Jordan Foster Construction under a Construction Manager at Risk Contract (Solicitation# 2017-965R – *New Community Centers*). A Construction Manager at Risk Contract is a project delivery method which entails a commitment by the Construction Manager to deliver the project within a Guaranteed Maximum Price. The initial Guaranteed Maximum Price for these projects were \$22,535,553.00. On April 14, 2020, a Change Order for \$1,100,000.00 was approved by the City Council which increased the Guaranteed Maximum Price to \$23,635,553.00. The new Community Centers Construction Projects are substantially complete according to the Capital Improvement Department. A project is “*Substantially Complete*” when the work described in the specifications is done with only minor items needed to fully complete the work.

The Capital Improvement Department is responsible for overseeing and executing all the 2012 Quality of Life Bond Projects.

AUDIT OBJECTIVES

The objective of this audit was to review processes for managing and executing the 2012 Quality of Life Bond Projects for the Parks and Recreation Department. To achieve this, the Audit assessed the following areas:

- City of El Paso’s Capital Improvement Department Policies and Procedures.
- Construction Change Orders and Inspection Reports.
- Project Expenditures.
- Supporting documentation and approvals.

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AUDIT SCOPE

Fiscal Years 2019 and 2020. This Audit specifically focused on the construction of the 2012 Quality of Life Bond Project – *Chamizal Recreation Center*.

AUDIT METHODOLOGY

In order to achieve the audit objectives, we:

- Interviewed staff from the Capital Improvement Department to gain an understanding of how construction projects are administered and executed.
- Reviewed established Capital Improvement Department Policies and Procedures for managing and executing construction projects.
- Determined if the Capital Improvement Department Policies and Procedures were:
 - Up to date and consistent with current processes.
 - Adequate guidance for employees.
 - Properly followed by employees.
- Determined if reasons for processing Change Orders was appropriate.
- Determined if Change Orders were properly completed, reviewed, and approved.
- Determined if sufficient documentation was available to support Change Orders.
- Determined if the sum of Change Orders did not exceed 25% of the original contract price as mentioned in Chapter 252.048 of the Texas Local Government Code.
- Determined if Daily Construction Inspector Reports were properly prepared and reviewed.
- Determined if Payment Application Requests for construction expenditures were properly reviewed before payment was processed by the Capital Improvement Department.
- Determined if unauthorized or non-project expenses were paid.
- Determined if sufficient documentation was available to support construction expenses.

We conducted this audit in accordance with *Generally Accepted Government Auditing Standards* and the *International Standards for the Professional Practice of Internal Auditing*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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***SIGNIFICANT FINDINGS, RECOMMENDATIONS,
AND MANAGEMENT’S RESPONSES***

The definition of a “Significant Finding” is one that has a material effect on the City of El Paso’s financial statements, identifies an internal control breakdown, is a violation of a City procedure, or a violation of a law and/or regulation, which the City is required to follow. Any finding not meeting these criteria will be classified as a “Regular Finding”.

Finding 1

Inspection Reports and Project Records

City of El Paso Strategic Plan:

- Goal 6.12 *Maintain systems integrity, compliance and business continuity.*

Capital Improvement Department’s Project Delivery Manual – August 2017:

- Chapter 17.5 – Inspection Reports (Paragraph 1, 2, &3): *Project records and inspection reports are a legal record of the activities that take place on a construction site in the order they happen. Keeping accurate and complete records and reports is an important function of the Inspector. The Inspector ensures that each Inspector assigned to the project completes daily records of the inspections made and of the jobsite activities. Each Inspector working on the project shall complete the Construction Inspector’s Daily Job Report and/or the Project General Log for each day they are on the project. These reports are each a continuing report to adequately record each day’s progress and activities.*
- Chapter 17.5 – Inspection Reports (Paragraph 4): *When completing project documentation, the Inspector shall adhere to the following:*
 - *All documentation and/or job records shall be completed on approved forms,*
 - *All entries shall state activities and/or events as they occurred,*
 - *Entries shall be as brief as possible, but include all pertinent information,*
 - *The reports shall be signed and filed chronologically.*

A review of the Construction Inspector’s Daily Job Reports and Project General Logs for the “Chamizal Recreation Center” during the period of July 1, 2020 to September 30, 2020 identified the following:

- No Construction Inspector’s Daily Job Reports or Project General Logs were completed to record the daily construction activities/events at the jobsite as required by the Capital Improvement Department’s – *Project Delivery Manual* during the period reviewed.
- The last available Construction Inspector’s Daily Job Report was completed on May 8, 2020. No Construction Inspector’s Daily Job Reports were completed from May 9, 2020 through September 30, 2020.
- Construction photos were taken by the Construction Inspector from July 1, 2020 to September 30, 2020 in lieu of completing the Daily Job Reports.

