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November 28, 2023

Susan P. Serrano, C.T.P.M., C.T.C.M.  
Purchasing Director  
Brazoria County Courthouse West Annex  
451 N. Velasco St., Suite 100  
Angleton, TX 77515

Dear Ms. Serrano,

The purpose of this letter is to confirm our understanding of the nature and limitations of the services we are to provide for Brazoria County, Texas (the "County"), for the Courthouse Expansion Project Phased Task Order 5A, with an estimated guaranteed maximum price (GMP) of \$18,482,579, in accordance with our discussions.

We will apply the procedures described in the attachment to this letter. By signing this engagement letter, you (the "County") agree to those procedures and acknowledge that the procedures to be performed are appropriate for the intended purpose of the engagement, which is to assist you in determining the final change order value and the final contract value (collectively the "subject matter") for the Brazoria County Courthouse Expansion Project Phased Task Order 5A (the "Project"), as provided by SpawGlass Construction Corp. (the "Construction Manager"). Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the AICPA. Those standards require that we obtain your written agreement to the procedures to be applied and your acknowledgment that those procedures are appropriate for the intended purpose of the engagement, as described in this letter. A refusal to provide such agreement and acknowledgment will result in our withdrawal from the engagement. No other parties will be requested to agree to the procedures and acknowledge that the procedures performed are appropriate for their purposes. We make no representation that the procedures we will perform are appropriate for the intended purpose of the engagement or for any other purpose.

Because the agreed-upon procedures do not constitute an examination or review, we will not express an opinion or conclusion on the construction costs of the Project. In addition, we have no obligation to perform any procedures beyond those to which you agree.

We will issue a written report upon completion of our engagement that lists the procedures performed and our findings. Our report will be addressed to the County. If we encounter restrictions in performing our procedures, we will discuss the matter with you. If we determine the restrictions are appropriate we will disclose the restrictions in our report. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you. Our report is not expected to be restricted to the use of specified parties.

There may exist circumstances that, in our professional judgment, will require we withdraw from the engagement. Such circumstances include the following:

- You refuse to provide written agreement to the procedures and acknowledge that they are appropriate for the intended purpose of the engagement.
- You fail to provide requested written representations, or we conclude that there is sufficient doubt about the competence, integrity, ethical values, or diligence of those providing the written representations, or we conclude that the written representations provided are otherwise not reliable.
- We determine that the description of the procedures performed or the corresponding findings are misleading in the circumstances of the engagement.
- We determine that restrictions on the performance of procedures are not appropriate.

An agreed-upon procedures engagement is not designed to detect instances of fraud or noncompliance with laws or regulations; however, should any such matters come to our attention, we will communicate them in accordance with professional standards and applicable law. In addition, if, in connection with this engagement, matters come to our attention that contradict subject matter as presented by the Construction Manager, we will communicate such matters to you.

The Construction Manager is responsible for the construction costs that support the ultimate contract value, and that such costs are in accordance with the contract documents between the Construction Manager and the County. In addition, you are responsible for providing us with (1) access to all information of which you or the appropriate party are aware that is relevant to the performance of the agreed-upon procedures on the subject matter, (2) additional information that we may request from the appropriate party for the purpose of performing the agreed-upon procedures, and (3) unrestricted access to persons within the entity from whom we determine it necessary to obtain evidence relating to performing those procedures.

At the conclusion of our engagement, we will require certain written representations in the form of a representation letter from you confirming, among other things, your responsibility for selecting the criteria and for determining such criteria are appropriate for your purposes. We will also request certain written representations in the form of a representation letter from the Construction Manager's management that, among other things, will confirm the Construction Manager's management's responsibility for the construction costs and final contract value in accordance with the contract documents between the Construction Manager and the Owner.

Any nonattest services provided by CRI do not constitute an audit or attest services under auditing or attestation standards generally accepted in the United States of America and such services will not be conducted in accordance with auditing or attestation standards generally accepted in the United States of America. We will perform any such services in accordance with applicable professional standards. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities. You agree to assume all management responsibilities for any nonattest services we provide; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, and/or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Matthew Incinelli is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

We plan to begin our procedures as soon as possible after being engaged and receiving all the information requested from the County and the Construction Manager. Additionally, we will need confirmation from the Construction Manager that their job cost information is complete and available. Unless unforeseen problems are encountered, we would expect the engagement to be completed with 90 days of the commencement of our procedures and the date all necessary information is received or made available. If we encounter any significant delays, we will inform you promptly.

