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# Collier County Public Schools

## Audit Report: Aubrey Rogers High School Construction

February 28, 2023

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## TRANSMITTAL LETTER

February 28, 2023

The School Board of  
Collier County Public Schools  
5775 Osceola Trail  
Naples, FL 34109

Pursuant to our executed Statement of Work agreement dated August 8, 2022, with Collier County Public Schools ("District," "CCPS") we hereby present our audit report of Aubrey Rogers High School Construction. Our report is organized in the following sections:

<b>Executive Summary</b>	This provides a high-level overview and summary of the observations noted in our audit of the construction project of Aubrey Rogers High School.
<b>Background</b>	This provides an overview of the District's facility construction process, as well as relevant background information.
<b>Objectives and Approach</b>	The audit objectives are expanded upon in this section, as well as a review of the various phases of our approach and audit procedures.
<b>Observations Matrix</b>	This section includes a description of the observations noted during our audit and recommended actions, as well as management's response including responsible party, and estimated completion date.

In connection with the performance of these services, we have not performed any management functions, made management decisions, or otherwise performed in a capacity equivalent to that of an employee of the District.

We would like to thank the staff and all those involved in assisting our firm with this audit.

Respectfully Submitted,

*RSM US LLP*

**RSM US LLP**

## EXECUTIVE SUMMARY

### Background

In 2001, Collier County Public Schools purchased 60 acres of land adjacent to Veterans Memorial Boulevard West. In 2019, planning began to build the new Aubrey Rogers High School ("ARH") at that location, with the purpose of reducing large student populations of other schools in the District. Aubrey Rogers High is intended to be a unique and state of the art academic facility. The school includes a performing arts center, sports complex, and five (5) individual learning academies focusing on career paths for post-graduation success.

The Aubrey Rogers High School construction project was initiated in 2019 with the selection of the Veterans Memorial Boulevard West site and design firm, Zyscovich Architects, through a formal request for qualifications ("RFQ") process. During this process, the District evaluates responsive bidders and selects the vendor most qualified to perform the scope of work. With assistance from the Facilities Management and Purchasing Departments, the District initiated the RFQ process to identify a Construction Manager to execute the project, with Owens-Ames-Kimbell ("OAK") ultimately selected.

The Facilities Management Department ("Facilities Management") is responsible for oversight of construction. In conjunction with OAK, Facilities Management monitors compliance with the terms of its construction agreement and guaranteed maximum price amendment, which was originally set at \$97,996,019 prior to any change order execution. An additional \$3,030,000 has been budgeted for project contingencies.

The project broke ground on November 8<sup>th</sup>, 2021 with the expected completion of the project in August 2023 for its inaugural 2023 - 2024 school year.

### Overall Summary / Highlights

Audits provide insight into an organization's culture, policies, and procedures, and aids CCPS School Board "Board" and District management oversight by verifying internal controls such as operating effectiveness, risk mitigation, and compliance with relevant laws/regulations/policies. The individuals dedicated to the facility construction function within the Facility Management Department have established a control environment appropriate to mitigate many of the risks common to construction projects. The observations detailed in the pages that follow represent only the instances where exceptions were noted, and do not detail the instances where testing resulted in no reportable observations.

### Objectives and Scope

The primary objective of this audit was to assess whether the system of internal controls over the District's construction process was adequate for promoting and encouraging the achievement of management's objectives for effective monitoring and administration. The first phase of our review included the following procedures:

- Interviews and walkthroughs with process owners in an effort to obtain an understanding of the key personnel, risks, processes, and controls relevant to the ARH construction process; and
- Development of a risk based work plan to evaluate compliance with established agreements, policies, procedures, and other regulations.

Our review included, but was not limited to the following procedures:

- Procurement - specifically, Facilities Management's involvement in contract selection type, RFP/RFQ development, bidding, review, selection, and contract execution for construction services;
- Negotiation/Contracting – negotiation process, review, and approval process for evaluating terms and conditions;
- Invoice Review – sufficiency of supporting documentation, mathematical accuracy, completeness, contractual compliance, review, and approval processes; and
- Change orders and contingency – sufficiency of supporting documentation, mathematical accuracy, contractual compliance, review and approval processes, and proper incorporation into pay applications.

Our audit period was from June 2021 through December 2022.