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Recommendation

The Capital Improvement Department should ensure that Daily Job Reports and/or Project General Logs are completed for each day the Construction Inspectors are on the project site as required on Chapter 17.5 of the Capital Improvement Department's *Project Delivery Manual*.

Management's Response

CID Management has evaluated the above referenced issues related to the failure of CID Inspectors to adequately document construction process through preparation of Daily Inspection Reports from a period of May 9, 2020 – September 30, 2020, and in general concurs with the finding. After a search of CID records, interview with the assigned Inspector, and a review of the project history we find that the reports were indeed delinquent. The cause of the failure can be partially attributed to; failure of the Inspector to understand or perform their duties in accordance with approved standards and procedures, lack of oversight by multiple levels of management to assure all project activities are occurring per approved procedures, an ineffective hand off of project responsibilities from contracted third party inspections to in house Inspectors, as well as the individual Inspectors work load limiting his ability to document according to the approved procedure while still conducting site visits on multiple projects during a normal work day.

As a response, CID Management will perform the following actions as a response to the above finding:

1. A review of CID approved procedures will be conducted with all CID staff performing inspections and Construction Management to assure procedures are clear and understood.
2. CID will draft a process, as a supplement to the Procedures Manual, developing a formal review process to internally review inspectors documentation, to assure assigned Inspectors are completing project reports per approved procedures. Review shall formally document regular and periodic reviews of both the quantity and quality of the Inspectors work product and involve oversight by the assigned Project/Construction Manager, the assigned Division Manager, and the City's Chief Inspector.
3. CID will draft a process, as a supplement to the Procedures Manual, to formally transition assigned project responsibilities from one party to another.
4. CID Management will evaluate current procedures related to inspections, and consider formal modifications of documented process to more reasonably match the level of effort required for documentation and inspection with available staffing, based on risk and criticality of the ongoing work and complexity of the project.

Responsible Party

Michael J. Vonasek, P.E., Assistant Director of Construction

Implementation Date

March 31, 2021

***REGULAR FINDINGS, RECOMMENDATIONS,
AND MANAGEMENT'S RESPONSES***

Finding 2

Construction Change Orders

City of El Paso Strategic Plan:

- Goal 6.12 *Maintain systems integrity, compliance and business continuity.*

Capital Improvement Department's *Project Delivery Manual* – August 2017:

- Chapter 20.2 – Initiating Change Orders (Paragraph 3): *The Project Manager must sign all change order initiation forms and must obtain authorization from the Assistant CID Director. The Project Manager must also brief the City Engineer and gain authority from the City Council for any change that is greater than \$100,000, or when the change exceeds the remaining contingency for the project.*
- Chapter 20.2 – Initiating Change Orders (Paragraph 6): *The City Council must approve any individual change with a cost greater than \$100,000, or when the change exceeds the remaining contingency for the project.*

The Capital Improvement Department (CID) does not have documented Policies and Procedures to address when Change Orders require City Council's approval for Construction Manager at Risk (CMAR) Projects. A CMAR Contract is a project delivery method which entails a commitment by the Construction Manager to deliver the project within a Guaranteed Maximum Price. Our review identified the following:

- Under a Construction Manager at Risk type construction contract with a Guaranteed Maximum Price (GMP):
 - CID staff is obtaining City Council approval only when the GMP is exceeded. This procedure is not documented in the CID's *Project Delivery Manual*.
- Under a Low Bid or Best Value type construction contract:
 - CID's *Project Delivery Manual* states that City Council must approve any individual Change Order with a cost greater than \$100,000.00 or when the Change Order exceeds the remaining contingency for the project.

A sample of six Change Orders totaling \$2,099,453.43 and dated June 22, 2020 through September 10, 2020 were reviewed for the "*Chamizal Recreation Center.*" Our review identified the following:

- One Change Order totaling \$1,100,000.00 was approved by City Council since the Change Order increased the GMP. It also satisfied the \$100,000.00 approval threshold as stated in the CID's *Project Delivery Manual*.
- Two Change Orders totaling \$214,678.83 and \$662,652.67 exceeded \$100,000.00 and were not sent to City Council for approval because the Change Orders did not increase the GMP. This procedure is not documented in the CID's *Project Delivery Manual*.

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- Three Change Orders totaling \$64,366.71, \$29,367.15, and \$28,388.07 were not sent to City Council since the Change Orders did not increase the GMP nor exceed the \$100,000.00 approval threshold stated in the CID's *Project Delivery Manual*. These Change Orders were properly processed.

