

May 21, 2024

City of Palo Alto

Office of the City Auditor

Public Safety Building Construction
Audit Report

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Executive Summary

Purpose of the Audit

Baker Tilly US, LLP (Baker Tilly), in its capacity serving as the Office of the City Auditor (OCA) for the City of Palo Alto (the City) performed construction audit services on the Public Safety Building project. The objectives of this audit were to verify that billings to the City from the Architect, Engineer, Inspector of Record, Construction Manager, Contractor, and Waterproofing Inspector were compliant with the terms of the applicable contracts.

Report Highlights

Baker Tilly reviewed documentation provided by the Public Works Department for each of the selected scopes on a monthly basis through March 2024 and found project billings were compliant with the terms of the respective contracts. The billings, change orders, and additional services related to each scope had the proper supporting documentation and authorizations. During the audit, we identified several immaterial billing errors (see Finding 1 and Appendix A); however, these are considered minor when compared to the overall value of the costs reviewed. The results of this audit indicate the City's implemented controls with respect to the review and approval of project billings are operating as intended.

Introduction

Objective The objectives of this audit were to verify billings from the Architect, Engineer, Inspector of Record, Construction Manager, Contractor, and Waterproofing Inspector were contractually compliant, adequately supported, and authorized by the City.

Background The new Public Safety Building will house the Police Department, 911 Emergency Dispatch Center, the Emergency Operations Center, the Office of Emergency Services, and the administration needs of the Fire Department. The Public Safety Building is part of the Capital Improvement (Infrastructure) Plan introduced in 2014. Non-compliance with contract terms related to project billings can result in cost overruns that impact the overall project budget.

Scope Our testing scope encompassed billings and cost documentation provided by the Public Works Department through March 2024. This included the Swinerton Builders payment application dated December 31, 2023, and billings for the other scopes through February 2024. At that time, billings reviewed for each of the contract scope subject to audit were as follows:

Scope	Contractor	Invoiced Amount
Architect	Ross Drulis Cusenbery (RDC)	\$ 9,497,850 ¹
Engineer	Romig Engineers	92,976
Inspector of Record	4Leaf, Inc.	546,534
Construction Manager	Nova Partners, Inc.	9,264,427 ²
Contractor	Swinerton Builders	86,888,316
Waterproofing Inspector	Consolidated Engineering Laboratories (CEL)	106,317
Total		\$ 106,396,420

Methodology and Analysis To achieve the audit objectives, Baker Tilly performed the following procedures and analysis:

- Inspected the contract to identify the key terms related to project billings for each scope subject to audit
- Analyzed billings for each scope subject to audit on a monthly basis as follows:
 - Created control schedules for billings and payment applications
 - Footed and recalculated amounts billed to test for mathematical accuracy
 - Rolled forward previous billed amounts to ensure reported totals were accurate
 - Verified lien waivers were collected where applicable
 - Verified monthly invoices were submitted with a description of services performed and the applicable charges (identification of personnel, hours worked, hourly rates, and reimbursable expense)

¹ Invoiced amount includes design and construction management services for the California Avenue Garage project.

² Invoiced amount includes project development and construction management services for the Fire Station No. 3 and California Avenue Garage projects.

- Verified aggregate billings did not exceed contractual limitations
- Verified billings and payment applications had the appropriate authorizations
- Analyzed change orders, amendments, and additional services in scope as follows:
 - Reconciled the amounts reflected on change orders to supporting documentation
 - Verified the change order costs were contractually compliant and reconciled to agreed upon rates where applicable
 - Recalculated any markups and insurance amounts to ensure the applicable rates adhered to the contract terms
 - Verified change orders and additional services had the required authorization
- Communicated the testing results to the Public Works Department on a monthly basis:
 - Verified any identified billing errors were corrected (see Appendix A)
 - Requested additional documentation as necessary to complete testing

Compliance Statement

This audit activity was conducted from March 2021 to March 2024 in accordance with generally accepted government auditing standards, except for the requirement of an external peer review³. 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.

Organizational Strengths

During this audit activity, we observed that the controls implemented by the City related to the review of billings and change orders were operating as intended. This is evidenced based on the low occurrence of findings and immaterial values thereof. All parties were accommodating during the audit process and were forthcoming with answers to questions and requests for additional documentation.

The Office of the City Auditor greatly appreciates the support of the Public Works Department in conducting this audit activity.

Thank you!

³ Government auditing standards require an external peer review at least once every three (3) years. The last peer review of the Palo Alto Office of the City Auditor was conducted in 2017. The Palo Alto City Council approved a contract from October 2020 through June 2022 with Baker Tilly US, LLP (Baker Tilly) and appointed Kyle O'Rourke, Senior Consulting Manager in Baker Tilly's Public Sector practice, as City Auditor. Given the transition in the City Audit office, a peer review was not conducted in 2020 and will be conducted after the third year of Baker Tilly's contract.

Audit Results

Finding 1: Immaterial billing errors

Baker Tilly identified nine billing errors totaling \$10,122 throughout the audit engagement. These errors were mostly related to labor billing rate errors where the contractor in question billed for services at rates that were not compliant with the agreed upon rates. Each of the identified errors was resolved on a subsequent billing from the applicable contractor. See Appendix A for additional detail related to the specific billing errors identified.

Recommendation

No additional action is required. All billing errors have been resolved. In addition, the errors in question occurred during the early months of our audit and the occurrence of findings decreased as the audit progressed.