#### **Electronic Data Communication and Storage and Use of Third Party Service Provider**

In the interest of facilitating our services to your company, we may send data over the Internet, securely store electronic data via computer software applications hosted remotely on the Internet, or allow access to data through third-party vendors' secured portals or clouds. Electronic data that is confidential to your company may be transmitted or stored using these methods. We may use third-party service providers to store or transmit this data. In using these data communication and storage methods, our firm employs measures designed to maintain data security. We use reasonable efforts to keep such communications and data access secure in accordance with our obligations under applicable laws and professional standards. We also require our third-party vendors to do the same.

You recognize and accept that we have no control over, and shall not be responsible for, the unauthorized interception or breach of any communications or data once it has been sent or has been subject to unauthorized access, notwithstanding all reasonable security measures employed by us or our third-party vendors. You consent to our use of these electronic devices and applications and submission of confidential client information to third-party service providers during this engagement.

To enhance our services to you, we will use a combination of remote access, secure file transfer, virtual private network or other collaborative, virtual workspace or other online tools or environments. Access through any combination of these tools allows for on-demand and/or real-time collaboration across geographic boundaries and time zones and allows CRI and you to share data, engagement information, knowledge, and deliverables in a protected environment. In order to use certain of these tools and in addition to execution of this acknowledgement and engagement letter, you may be required to execute a separate client acknowledgement or agreement and agree to be bound by the terms, conditions and limitations of such agreement. You agree that CRI has no responsibility for the activities of its third-party vendors supplying these tools and agree to indemnify and hold CRI harmless with respect to any and all claims arising from or related to the operation of these tools. While we may back up your files to facilitate our services, you are solely responsible for the backup of your files and records; therefore, we recommend that you also maintain your own backup files of these records. In the event you suffer a loss of any files or records due to accident, inadvertent mistake, or Act of God, copies of which you have provided to us pursuant to this agreement, we shall not be responsible or obligated to provide you a copy of any such file or record which we may retain in our possession.

#### **Dispute Resolution**

In the event of a dispute between the parties which arises out of or relates to this contract or engagement letter, the breach thereof or the services provided or to be provided hereunder, if the dispute cannot be settled through negotiation, the parties agree that before initiating litigation or other dispute resolution procedure, they will first try, in good faith, to resolve the dispute through non-binding mediation. All parties agree that an alternative form of dispute resolution shall not be undertaken by either party until the expiration of fifteen (15) calendar days following notice being provided to the other party indicating that the dispute cannot be settled through mediation. The mediation will be administered by the American Arbitration Association under its *Dispute Resolution Rules for Professional Accounting and Related Services Disputes*. The costs of any mediation proceedings shall be shared equally by all parties.

**Fees**

Based on the size and nature of the project, and other information you have supplied, we estimate our fees for these services not to exceed \$19,800, which includes travel and out of pocket expenses. Our invoices for these fees will be rendered each month as work progresses and are payable upon presentation.

If significant additional time is needed we will discuss it with you immediately and arrive at a new fee estimate before we incur additional costs. Our invoices for these fees will be rendered each month as work progresses and are payable upon presentation.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If the need for additional procedures arises, or the procedures need to be modified, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified parties of the report are added, we may require that they acknowledge in writing their agreement with the procedures performed or to be performed and their acknowledgment that the procedures are appropriate for their purposes.

Sincerely,

*Carr, Riggs & Ingram, L.L.C.*

CARR, RIGGS & INGRAM, LLC

Enclosures

Accepted by: Brazoria County, Texas

Signature: *L.M. "Matt" Sebesta, Jr.*  
L.M. "Matt" Sebesta, Jr.

