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Inspector General

OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY



Inspector General
Accredited

“Enhancing Public Trust in Government”

Audit Report

2019-A-0002

**Village of Tequesta
Sidewalks Rehabilitation and
Construction Contract**

November 19, 2018



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AUDIT REPORT 2019-A-0002

DATE ISSUED: NOVEMBER 19, 2018



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VILLAGE OF TEQUESTA – SIDEWALKS REHABILITATION AND CONSTRUCTION CONTRACT

SUMMARY

WHAT WE DID

The Palm Beach County Office of Inspector General (OIG) audited the Village of Tequesta's (Village) Sidewalks Rehabilitation and Construction Contract (Contract) as a result of a complaint received on April 11, 2018. Based on the allegations, we initiated an audit of the Contract, including the procurement to payment process, inspection process, and permit process.

The OIG framed the complainant's allegations as follows:

Allegation (1): The Village improperly used funds from the Stormwater Utility Fund to pay for Public Works projects that were not related to Stormwater Utility projects and not approved by the Village Council;

Allegation (2): R&D Paving, LLC (Contractor) billed the Village for services not included in the Contract;

Allegation (3): The Contractor performed work without a permit from the Village Building Department; and

Allegation (4): The Village did not complete required inspections for work performed by the Contractor.

Our audit (1) addressed the complainant's allegations; (2) determined whether controls were adequate related to the contract procurement to payment process, permit process, and inspection process; and (3) assessed the reliability, accuracy, and authorization of work completed and payment thereof. We reviewed the Village's procurement of the Contract; inspection and permitting processes; relevant documents, including invoices, permits, inspection records, correspondence, and information relating to the Contract; and related activities and transactions.

The complainant asserted that Village officials and staff are corrupt. We did not find any indicators of public corruption related to this audit.

WHAT WE FOUND

In relation to the Complainant's concerns, we found:

Allegation (1) is not supported: See Finding #1 for further details. The funds used for the project were approved by the Village Council in the annual budget line items for expenditures. The monies expended were properly approved and expended from the proper fund.

Allegation (2), Allegation (3), and Allegation (4) are supported. See Findings 2 - 4 for details.

Contract / Invoices

The majority of the expenditures (83%) for projects the Contractor completed were not clearly defined within the scope of the Contract.

As a result, we identified **\$368,171.50** as questioned costs¹ and **\$3,803.88** as identified costs.²

Additionally, if the Village negotiates a lower rate for the removal of asphalt that is less expensive than the rate of removal of concrete, then the Village could potentially save future costs.

The complainant also asserted that the Contractor billed the Village for more square footage of concrete, in depth, than it removed and replaced. We reviewed various projects for the depth of the concrete and found that the concrete depth complied with the Contract requirements.

Permits

The Village did not issue permits for six (6) of 12 projects (50%) under the Contract prior to the commencement of work. The

total amount expended for work without a permit prior to the commencement of the work is \$122,497.75. The total questioned cost is **\$24,753.75**.³ As a result of our discussions with the Village during the audit, the Village revoked all prior issued permits and issued a master permit for the Contract on September 7, 2018.

At the time of the audit, the Village had not collected **\$4,909.15** in permit fees that should have been collected, which is considered an identified cost. The amount not collected was recouped by the Village during the audit. We characterize the Village's collection of past due permits fees based on the audit discussions as corrective action. We reviewed the corrective action, and it was miscalculated causing **\$108.71** of permit fees not to be billed or collected, which is considered an identified cost.

Inspections

The Village's Building Official had not conducted final inspections for nine (9) of 12 projects (75%) prior to final payment. Additionally, the Village paid the Contractor for one project prior to the final inspection. The total amount of work paid for without a final inspection prior to payment is \$320,669.75. As a result, we the total questioned cost is **\$27,490.50**.⁴

¹ Questioned costs are costs or financial obligations that are questioned by the OIG because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, other agreement, policies and procedures, or document governing the expenditure of funds; a finding that, at the time of the OIG activity, such cost or financial obligation is not supported by adequate documentation; or, a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable. As such, not all questioned costs are indicative of potential fraud or waste.

² Identified costs are costs that have been identified as dollars that have the potential of being returned to the entity to offset the taxpayers' burden.

³ The total of \$97,744 was already accounted for with \$80,120.00 in Finding 2 Contract / Invoices, and \$17,624.00 in Finding 6; therefore, it is not included in this Finding to avoid duplication of questioned costs.

⁴ The total of \$293,179.25 was already questioned with \$250,801.50 in Finding 2 Contract / Invoices, \$24,753.75 in Finding 3 Permits, and \$17,624.00 in Finding 6 Purchase Orders; therefore, it is not included in this Finding to avoid duplication of questioned costs.

Prompt Payment Act Violation

The Village did not pay invoices for construction services within 20 business days after the invoice was received, as required by the Florida Prompt Payment Act. The Village paid four (4) of 21 construction service invoices (19%) within 31-34 business days of receipt. This caused potential interest charges of **\$161** to accrue, which is considered a questioned cost because the Contractor may be owed payment.