Recommended follow-up activities

As of the report date the project was not yet complete. Baker Tilly recommends performing a closeout audit upon final completion of the project. The current substantial completion is anticipated on July 31, 2024. The closeout audit would kick off in August 2024 and conclude upon receipt of the documentation required to complete closeout testing. The primary objectives of the closeout audit would include:

- Analyze billings and change orders for the selected audit scopes received by the Public Works Department from March 2024 through project completion (Swinerton Payment applications subsequent to December 31, 2023, and billings from the other selected scopes subsequent to February 2024).
- Verify the allowances included in the construction contract are reconciled and closed out per the contract terms
- Verify final lien waivers are collected from subcontractors
- Confirm final amounts paid to each contractor in the scope of the audit does not exceed the contractual limitations



Appendices

Appendix A: Public Safety Building – Construction Audit Issues Log

The following audit issues totaling \$10,122 were identified during monthly testing. Each of these issues were communicated to the Public Works Department when identified. All audit issues have been resolved.

AI ID No.	Audit Issue	AI Date	Response Date	Status	Result	Amount
001	<u>Swinerton Builders</u> - COR #25 which was included in Change Order #4 included a duplicate charge for equipment markup totaling \$356.77 (see RFI #7).	9/23/2021	11/15/2021	Closed	Public Works provided Change Order #8 reflecting the credit. Baker Tilly reviewed Change Order #8 and confirmed credit.	\$ 356.77
002	<u>Nova Partners</u> - Invoices from June 2017 to December 2017 billed an Estimator at a rate of \$175 per hour rather than the agreed-upon rate of \$160 per hour. This resulted in a billing rate overcharge totaling \$6,975 (see RFI #1).	10/15/2021	1/12/2022	Closed	Public Works provided Invoice #104376 reflecting the credit. Baker Tilly reviewed Invoice #104376 and confirmed credit.	\$ 6,975.00
003	<u>Consolidated Engineering Laboratories</u> - Invoice #191863 billed overtime at a rate of \$161.25 and double-time at a rate of \$215.00 rather than the agreed upon rates of \$142.50 for overtime and \$190 for double time. This resulted in a billing rate overcharge totaling \$400 (see RFI #24).	3/16/2022	4/13/2022	Closed	Public Works provided Invoice #195679 reflecting the credit. Baker Tilly reviewed Invoice #195679 and confirmed credit.	\$ 400.00
004	<u>Romig Engineers</u> - Invoice #27139 and #28131 billed the position "Engineering Technician Prevailing Wage" at a rate of \$150 per hour rather than the agreed-upon rate of \$144 per hour. This resulted in a billing rate overcharge totaling \$473.40 (see RFI #27).	4/21/2022	5/31/2023	Closed	Public Works provided Invoice #31394 and #31569 reflecting the credit. Baker Tilly reviewed Invoice #31394 and #31569 and confirmed credit.	\$ 473.40

Appendix A: Public Safety Building – Construction Audit Issues Log (cont.)

AI ID No.	Audit Issue	AI Date	Response Date	Status	Result	Amount
005	<u>Romig Engineers</u> - Invoice #28131 billed overtime at a rate of \$225 rather than the agreed upon rate of \$216. This resulted in a billing rate overcharge totaling \$63.00 (see RFI #28).	4/21/2022	5/31/2023	Closed	Public Works provided Invoice #31569 reflecting the credit. Baker Tilly reviewed Invoice #31569 and confirmed credit.	\$ 63.00
006	<u>Romig Engineers</u> - Invoice #27784B billed the position "Engineering Technician Prevailing Wage" at a rate of \$150 per hour rather than the agreed-upon rate of \$144 per hour. Overtime was also billed at a rate of \$225 rather than the agreed upon rate of \$216. This resulted in a billing rate overcharge totaling \$333.00 (see RFI #26).	4/21/2022	5/31/2023	Closed	Public Works provided Invoice #31394 reflecting the credit. Baker Tilly reviewed Invoice #31394 and confirmed credit.	\$ 333.00
007	<u>Consolidated Engineering Laboratories (CEL)</u> Invoice #196433 billed the position "Waterproof Inspector" at rate of \$99.28 per hour rather than the agreed-upon rate of \$96.90 per hour. This resulted in a billing rate overcharge totaling \$310.59 (see RFI #31).	6/27/2022	7/26/2022	Closed	Public Works provided Invoice #198423 reflecting the credit. Baker Tilly reviewed Invoice #198423 and confirmed credit.	\$ 310.59
008	<u>Consolidated Engineering Laboratories (CEL)</u> Invoice #197348 billed the position "Waterproof Inspector" at rate of \$99.28 per hour rather than the agreed-upon rate of \$96.90 per hour. This resulted in a billing rate overcharge totaling \$166.60 (see RFI #35).	7/26/2022	7/26/2022	Closed	Public Works provided Invoice #198423 reflecting the credit. Baker Tilly reviewed Invoice #198423 and confirmed credit.	\$ 166.60

Appendix A: Public Safety Building – Construction Audit Issues Log (cont.)

AI ID No.	Audit Issue	AI Date	Response Date	Status	Result	Amount
009	4 Leaf, Inc - Invoice #J3909W billed time for Traci Craton at \$169.95 per hour rather than the agreed-upon rate of \$54 per hour. This resulted in a billing rate overcharge totaling \$1,043.64 (See RFI #42).	7/28/2023	8/29/2023	Closed	Public Works provided Invoice #J309X-REV reflecting the correct rates. Baker Tilly reviewed Invoice #J309X-REV and confirmed.	\$ 1,043.64