### Summary of Observations

Reportable Observations	2
Improvement Opportunities	1

Fieldwork was performed September 2022 to February 2023

*We would like to thank all District team members who assisted us throughout this audit.*



## EXECUTIVE SUMMARY (CONTINUED)

### Observations Summary

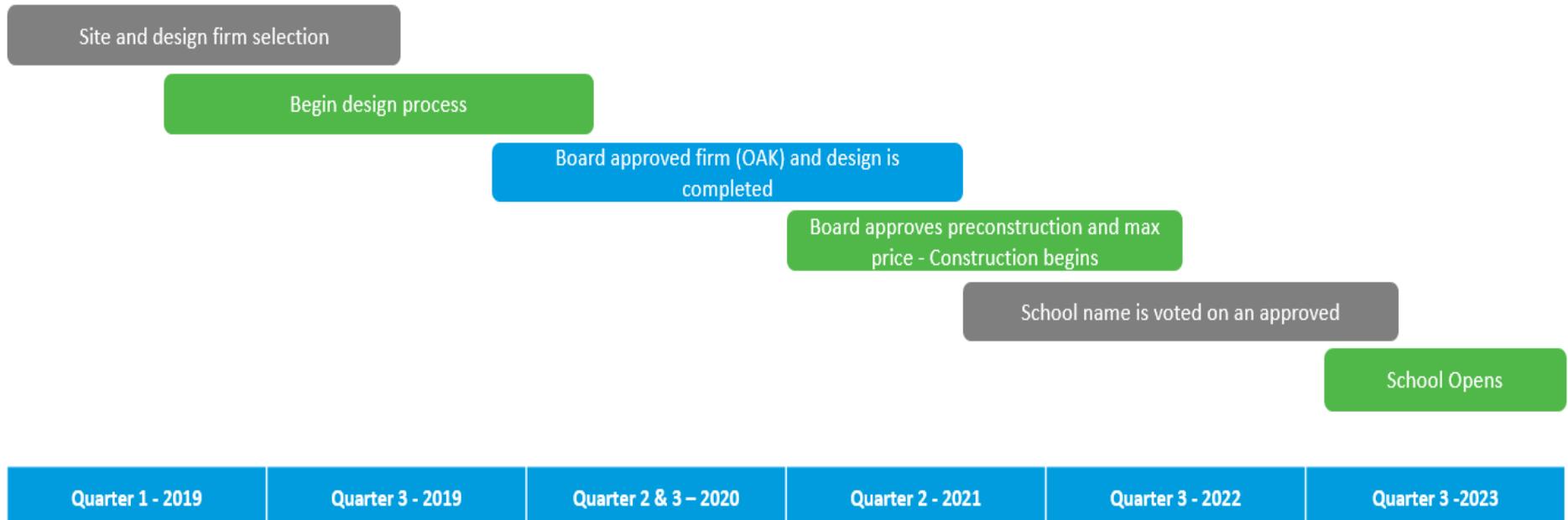
Below is a listing of the observations that were identified during this audit of the Aubrey Rogers High School construction. Detailed observations are included in the observations matrix section of the report, which include management's response. In addition, improvement opportunities have been provided following the detailed observations section.

Summary of Observations and Improvement Opportunities	
<b>Observations</b>	
1. Subcontractor Support	
2. Standard Operating Procedures	
<b>Improvement Opportunities</b>	
1. Contract Negotiation Support	

## BACKGROUND

### Overview

In 2019, Collier County Public Schools began the process of building the new Aubrey Rogers High School, representing the first new high school construction project in Collier County in 19 years. The District anticipates that the new school will have an opening enrollment of approximately 1,100 students. The graphic below shows an estimated timeline of the project.



### Construction Manager at Risk “CMAR”

The District primarily utilizes the Construction Manager at Risk (“CMAR”) contracting methodology for construction projects like ARH. In this agreement structure, the owner outsources the execution of the project to a Construction Manager, also known as the “Prime Contractor”, from start to finish. CMAR contracts are structured to compensate the Construction Manager for actual costs incurred during construction, plus a Construction Manager fee (“CM fee”). The CM fee is negotiated between the District and Construction Manager. It is included in the guaranteed maximum price (“GMP”) quoted to the District by the Construction Manager. This GMP represents the aggregate of all line item forecasted or budgeted costs required to complete the project, and it is executed as an amendment to the initial agreement between the District and selected Construction Manager. Costs in excess of each GMP line item are not permitted, such that if the project goes over budget the owner will not be responsible for payment to the Construction Manager.

