

**Animal Services Center Construction Contract Audit  
March 2009**

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# Animal Services Center Construction Contract Audit



Office of the City Auditor  
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City Auditor

Project # 08-09

March 6, 2009

## ***Executive Summary***

*The project was properly advertised*

*The construction contract appeared to be properly bid and awarded*

*Construction Management and Community Service's administrative project oversight appeared adequate*

*Vendor payments were properly reviewed and approved prior to payment*

*Funding sources were adequate*

## ***Opportunities for Improvement***

- *Document retention*
- *Conflict of Interest disclosure*

As part of the Fiscal Year 2008 Annual Audit Plan, the City Auditor's Office conducted an audit of the contract for construction of the Animal Services Center. The audit was conducted in accordance with generally accepted government auditing standards. 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. The objectives of the audit were to determine whether:

- The architect was selected based on qualifications and expertise
- The project was advertised according to the Local Government Code and City policy
- The construction contract was properly bid and awarded according to the Local Government Code and City policy
- Management's contract administrative oversight was adequate
- Vendor payments were proper
- Funding sources were adequate

The City Auditor's Office noted that this project appeared properly administered throughout the entire construction process. However, the City Auditor's Office did note the following:

- Adequate documentation relating to the selection of the architect could not be located
- Conflict of Interest Questionnaire was not included in the bid package

The findings and recommendations are discussed in the Detailed Audit Findings section of this report.

## ***Audit Scope and Methodology***

Documentation, correspondence and transactions from February 1, 2003 through October 27, 2008 were included in the scope of this audit. However, in determining if the architect was selected based on qualifications and expertise, some of the proposals and the evaluation of those proposals could not be located. The City Auditor's Office was, therefore, not able to evaluate the City's selection of the architect.

The audit was conducted in accordance with generally accepted government auditing standards. The following methodology was used in completing the audit:

- Interviewed Construction Management and Community Services administrative personnel to gain an understanding of the various processes associated with this construction project
- Gained an understanding of the City of Arlington's purchasing policies and the Local Government Code, as they relate to advertising requirements, acceptance and evaluation of bids, and award of the construction contract
- Reviewed documentation related to architectural companies that submitted proposals. The administrative evaluation of those proposals could not be reviewed since documentation supporting the selection was not available.
- Reviewed advertising for the project
- Reviewed the bid and evaluation processes for the construction contract in the determination of the "best value bidder"
- Reviewed documentation of management's administrative oversight of the contract
- Reviewed payments to the architect and construction contractor
- Determined the various funding sources for this project

## ***Background***

On February 1, 2003, the citizens of Arlington voted to approve the issuance of \$2,665,000 in general obligation bonds to renovate the current Animal Services Center on West Pioneer Parkway. Shelter Planners of America conducted a needs assessment study and recommended that a new 15,000 square foot facility be built instead of renovating the old facility. City Council authorized staff to conduct a campaign to try to raise an additional \$200,000 in private funds by December 31, 2004. This campaign was very successful, exceeding the amount required.

On June 28, 2005, the City Council signed a resolution authorizing the execution of an agreement with LBL Architects, Inc. in the amount of \$452,000 to plan, design and observe the construction of a new Animal Services Center. In consultation with Jackson & Ryan Architects, an Animal Services Center design specialist from Houston, Texas, it was determined that the new facility needed to be a minimum of 26,650 square feet in order to meet the goals and mission of the Animal Services Division. However, due to funding constraints, plans for a smaller facility were developed. Therefore, on January 23, 2007, the City Council authorized an amendment to the original resolution. From the original design, the amendment authorized a

larger building – increasing the square footage from 15,000 to 19,950 and increasing the architect's contract to \$540,250.

Subsequently, on February 13, 2007, the City Council signed a resolution authorizing the execution of an agreement with Steele & Freeman, Inc. in the amount of \$5,078,700 to construct the Animal Services Center which would be located at 1000 S. E. Green Oaks Boulevard.