Title: County Judge

Date: December 5, 2023

## EXHIBIT A

### **Brazoria County, Texas Courthouse Expansion Project Phased Task Order 5A Agreed-Upon Procedures**

1. Obtain a copy of the Construction Management Agreement (the “Agreement”), dated [DATE], between Brazoria County, Texas (the “County”) and SpawGlass Construction Corp. (the “Construction Manager”) and exhibits, attachments, and amendments to the Agreement (collectively referred to as the “contract documents”), relative to the Courthouse Expansion Project Phased Task Order 5A (the “Project”). (Note: The specific dates not yet identified throughout this Exhibit will be communicated in the agreed upon procedures report.)
2. Inquire of the County and the Construction Manager as to whether there are any disputed provisions between the two parties, relative to the contract documents, or if there are any other unresolved disputes. Inquire of the Construction Manager as to whether there are any disputes between the Construction Manager and its subcontractors.
3. Obtain from the Construction Manager, a copy of the final job cost detail, dated [DATE] (the “final job cost detail”).
4. Obtain from the Construction Manager and the County, a copy of the final payment application request issued to the County, dated [DATE] (“final pay application”).
5. Obtain from the Construction Manager a reconciliation between the final job cost detail and the final pay application.
6. From the final job cost detail, select all subcontractors with total costs listed in excess of \$50,000 (“selected subcontractors”) and perform the following:
  - a. Obtain the subcontract and related change orders, executed between the selected subcontractors and the Construction Manager. Compare the total amount recorded in the final job cost detail to the original subcontract amount plus/minus the related change orders.
  - b. Obtain the applicable labor, equipment, and material pricing estimates, vendor invoices, subcontractor markups, or other appropriate documentation (“supporting documentation”) for the subcontractor change orders in 6.a. above. Compare the change order amounts to the supporting documentation.
  - c. Obtain from the Construction Manager the final lien releases or individual payment lien releases totaling the final subcontract value submitted by the selected subcontractor to the Construction Manager. If the Construction Manager does not have the lien releases available, for those payments where the lien release is not available, obtain cancelled checks reflecting such payments made by the Construction Manager to the selected subcontractor (collectively the “payment documentation”). If the Construction Manager provides no lien releases for the selected subcontractors, obtain a check register reflecting all payments to the selected subcontractors and choose a sample (at least 20) of cancelled checks. Compare the final subcontract amount to the payment documentation.

- d. Obtain a listing of owner direct purchases (“ODP”) from the County related to each selected subcontractor. Compare the ODP amounts to the sum of the deductive ODP change orders, per the selected subcontractor.
7. Trace and agree subcontractor costs and credits included in Owner change orders and contingency usage to corresponding change orders with the subcontractor, which have been reviewed in accordance with 6. above.
8. If there are reimbursable labor charges included in the final job cost detail, from the total number of Construction Manager employee payroll transactions listed in the final job cost detail, select a sample of at least 10 Construction Manager payroll transactions. Each sampled payroll transaction will be for a specific, identified time period of the Project.
9. From the items selected in 8. above, perform the following:
  - a. Obtain copy of, or access to, the original timesheet and a payroll register for the time period of the selected transaction, showing gross pay to the employee for each employee selected.
  - b. Compare the amount listed for each sample in the final job cost detail to the items obtained in 9.a. above.
10. If the labor burden is included in reimbursable labor (if any) and is not a fixed percentage, obtain from the Construction Manager a detailed, itemized listing of the labor burden being charged to the labor in the final job cost detail, and perform the following:
  - a. Compare the labor burden rate components to the stipulations stated in the contract documents.
  - b. Obtain supporting documentation for each component of the labor burden detail obtained in 10.a. above.
  - c. Recalculate the labor burden being charged to the final job cost detail by multiplying the gross labor by the labor burden rate from 10.a. above.
11. From the final job cost detail, select all non-subcontractor vendors for which the costs exceed \$50,000 and perform the following:
  - a. For each non-subcontractor vendor selected, obtain a copy of or access to at least five of the original invoices or pricing documents reflected in the final job cost detail, and a copy of the cancelled check or other proof of payment for each item selected.
  - b. Compare the documents obtained in 11.a. to the amount recorded in the final job cost detail.
12. From the final job cost detail, select amounts for payment and performance bond costs and builder’s risk insurance (as applicable) and perform the following:
  - a. Obtain a copy of or access to the original invoices and a copy of the cancelled check or other proof of payment paid directly to a third party. Compare the documentation obtained to the amounts recorded in the final job cost detail.
13. From the final job cost detail, select amounts for general liability insurance and perform the following:
  - a. Where applicable, obtain the Construction Manager’s internal allocation for general liability insurance charges.