For ARH, the GMP was initially set at \$97,996,019, inclusive of the agreed CM fee and contingency costs. A benefit to the CMAR delivery method is that it allows the Construction Manager to be selected by the District early in the construction design process. This allows the Construction Manager to collaborate with the owner and architecture firm and leverage their expertise in order to create an attainable design and budget. This differs from the traditional hard bid methodology of contracting which requires a design to be 100% completed prior to soliciting bids for construction work.

## BACKGROUND (CONTINUED)

### Construction Manager at Risk "CMAR" (continued)

The CMAR delivery method can be effective in reducing costs, creating efficiencies, and improving effectiveness. The benefits of utilizing a CMAR also come with certain associated risks when appropriate oversight is not established/maintained, such as overpayment or inappropriate payment to the Construction Manager for complex areas of the cost of work, including:

- Prime Contractor labor and benefit expense
- Self-performed work by the Prime Contractor and/or related parties
- General conditions and general requirement expenditure
- Overhead, profit, and fees
- Subcontractor costs

Managing and mitigating these risks requires Facilities Management to monitor the progress and CMAR invoicing throughout the duration of the project. Other primary CMAR related risks include the creation of an accurate GMP, consistent collaboration with the Construction Manager (failure of which can lead to costly changes), and maintenance of quality control throughout the project. While these risks are associated with a CMAR, the delivery method also provides greater transparency and tools to address these risks and manage the project overall. The CMAR delivery method is a best practice in construction project management.

### Procurement

Collier County Public Schools has a thorough process for securing the products and services that are required to finish each project within the required time and budget. The process begins shortly after the District identifies the need for new construction. This identification of a need initiates the process of creating a scope of work and the RFQ from potential bidders to perform the work. A public announcement for the RFQ is published for a minimum of three weeks, with the final submittal deadline at least 7 days from the last publication announcement. Currently, the District Procurement Department leverages DemandStar, a web-based notification and delivery system which automatically notifies registered vendors when competitive solicitations are released, to publish its solicitations.

Once responses to the RFQ have been received, the selection process begins. Firms must submit their RFQ within the allotted period to be eligible for review. The first phase of selection begins with the technical selection committee.

### The Technical Screening Work Group

Collier County Public Schools uses a technical screening committee to review and recommend the various firms, such as the architect, surveying, and construction management, that will be used through the construction process. This committee includes at least four members from the following group: the Executive Director of Facilities Management, Director of Project Management, District Architect, all District Project Managers, all maintenance supervisors, Director of Interagency Real Property & Regulation Coordination, Facility, and Real Property/Assets Coordinator. This group is responsible for creating a short list of all the responses to the (RFQ that were listed on DemandStar. This group must consider each vendor and decide if they are able and qualified to perform the defined scope of work. Primary factors that are included in their evaluation process include: capability and experience, proximity to site, and past project performance. Each member of the selection committee scores the firms on a 5-point scale, these individual scores are aggregated to identify the highest scoring submissions and create the short list that will be presented to the selection committee.