If the Village pays future invoices in accordance with the Prompt Payment Act, the Village can avoid **\$322**⁵ in future interest payments, which are considered avoidable costs.⁶

Purchase Order

The Village's Resolution 29-17, Purchasing Policy requires purchase orders be issued for all contract expenditures. The Village did not issue purchase orders for 10 of 21 invoices (47.6%) totaling \$36,570.63, which resulted in **\$23,842.75**⁷ in questioned costs.

Our audit identified **\$444,419.50** in questioned costs, **\$8,821.74** in identified costs, and **\$322** in avoidable costs.

WHAT WE RECOMMEND

Our report contains eight (8) findings and offers twenty-one (21) recommendations. Implementation of the recommendations will (1) assist the Village in strengthening internal controls, (2) potentially save **\$322** in future avoidable costs, and (3) facilitate compliance with the Contract, Village policies, internal processes, and statutory requirements.

The Village is taking corrective actions to implement the recommendations.

We have included the Village's management response as Attachment 1

While the Village did not follow its policies and/or the Contract requirements in administering the Sidewalk Rehabilitation and Construction services contract, the Village did properly follow its procurement process in soliciting the Contract.

⁵ \$161 interest amount * 2 years = \$322 future avoidable costs. This is based on the current construction service invoices paid late. The calculation is based on the 2 years remaining on the contract.

⁶ Avoidable costs are costs an entity will not have to incur, lost funds, and/or an anticipated increase in revenue following the issuance of an OIG report.

⁷ The total of \$12,727.88 was already accounted for in Finding 2 Contract / Invoices; therefore, it is not included in this Finding to avoid duplication of questioned costs.

BACKGROUND



The Village was incorporated on June 4, 1957, pursuant to Special Act 57-1915, Laws of Florida. The Village adopted a Council-Manager form of government and has five (5) council members that serve two-year terms. Each year during the Reorganization Meeting following the annual election, the Council appoints one of its members to serve as Mayor and another member to serve as Vice-Mayor. The Mayor and Vice-Mayor serve at the pleasure of the Council for one (1) year and/or until a successor is appointed and qualified. The Village Council appoints the Village Manager, who is responsible for managing all public business and the administration of the Village. The Village provides a full range of services, including police and fire protection, building inspections, licenses and permits, the construction and maintenance of streets and other infrastructure, recreational and cultural activities, water services, storm water operations, and contracts for residential refuse and recycling services.

The Village is located in Northern Palm Beach County, Florida and is approximately two (2) square miles. The Village had approximately 5,731 residents in FY 2017.

The OIG FY 2018 Annual Audit Plan had multiple entities selected for audit of contracts, as part of the global category. Subsequent to releasing the Audit Plan, the OIG received a complaint regarding the Sidewalk and Rehabilitation Contract. We selected the Contract for audit as a result of the complaint. For additional information and dates regarding the initiation of this audit, refer to Exhibit 2 – Timeline.

OBJECTIVES, SCOPE, AND METHODOLOGY

The overall objectives of the audit were to:

- Address the complainant's allegations;
- Determine whether controls were adequate related to the contract procurement to payment process, permit process, and inspection process; and
- Assess the reliability, accuracy, and authorization for work completed and related payments.

The initial scope of the audit included reviewing procurement of the Contract and inspection process; relevant documents, including invoices, permits, inspection records, correspondence, and information relevant to the Contract; and activities and transactions. We revised the scope of the audit to include the permit process because the Village's inspection process is an integral part of its permit process; as such, the inspection process could not be properly reviewed without fully understanding the permitting process. Based on the documentation the Village provided for payment for work completed, we expanded the scope to include review of all funding sources used to pay for work completed under the Contract.

The audit methodology included:

- Performing a data reliability and integrity assessment of the related computer system;
- Reviewing policies, procedures, and related requirements;
- Reviewing the Contract and related documentation;
- Performing process walk-throughs;
- Interviewing appropriate personnel; and
- Performing detailed testing on selected transactions and invoices.

As part of the audit, we completed a data reliability assessment for the computer system used by the Village for the permit, inspection, and payments completed under the Contract. We determined that the computer-processed data contained in the computer system was sufficiently reliable for the purposes of the audit.

This 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.

ALLEGATIONS - FINDINGS AND RECOMMENDATIONS

Allegation (1): The Village used funds from the Stormwater Utility Fund to pay for Public Works projects that were not related to Stormwater Utility projects and not approved by the Village Council. The allegation is **not supported**.

Finding (1): Funds were properly approved and expended from the proper funds.

Village Resolution 29-17 provides that purchase requisitions may not be approved for any purchases that would result in spending in excess of amounts authorized in the annual budget. Village Council approved funds in the FY 2018 Annual Budget Report in adequate amounts to cover for the expenditures listed in the chart below. The annual budget was properly approved. Purchase requisitions completed were issued in compliance with Resolution 29-17.

The Contractor completed one project that was fully funded from the Stormwater Utility Fund in the total amount of \$78,190.00 (Invoices 201707, 201802, and 201803) and one project that was partially funded from the Stormwater Utility Fund and partially from the Water Fund (Invoice 201704).