Recommendation

The Capital Improvement Department should document in their Policies and Procedures when Change Orders require City Council approval for Construction Manager at Risk Projects. Specifically, the practice of not requiring City Council's approval on Change Orders of \$100,000.00 or more where the overall Guaranteed Maximum Price is not exceeded.

Management's Response

There is no violation of CID Policies related to the use of Contingencies within the City Council approved Guaranteed Maximum Price (GMP). In addition, the use of Contingencies were approved within the Texas Code Requirements.

Audit finding indicated that CID has no Policy and Procedures as to the requirement for City Council Approval for Change Orders in Construction Manager at Risk (CMAR) Projects and that CID in CMAR Contracts had a practice of not requiring Council Approval on Change Orders over \$100,000.00, if they do not affect the GMP. Specifically sighting that in CO 28 in the amount of \$214,678.83 and CO 29 in the amount of \$662,652.67 for which CID did not seek Council Approval, as the Change Order did not increase the GMP.

CID concurs that there is no specific policy for administering changes on CMAR Contracts. Procedures for changes under both CID approved policies and Texas Code, apply to all contract types, and provide the City Engineer authority to make contractual changes for values of \$100,000.00 or less without Council Approval. CID and Texas Code, currently makes no distinction based on contract type for the requirement for Council Approval for any changes that increase or decrease the contract value by \$100,000.00 or more. CID disagrees that both CO 28, represented as a \$214,678.83 change, and CO 29, represented as a \$662,652.67 change, violated this process or procedure, as in actuality upon review of both referenced Change Orders are no cost changes, as indicated in the approved changes. Under the CMAR process, the contract value is set prior to the completion of the design (in these case at approximately 95%) as a Guaranteed Maximum Price (GMP). The GMP contains values for estimated costs of work for the completed projects as well as a number of budgetary Allowances and Contingencies controlled by both the City and the Contractor, required to finish the complete project scope, as the design is completed. The GMP, Allowances, and Contingencies were approved with the approval of the original GMP Amendment. The Change Orders sighted as exceeding the \$100,000.00 threshold as well as all of the Change Orders that were executed within the original GMP values utilized the approved Contingencies and Allowances none of which resulted in an increase in contract value, therefore did not require any additional action beyond the Councils original approval of the GMP which included approval of the various Allowances. The exception to the statement was Change Order 25, which did increase the contract value (GMP) which Council Approval was provided.

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CID will draft a supplemental clarification defying the use of previously approved Allowances and Contingencies within any contract type. The supplemental will enforce current requirements and Texas Code. Only requiring approval for changes that increase the contract value by \$100,000.00 or more.

Responsible Party

Michael J. Vonasek, P.E., Assistant Director of Construction

Implementation Date

March 31, 2021

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INHERENT LIMITATIONS

Because of the inherent limitations of internal controls, errors or irregularities may occur and not be detected. Also, projections of any evaluation of the internal control structure to future periods beyond the Audit Report date are subject to the risk that procedures may become inadequate due to changes in conditions, management override of internal controls, or that the degree of compliance with the procedures may deteriorate. This was a limited scope audit, which only reviewed the areas stated in the Audit Objectives during the Audit Scope period. No representations of assurance are made to other areas or periods not covered by this audit.

CONCLUSION

We have concluded our work on the objectives of the 2012 Capital Improvement Program Bond Audit for the Parks and Recreation Department. The audit evidence used in the analysis is sufficient and appropriate for addressing the objectives and supporting the findings and conclusion. In accordance with *Generally Accepted Government Auditing Standards*, we are required to conclude whether the Capital Improvement Department met the objectives of this audit. Based on our audit work, we have determined that:

1. The Capital Improvement Department met the audit objectives in the following areas:
 - Documenting Policies and Procedures for performing jobsite inspections and reviewing project expenses for 2012 Quality of Life Bond Projects.
 - Retaining appropriate and sufficient documentation to support Construction Change Orders and project expenses for 2012 Quality of Life Bond Projects.
 - Properly reviewing and processing on-time payments for project work completed.

2. The Capital Improvement Department did not meet the audit objectives in the following areas:
 - Completing and retaining “*Construction Inspector’s Daily Job Reports or Project General Logs*” for every day the Construction Inspector is at the jobsite as required by the Capital Improvement Department’s *Project Delivery Manual*.
 - Documenting a Policy or Procedure to address when Change Orders require City Council’s approval for Construction Manager at Risk Projects. Specifically, the practice of not requiring City Council’s approval on Change Orders of \$100,000.00 or more where the overall Guaranteed Maximum Price is not exceeded.

We want to thank the Capital Improvement Department staff for their assistance and numerous courtesies extended during the completion of this audit.

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Signature on File

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