- b. Inspect the internal allocation method and calculation. Compare the documentation obtained in 13.a. above to the amounts recorded to the final job cost detail.
  - c. If applicable, obtain third party invoices for internal allocation amounts.
  - d. If there is a self-insured portion of the premium, inquire regarding the calculation methodology for the self-insured portion of the premium. Obtain third party invoices or documentation for the calculation of the self-insured portion of the premium. Specifically inquire if that portion of the premium is based on actuarial calculations. If so, obtain the actuarial report supporting the calculation.
  - e. If applicable, obtain supporting documentation for the allocation base, i.e. annual company-wide revenue for the Construction Manager.
  - f. If applicable, recalculate the Construction Manager's internal allocations and compare the recalculation to the amounts in the final job cost detail.
14. Inquire of the Construction Manager to determine if there are any expenditures, in the final job cost detail, to entities related by common ownership or management to the Construction Manager.
15. If there are expenditures to entities related by common ownership or management noted in 14. above, perform the following:
  - a. Report the entity and volume of the transactions to the County.
  - b. Determine if such transactions are properly authorized by the County, in accordance with the contract documents.
16. From the final job cost detail, select at least five transactions (unless internal charges total less than \$3,000) determined to be the Construction Manager's internal charges to the Project, and perform the following:
  - a. Obtain calculations for internal charge rates and vendor invoices that support the calculation of the Construction Manager's internal rates.
  - b. Compare the internal charge rates recorded in the final job cost detail to the supporting documentation obtained in 16.a. above.
17. From the final job cost detail, select at least five transactions determined to be equipment rental charges on the Project.
  - a. Obtain the vendor invoices for the selected transactions.
  - b. Inspect the vendor invoices and agree charges to the final job cost detail and to compliance with contractual requirements.
18. Inquire of the Construction Manager to determine whether they are using a subcontractor default insurance program ("subguard") for subcontractor bonding requirements. If so, perform the following:
  - a. Inspect the final job cost detail, as well as, subcontracts and change order line items for the selected subcontractors noted in 6. above, for line items described as subcontractor bond costs.
  - b. Obtain an invoice and cancelled checks for the subguard charges found in the final job cost detail, if paid to a third party.
  - c. If the charges for subguard are the result of an internal allocation, obtain the internal allocation calculations that support the amounts in the final job cost detail and compare the calculations to the amounts in the final job cost detail.

- d. If there is a self-insured portion of the premium, inquire regarding the calculation methodology for the self-insured portion of the premium. Obtain third party invoices or documentation for the calculation of the self-insured portion of the premium. Specifically inquire if that portion of the premium is based on actuarial calculations. If so, obtain the actuarial report supporting the calculation.
  - e. If internal allocation are used, recalculate the internal allocations and compare the recalculation to the charges in the final job cost detail.
  - f. Obtain written representation that the subcontractors on the Project, enrolled in subguard, have not included bond costs in their payment applications.
19. Obtain all signed and executed change orders between the County and the Construction Manager for the duration of the Project. The final change order may be in draft form and not yet executed.
20. Obtain from the County, a log of the ODPs plus sales tax savings for the entirety of the Project.
21. Compare the ODP plus sales tax savings amount per the log obtained in 20. above, to the total change order amounts obtained in 19. above relative to ODPs.
22. Recalculate the adjusted guaranteed maximum price ("GMP") as follows:
  - a. Obtain the original GMP amount, including any fixed or percentage-based Construction Manager fees or lump sums from the contract documents noted in 1. above.
  - b. Add to the original GMP amount the additive change orders and subtract the deductive change orders from 19. above to get the adjusted guaranteed maximum price ("adjusted GMP").
23. For the adjusted GMP amount recalculated in 22.b. above, perform the following:
  - a. Obtain the final contract value, per the draft final pay application, noted in 4. above.
  - b. Compare the adjusted GMP amount recalculated in 22.b. above to the final contract value noted in 23.a. above.
24. Recalculate the final construction costs as follows:
  - a. Starting with the final job cost detail, adjust for any reductions identified in the application of the above procedures (e.g. subcontractor markup differences, non-reimbursable items, repair/rework items, etc., as applicable) to reach the adjusted final job costs.
  - b. Utilizing the adjusted final job costs, add the fixed lump sum amounts to reach the final construction costs.
  - c. Compare the adjusted GMP amount recalculated in 22.b. above to the final construction costs amount from 24.b. above.
25. Obtain, from the County and/or the Construction Manager, all of the Project's contingency logs and usage documents and inspect all contingency usage forms for the County's designated representative's signature of approval.
26. Compare the ending balances in the contingency funds, per the contingency logs obtained in 25. above, to the change order amount of the funds returning to the County, as obtained in 19. above.