During the architect selection phase of this project, Construction Management reported to the Support Services Department and was not involved in the process. The Community Services Department was in control. However, in February 2006, prior to awarding the construction contract, an organizational realignment moved Construction Management to the Public Works and Transportation Department at which time Construction Management became responsible for the construction phase of the project. Prior to awarding the construction contract, the person in the position of Construction Manager changed twice.

There were four change orders related to the construction of the Animal Services Center, as described below.

- On July 31, 2007, prior to beginning construction, LBL Architects issued value engineering Change Order #1 in the amount of \$269,135. The change order was a reduction of the original contract amount, due to the elimination of specific items and changing to a less expensive, but equal, quality material.
- Change Order #2, dated February 11, 2008, increased the contract time by 58 days due to weather delays.
- Change Order #3, dated December 10, 2008, increased the number of construction days by 246 and increased the contract amount by \$152,701. The increased expense was due to additional work that was not included in the original contract specifications and due to reinstating some of the value engineering items that were eliminated in Change Order #1. The time was increased mainly to complete this additional work. Three days were due to inclement weather.
- Change Order #4, dated October 16, 2008 increased the contract time by 35 days. Most of these days (32) were added to provide time to install City equipment. The remaining days were due to inclement weather.

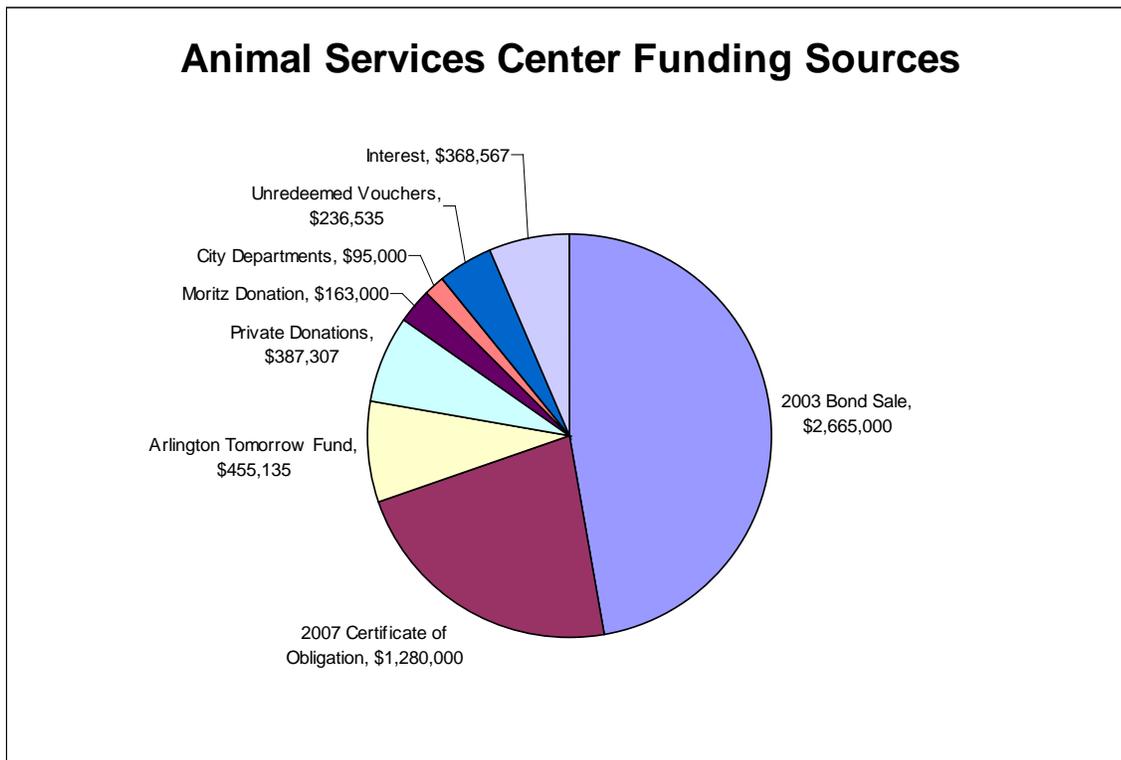
The total amount of the change orders increased the construction time by 339 days and decreased the contractor's original price by \$116,434. The change orders were prepared and executed by LBL Architects, Inc., but were also reviewed, approved, and executed by Steele & Freeman, Inc. and City of Arlington Construction Management personnel.