## BACKGROUND (CONTINUED)

### Procurement (continued)

#### Selection Committee

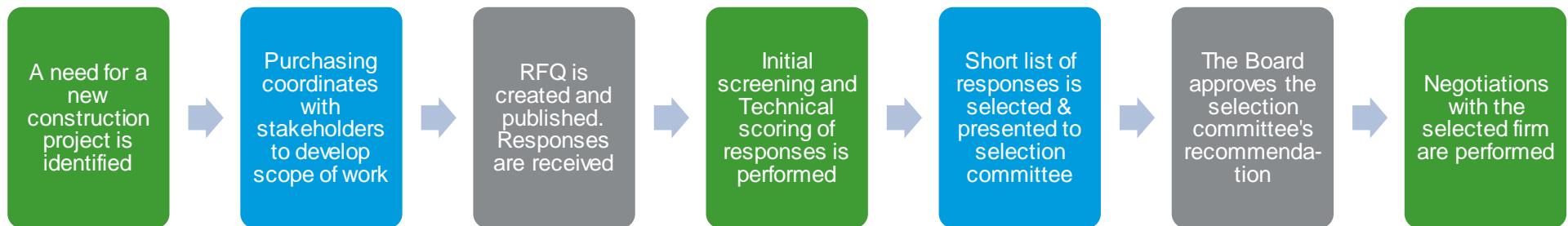
The RFQ selection committee consists of roughly 20 individuals, including Executive Director of Facilities management, Director of Purchasing, project Architect, Director of Project Management, a Project Manager, a maintenance supervisor, and five community representatives. The five community representatives are residents of the county and stakeholders in the project. This committee is responsible for reviewing each of the short list firm's presentation and deciding which is the best option to present to the Board. Their voting criteria is similar to the technical screening committee including experience, approach to project, and current and past project. The selection committee is chaired by the Executive Director of Facilities Management. Each vendor gives their oral presentation on their response to the RFQ. From there the selection committee ranks each vendor and selects one to bring to the Board. Owen-Ames-Kimball was selected as the Construction Manager in April 2020.

#### Negotiation

Once a Construction Manager is selected, they are notified of the intent to award, and the contracting process is initiated. During the contracting phase, general terms are agreed with the Construction Management firm. Subsequent to the execution of the master contract, the GMP amendment is developed. This amendment is coordinated and negotiated between Facilities Management and the Construction Manager to include both actual bids to perform work by subcontractors and budgeted costs to be incurred over the duration of the construction. The Construction Manager is responsible for procuring and tabulating subcontractor bids to complete the scope of work, and is to award the bid to the low sub-trade business with approval from Facilities Management.

The GMP amendment includes negotiated expenses including labor rates, Construction Manager fees, and insurance and bond rates. These costs are allocated into expense line items, detailed as a schedule of values. Once each line item expense has been reviewed, negotiated, and approved by Facilities Management, the GMP amendment is presented for the Board's approval.

The graphic below highlights procurement process.



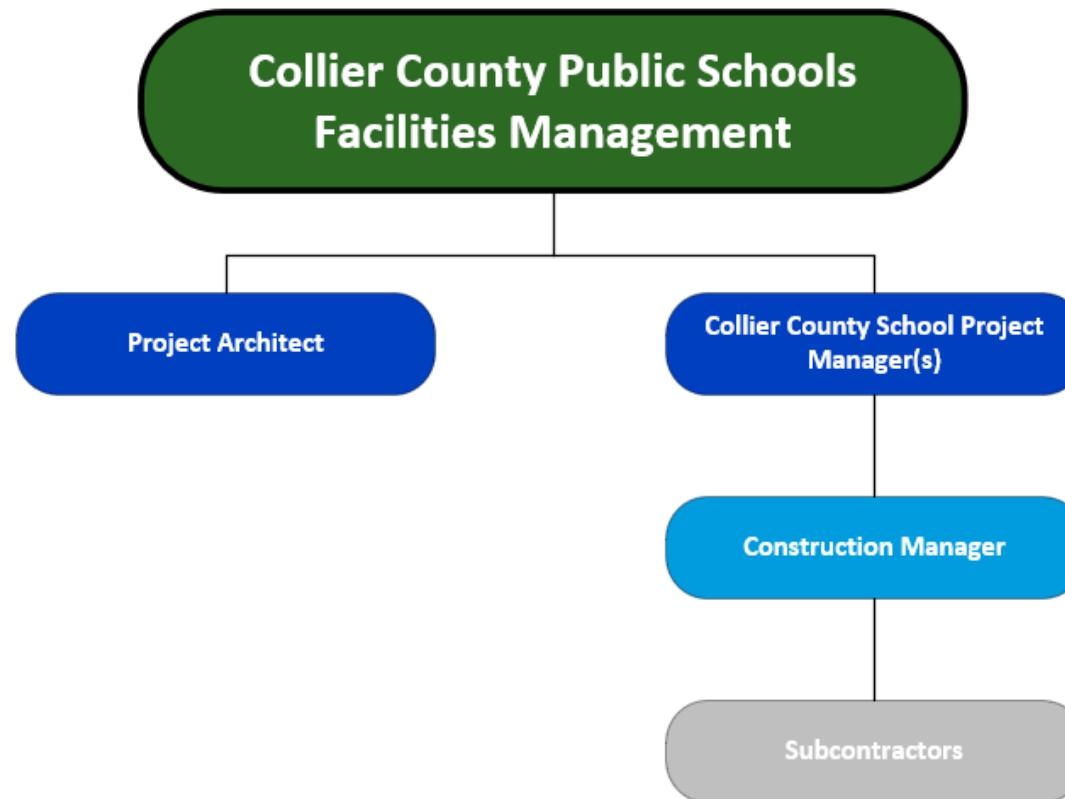
## BACKGROUND (CONTINUED)