On September 16, 2008, the City Council approved the execution of a contract with Reliable Paving, Inc. for an amount not to exceed \$47,000. This additional contract was to construct an extension of Betsy Burson Road to provide a drive entrance to the southwest side of the Animal Services Center. Betsy Burson Road is located between the Southeast Branch Library and the

new Animal Services Center. Even though this additional work was performed as a separate contract, payment was made from the Animal Services Center’s contingency account and did not affect the final cost of the project.

The total contract price for the architect and contractor was \$5,618,950. However, including the change orders and additional information technology needs, the total expenditure for the project was estimated to be \$5,542,315.

The funding for this project totaled \$5,650,544 and came from various sources which are illustrated by the following pie chart.



Source: Community Services Department

**Unredeemed vouchers** – Customers who adopt pets receive a voucher for discounted spay/neuter service. Funds from unredeemed vouchers were approved for use on the Animal Services construction project.

**City Departments** – The Community Development & Planning Department donated \$60,000 to replace trees that were taken out when clearing the lot. The Parks and Recreation Department donated \$35,000 because the Tails ‘N Trails Dog Park shares the driveway and parking lot with the Animal Services Center.

**Private Donations** – Funds were raised through the “Paws 2005” campaign, donations through water utility bills, and other private donations.

Construction crews began working on-site in April 2007. Several photos were taken when the audit was first assigned and additional photos were taken during the audit fieldwork. Below are some photos that show the construction progress.



*Animal Services Center, from the north  
February 28, 2008*



*Animal Services Center, from the west  
February 28, 2008*



*Animal Services Center, from the north  
April 24, 2008*



*Animal Services Center, from the inside  
April 24, 2008*

Several photos were taken of the old facility as well as the new facility. There were also discussions with Animal Services management comparing the old facility with the new facility. Some of the comparisons are noted below and in the following pages.

Old Animal Services Center



*There were usually three employees working at this counter. With three customers present, the lobby was very crowded.*

New Animal Services Center



*There is adequate room for three employees behind the counter and for more customers in the lobby.*



*The Conference Room only accommodated about 14 people comfortably. It was used strictly for staff meetings.*



*The Conference Room has the capacity for about 50 people and will be used for public meetings, as well as staff meetings.*

Old Animal Services Center



*This room was used for taking care of animal medical needs.*

New Animal Services Center



*The surgical room has two operating tables. Another adjoining room is used to prepare animals for surgery.*



*The dog kennels were 21 years old. There was very little natural light, not much walk space for customers, and there were numerous places in the walls where the concrete was deteriorating.*



*Kennel areas have wide walkways for easy access to animals. Windows and skylights provide plenty of natural light for the staff and animals.*

Old Animal Services Center



*There was one outdoor play pen where customers could interact with adoptable animals. Only one animal was allowed in this area at a time.*



*There was one desktop computer that was shared by all field officers when at the Animal Services Center.*

New Animal Services Center



*There are four outdoor play pens for customers to interact with adoptable animals. There are also four indoor meet-and-greet rooms available.*



*Field officers are equipped with laptop computers. There are four workstations at the Animal Services Center with network and Wi-Fi connectivity.*

Some of the expected benefits associated with the new Animal Services Center are listed below.

- High traffic location and good visibility next to the Southeast Branch Library and the Tails 'N Trails Dog Park
- Plans for shared activities with the Southeast Branch Library and Fish Creek Linear Park, to help get citizens more involved
- Wellness Clinic with a full-time veterinarian on staff
- Large conference room that will accommodate about 50 people comfortably and will be open to the public for meetings
- Adoption Mall where animals can be viewed through glass windows
- Four indoor meet-and-greet rooms used to get acquainted with adoptable animals
- Four outdoor fenced play areas used to get acquainted with adoptable animals
- Separate air handling systems in the kennel area which should reduce airborne diseases
- Exotic animal room
- “Green” design elements such as drought resistant landscaping for water conservation. Utilizes roof and wall insulation, double-paned, tinted, and low-emissivity glass and natural light (skylights) and window and entrance canopies for energy efficiency
- A single building containing all programs as opposed to the old Animal Services Center which was comprised of five separate buildings
- The new Animal Services Center has 19,950 square feet; whereas, the old Animal Services Center had only 13,654 square feet
- The number of canine kennels was increased from 114 to 143. Dog condos will house several puppies or highlight a pet of the week
- The number of feline cages was increased from 118 to 139. Cat condos will house several cats at one time
- While at the Animal Services Center, each animal control officer will have a laptop computer with network and Wi-Fi connectivity instead of all sharing one desktop computer
- Animals are kept inside the building, controlling theft which was reported as a problem at the old Animal Services Center
- Animals that are ready to be adopted are housed separately (in the adoption mall) from those that are not yet ready for adoption
- With a veterinarian on staff, adoptable animals will be spayed or neutered and will be current on shots prior to being adopted

## *Audit Results*

During the review of the Animal Services Center construction project, the City Auditor's Office reviewed several different areas within the process. Those areas included the bid and award process, management's contract administration and vendor payments. With regard to these items, the following results were identified.

- The project was properly advertised according to Section 252.041 of the Local Government Code. This statute requires that for competitive sealed bids, notice of the time and place of the public bid opening must be published for two consecutive weeks in a local newspaper, with the first publication being before the fourteenth day prior to the opening date. The City's opening date was set for December 13, 2006. The advertisement was publicized in the Fort Worth Star Telegram on November 15, 2006 and November 22, 2006, which is in compliance with the above stated chapter.
- The award process was in compliance with Section 252.043 of the Local Government Code. There were 10 companies that submitted a bid on this project. Nine of the ten companies that submitted bids attended the bid opening. As the bids were opened, the bidder name, base bid, time days and bid alternatives were entered onto a spreadsheet. The three lowest bids were then evaluated by a group of six individuals. This group consisted of employees from Construction Management, Community Services and LBL Architects. In determining the "best value bidder", the group evaluated the bid amount, contract time, key company personnel, company references, company stability, claims against the company and local subcontractors used by the company. Based on the Bidders Qualifications Questionnaire, the evaluations showed that the "best value bidder" was offered the contract. However, the subsequent withdrawal of that company's proposal resulted in the second ranked company receiving the contract.
- The City Auditor's Office reviewed management's oversight of the project. During this project, Construction Management personnel were on-site each day and completed daily field reports in which they documented their daily observations and any action required. In addition, the construction superintendent completed daily activity reports showing who was on-site and what activity was being performed. Copies of these reports were given to Construction Management.

Each Thursday morning, there was a weekly on-site construction meeting. The meeting was attended by personnel from Community Services, Construction Management, LBL Architects and Steele & Freeman, Inc. The meeting consisted of discussions of what was accomplished the previous week and what was planned for the coming week. The group discussed pay applications and any requests for information.

Construction Management also retained records regarding inspections performed by outside companies. Outside inspectors were used for inspecting pier drilling, concrete pours, reinforcing steel, moisture/density tests and compaction tests. Steel columns, beams, and brackets were also inspected by another outside company. The documentation showed what was inspected and the results of the inspection.

The qualifications of the employees responsible for the oversight of this project were also determined to be adequate. Resumes obtained for each employee involved in this project showed extensive experience within the construction field.

- A review of payments to the contractor and to the architect showed that each was accurate and properly approved. From the initial payment through October 27, 2008, documentation showed that payments to LBL Architects and Steele & Freeman, Inc. were reviewed and approved by the Construction Manager and by the Community Services Department Director. Each of these payments was traced to the Lawson accounting system, without exception. Community Services personnel tracked the expenditures throughout the construction process.