### Vendor Performance Monitoring

Throughout the duration of the project, Facilities Management performs Vendor Performance Monitoring ("VPM"). VPM is the evaluation and monitoring of the work performed by the Construction Manager. This component of the District's role in the construction process provides comfort that each contractor is in compliance with the standards and terms described in the agreement. VPM provides Facilities Management with ongoing monitoring of project completion, quality assurance, and cost control.

### Organizational Structure

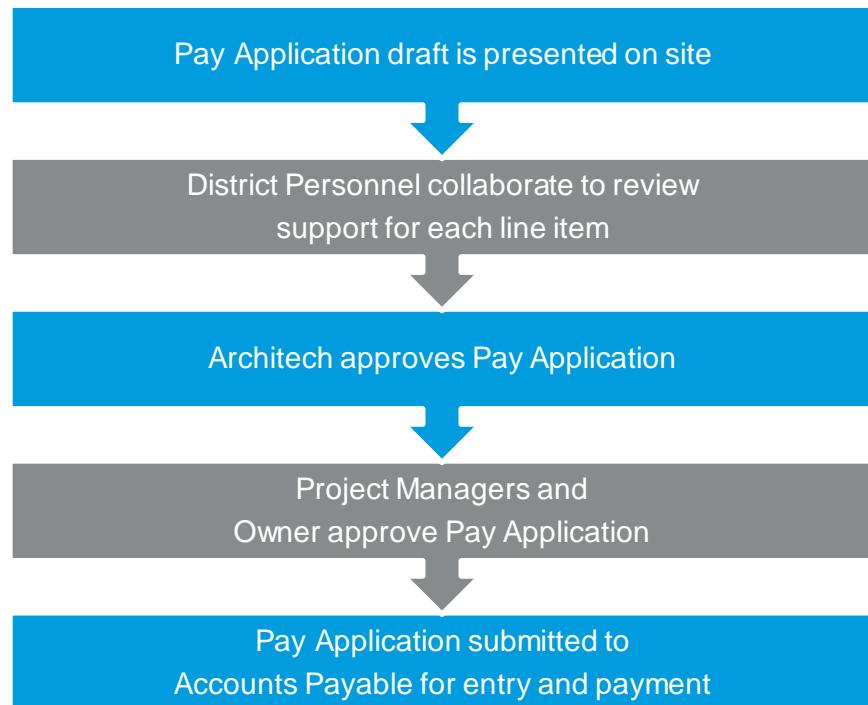
Facilities Management is responsible for administering each construction project, which it performs through a contracted architectural firm and Facilities Management Project Managers. It is the responsibility of the Project Managers to coordinate the project with the Construction Manager, who then oversees each selected subcontractor as required to complete the work.



## BACKGROUND (CONTINUED)

### Payment Applications & Invoice Review Process

Invoices received by the Construction Manager, OAK, are remitted in the form of a payment application. Pay applications are detailed to provide line item information for each cost incurred by the Construction Manager during a set period. ARH pay applications are provided to the District on a monthly basis, and are formatted using the American Institute of Architects certified pay application template to provide information regarding the cost incurred for each line item for the current period as well as all work completed to date. These expenditures track against the GMP amendment line item totals. In its submission of the pay application package to Facilities Management for review and approval for payment, OAK provides a cover sheet, schedule of values, and detailed copies of vendor invoices to support the costs claimed for the period and invoiced to the District.



All expenditures claimed in each pay application must correspond to a line item identified by the GMP amendment. Any rate invoiced to the District, including prime contractor labor rates, must agree to the rate specified within the GMP. Facilities Management coordinates with its Project Managers and the Construction Manager to review each line item and the accompanying support in the pay application. For the pay application to be approved, all expenditures must be sufficiently supported and mathematically accurate. General conditions GMP line item expenditures, consisting of items required to complete the project but are not generally tied to a specific cost item, must be supported by individual vendor invoices or receipts. Additionally, Facilities Management requires all additional pay application line item expenditures, including subcontracted work, to be similarly supported. As each pay application is submitted, it is first reviewed in draft form by the Project Manager. The figure to the left shows the process by which pay applications are reviewed and approved. The District, Zyscovich Architects, and the Construction Manager collaboratively review and agree each pay application item timely. To keep the project within budget, reviewers evaluate each item's use and the reasonableness cost.

After pay applications are approved, both primary and subcontractor lien releases are received in a separate support package. A lien is a legal obligation that is connected to a property, in this case it is the owner's obligation to pay for the contractor and subcontractor's work. The contractors use the lien as way to ensure they will be paid for their time and materials. Lien releases document that all the payment requirements have been fulfilled and the contractor no longer has a lien on the property.

### Change Order Process

Change orders are the process by which changes to the budgeted expenditure for the construction process can be amended. As described in the District Policy Manual, there are certain responsibilities, authorizations, and approvals that required to perform change orders. The Superintendent has the authority to approve any change order that is 10% of the guaranteed maximum price or \$50,000, whichever is less, each of the Superintendent's approvals must be documented and submitted to the Board. Any change order in excess of \$50,000 requires Board approval. The total of the change orders for a project may not exceed more than 5% of the contracted amount or \$250,000 whichever is less without additional Board approval. Currently the District has only performed deductive change orders for the ARH construction project, which means there has been a reduction of a cost such as direct material, each of these change orders are approved by the District, Zyscovich Architects, and the Construction Manager.

## OBJECTIVES AND APPROACH

### Objectives

The primary objective was to assess whether the system of internal controls over the District's construction process was adequate for promoting and encouraging the achievement of management's objectives for effective monitoring and administration. Our audit period was from June 2021 through December 2022.

### Approach

Our approach consisted of the following phases:

#### Understanding and Documentation of the Process

The first phase consisted of inquiry and review of policies, procedures and Florida Statute, in an effort to obtain an understanding of the key personnel, risks, processes, and controls relevant to the objective outlined above. The following procedures were conducted as part of this phase:

- Conducted interviews and walkthroughs with key personnel to obtain a detailed understanding of the District's operating policies and procedures, monitoring functions, contractual arrangements and roles/responsibilities as they relate to the processes within our scope; and
- Developed a work plan for the evaluation of the operating effectiveness of processes and controls, based on the information obtained through our review, inquiry, and walkthrough procedures.

#### Evaluation of the Design and Effectiveness of Process and Controls

The purpose of this phase was to evaluate the design of key process and controls and test compliance and internal controls for operating effectiveness based on our understanding of the processes obtained during the first phase. We utilized sampling and other auditing techniques to meet our audit objectives outlined above. Our testing procedures included, but were not limited to:

- Evaluated the design of key processes and controls identified in the previous phase through industry benchmarking, best practices and comparable client experience;
- Evaluated key source documentation including contracts, invoices, change orders, and monitoring procedures specific to Aubrey Rogers High School;
- Evaluated the key processes and involvement of Facilities Management in contract selection type, RFP/RFQ development, bidding, review, selection, and contract execution for construction services;
- Evaluated adherence to competitive solicitation policies and procedures, as well as Florida Statute;
- Evaluated the documentation of the negotiation process, including review and approval process for evaluating terms and conditions;
- Verified the sufficiency of supporting documentation, mathematical accuracy, contractual compliance, review, and approval process(es) through detailed testing and re-calculation of lien releases and pay application invoice support;
- Evaluated the completeness of pay application labor expense through reconciliation of labor support; and
- Evaluated the sufficiency of supporting documentation related to change orders and contingency usage, including the mathematical accuracy, contractual compliance, documentation of the review and approval process(es), and incorporation into pay applications.

### Reporting

At the conclusion of this audit, we summarized our findings into this report. We have reviewed the results with the appropriate Management personnel and have incorporated Management's response into this report.