## *Detailed Audit Findings*

### **1. Documentation relating to the selection of the architect was not retained.**

When selecting an architectural firm for a project, it is important that the company be highly qualified and has expertise in a particular area. An Invitation for Proposal was distributed to solicit responses from the most qualified company for this project. While trying to determine if the architect for this project was selected based on their qualifications and expertise, the City Auditor's Office was not able to review proposal and evaluation documentation.

Eleven architectural companies were invited to submit a proposal. Only three of these proposals were located during this audit. Each of the companies should have been evaluated by knowledgeable personnel to determine which company would be the best fit for this project. An evaluation template was located, but no completed evaluations were located for the individual companies.

Several administrative personnel were employed after the architect was selected. During the architect selection phase, Community Services was in control of the process, but was not able to locate the information. If documentation which verifies the reason a particular company was selected for a project is not retained, a dispute could arise with the other companies that submitted a proposal. The Public Works and Transportation Department is now responsible for construction projects, including the retention of documentation supporting the selection of vendors.

#### ***Recommendation:***

In future construction projects, the Public Works Director should ensure that the Construction Manager retains adequate documentation to support steps taken in selecting vendors for City projects.

#### ***Management's Response:***

*Concur. Adequate procedures have been in place since August 2007 to ensure adequate documentation regarding vendor selection is maintained.*

*Target Date: Complete*  
*Responsibility: Director of Public Works and Transportation*

### **2. Conflict of Interest disclosure was not included in the bid package.**

Officers and employees of the City of Arlington have a responsibility to manage the affairs of the City in an honest and prudent manner and make decisions with due care and judgment. On the other hand, companies that request to do business with the City should disclose any relationships that could hinder his/her judgment.

According to Section 176.006 of the Local Government Code, a person who contracts or seeks to contract for the sale or purchase of property, goods, or services with a local governmental entity shall file a completed Conflict of Interest Questionnaire no later than the seventh business day

after the date the person begins contract negotiations with the City or submits a bid, response to a Request for Proposal or other written correspondence related to a potential agreement with the City. In addition, the Texas Ethics Commission adopted a questionnaire which required disclosure of a person's existing affiliations or business relationships that might cause a conflict of interest with the local government entity. This regulation indicates that disclosure is only required if an affiliation or relationship exists that might cause a conflict of interest with the City. The contracts entered into with LBL Architects and Steele & Freeman, Inc. were subject to this regulation. However, no Conflict of Interest Questionnaire was included in the bid package.

Each construction project includes a project manual that is provided by Construction Management to contractors. The project manual contains an Affidavit Against Prohibited Acts which refers to Sections 36.02, 36.08, 36.09 and 36.10 of the Texas Penal Code. These sections relate to bribery and gifts to public servants; however, do not mention conflicts of interest disclosure.

Chapter 176 of the Local Government Code, as amended, made it clear that disclosure of a conflict of interest was required if a vendor had a previous business relationship with a Council member or an employee who makes recommendations to the City Council. During the City Auditor's Office's review of the bid documents, no Conflict of Interest Questionnaire was included. If a Conflict of Interest Questionnaire was included in the bid package, compliance with the regulations could be more consistent.

The City Auditor's Office noted that the Purchasing Division requires that companies submitting bids for goods and services complete a Conflict of Interest Questionnaire as required by Chapter 176 of the Local Government Code. However, with regard to construction projects, the Construction Management Division does not have procedures to ensure that a Conflict of Interest Questionnaire is completed, when required. Therefore, consistent application of the Local Government Code is not being applied within the City of Arlington.

***Recommendation:***

To avoid unnecessary scrutiny by government authorities or members of the public and to ensure compliance with applicable law, the Public Works Director should ensure that the Construction Manager includes a Conflict of Interest Questionnaire as a standard form within the bid/proposal documents.

***Management's Response:***

*Concur. A Conflict of Interest Disclosure Statement has been added to the standard contract (bid/proposal) documents, and standard operating procedures have been modified to ensure architects doing work for the City include that statement when preparing bid/proposal documents on behalf of the City.*

*Target Date: Complete*  
*Responsibility: Director of Public Works and Transportation*