## OBSERVATIONS MATRIX

Observation	1. Subcontractor Support
	<p>In discussions with Facilities Management leadership, we noted that although subcontract bidding documents are collected for document retention purposes, subcontract bid evaluations are not typically conducted by Facilities Management.</p> <p>The construction agreement requires the Construction Manager to facilitate the competitive bidding of subcontracts and compilation of recommendations to Facilities Management regarding which subcontracts the CM intends to award. The agreement further provides the opportunity for Facilities Management to review and approve the CM's selections.</p> <p><i>§2.3.2.1 "Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager...The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment...The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted."</i></p> <p>A review performed by Facilities Management is necessary to validate that a competitive process was followed by the CM, and that the CM awards subcontracts that provide Facilities Management with an advantageous balance of quality and cost.</p> <p>In our testing we noted that 6 of 36 bids awarded by the CM to subcontractors were awarded to the non-low bidder. While various rationales may offer acceptable explanation for award to a non-low bidder, the circumstances specific to the instances noted in our testing were not documented. Upon inquiry, Facilities Management leadership deferred to the Construction Manager's review process.</p> <p>Without conducting a robust review of subcontract bids, the District is at increased risk of inefficient or excess expenditures.</p>
Recommendation	We recommend Facilities Management establish documented procedures to review subcontract bid selections by the Construction Manager, and document all applicable rationale when selecting a bid other than lowest responsive bidder.
Management's Action Plan	<p><b>Response:</b> Facilities Management will work with our legal department to amend the AIA Document A133 (Standard Form of Agreement Between Owner and Construction Manager as Contractor) Section 2.3.2.2 to include language that will require Construction Management firms to provide written rationale for not selecting the lowest bidder.</p> <p><b>Responsible Party:</b> Chief Facilities Officer, Facilities Management</p> <p><b>Estimated Completion Date:</b> June 2, 2023</p>

## OBSERVATIONS MATRIX (CONTINUED)

Observation	2. Standard Operating Procedures
	<p>Per District Policy, Facilities Management is responsible for facilitating construction modifications to new or existing District buildings/grounds. Through our review, we noted that limited standard operating procedures exist to describe processes managed in the performance of these responsibilities. During our review of documented procedures, we noted that the current standard operating procedures do not define the following:</p> <ul style="list-style-type: none"><li>• Contract negotiation procedures</li><li>• Process for project close out</li><li>• Roles and responsibilities for payment application review, including timeliness considerations and documentation procedures</li><li>• Subcontractor selection review and approval</li><li>• Labor expense reconciliation procedures</li></ul> <p>Functional SOPs identify the procedures through which the District policies are facilitated. Having complete and detailed procedures provide for consistency in the performance of each process by defining all roles and responsibilities. This consistency further benefits new employees by providing reference materials detailing procedures and expectations.</p>
Recommendation	We recommend that Facilities Management supplement existing operating procedures to include all relevant roles and responsibilities performed. All relevant processes and process owners should be contained within the formalized procedures and define in detail how core functions are performed for Facility Management programs. Best practices require periodic evaluation, at least annually, to update corresponding documentation.
Management's Action Plan	<p><b>Response:</b> Facilities Management staff will review the Department's Standard Operating Procedures (SOP) and verify the above procedures exist. If they do not exist, they will be incorporated in the Department's SOP.</p> <p><b>Responsible Party:</b> Chief Facilities Officer, Facilities Management</p> <p><b>Estimated Completion Date:</b> June 2, 2023</p>

## PROCESS IMPROVEMENT OPPORTUNITIES

### 1. Contract Negotiation Support

We noted during discussion with Facilities Management that the District has a history of obtaining favorable rates with Construction Managers because of the expertise of the Project Manager team and their experience in conducting negotiations. Rates negotiated may include, but not be limited to the following:

- CM fees
- Equipment rental rates
- Contractor-owned equipment rates
- Bond (if not at actual cost)
- Insurance (if not at actual cost)
- Labor and burden rates

The negotiation process and knowledge of reasonable rates is primarily reliant on experience and institutional knowledge of District's personnel, rather than documented historical rates, averages, negotiation approaches, etc. As a result, when there is staff turnover, the District is at risk of losing this wealth of information and institutional knowledge.

We recommend Facilities Management consider developing a logbook of historical rates negotiated with Construction Managers for use in future negotiations.



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