Invoice Date	Invoice	Description	Invoice Amount	Fund Name
12/01/2017	201704	November 2017 Miscellaneous Sidewalk Repairs for Water Distribution	\$5,711.00	Stormwater Utility \$2,855.50 / Water Fund \$2,855.50
01/09/2018	201707	Demo and Replacement of Driveways on Tequesta Drive	\$28,542.50	Stormwater Utility
01/22/2018	201802	January 2018 Demo and Replacement on Tequesta Drive	\$42,227.50	Stormwater Utility
01/30/2018	201803	Demo and Replacement of Driveways on Tequesta Drive	\$7,420.00	Stormwater Utility

The replacement of driveways in the Tequesta Drive project (total amount \$78,190.00) included the replacement of asphalt driveway approach aprons with concrete to meet the grade of the new concrete sidewalk and ADA requirements. The driveway approach aprons are in the Village's Right of Way and considered part of the swale. The Stormwater department, not the Public Works Department, is responsible for the maintenance of the swales and driveway approach aprons. Therefore, the project was properly expended from the Stormwater Utility Fund.

The sidewalk repairs for the Water District project (total amount \$5,711.00) included repairs related to water line breaks, fire hydrant concrete, and stormwater manhole concrete repairs. These sidewalk repairs were also properly expended through the Water Fund and Stormwater Utility Fund.

The two projects included repairs of items which are the responsibility of the Stormwater and Water department. The expenditures were properly classified as expenditures under the Stormwater Utility Fund and Water Fund.

Recommendation:

None

Management Response Summary:

Village management reiterates the finding of compliance, asserts its good faith work on this sidewalk rehabilitation project, and appreciates that this good faith work and compliance is recognized by the Office of Inspector General.

Allegation (2): R&D Paving, LLC (Contractor) billed the Village for services not included in the Contract. The allegation is **supported**.

Finding (2): The Village paid Contractor for services that were not clearly defined within the scope of the Contract.

The Village issued Request for Proposal #PW 03-07 for Sidewalk Rehabilitation and Construction (RFP). RFP Section 3.0 (Proposal Submission Form and Content) encouraged proposers to complete the form proposal attached to the RFP as Schedule A.

The Contractor responded to the RFP by offering to perform the services requested in the RFP at the prices provided in Contractor's Bid Form Schedule A. The Village selected Contractor to perform the work, and on or about October 12, 2017, the Village and Contractor executed a three (3) - year Contract, with an option to renew for two (2) years. The Contractor agreed to provide sidewalk rehabilitation and construction services for various sidewalks located throughout the Village, on an as-needed basis, as described in the Villages RFP. The Village's RFP and the Bid Form Schedule A with Contractor's pricing were incorporated into the Contract, as Exhibits A and B, respectively.

The Complainant's major concern was that the Contract did not include pricing for removal of asphalt and replacement with concrete. We noted the following issues (see *Exhibit 1 for a detailed breakdown of exceptions*):

The Village paid 14 of 21 invoices (66.7%) billed for services or items that were not clearly defined in the scope of the Contract or were outside the scope of the Contract. These invoices totaled \$371,975.38, which is 83% of the total amount paid to the Contractor for work the Village considered as Contract services.

- Improper refund to Contractor: \$3,803.88 was for permit fees that were reimbursed to the Contractor by the Village in error.

- Invoices for services outside the scope of the Contract: \$6,994 was for payments to the Contractor for removal of pavers and replacement with concrete, stucco wall repair, crack repair, and MOT.⁸
- Invoices for services not clearly defined in the scope of the Contract: \$361,177.50 was for removal of asphalt or pavers and replacement of concrete.

The complainant also asserted that the Contractor billed the Village for services at rates higher than the rates set forth in the Contract. Specifically, the complainant asserted that the Contractor billed the Village for more square footage of concrete, in depth, than it removed and replaced. Accordingly, we reviewed various projects for the depth of the concrete. We found that the concrete depth complied with the Contract requirements.

Many of the issues we found relating to the Village's performance under the Contract can be attributed to Village staff not sufficiently reviewing the Contract requirements prior to requesting, approving, and authorizing payment to the Contractor for work.

The contract amounts questioned and identified based on the Village paying Contractor for services that were not clearly defined within the scope of the Contract, were improperly refunded, or were outside the scope of the Contract are summarized in the chart below:

Costs	Amount ⁹	Exception % of total amount spent
Questioned costs	\$ 368,171.50	82.2%
Identified costs	\$ 3,803.88	0.8%
Total Questioned and Identified costs	\$ 371,975.38	83%
Total Amount spent under Contract	\$ 448,062.38	

The majority of the expenditures (83% of the total expenditures) for projects completed were not aligned with the Contract requirements. The risk of over payment is increased when Contractor invoices are not reviewed for compliance with contract requirements.

Additionally, if the Village negotiates a lower rate for the removal of asphalt that is less expensive than the rate of removal of concrete then the Village could potentially save future costs.

Recommendations:

- (1) The Village amend or rebid the Contract to include construction services, such as, asphalt removal with replacement of concrete, paver removal with replacement of concrete, demolition, or stucco repair. Additionally, the Village could consider piggybacking its contract off another entity that contains the services.**

⁸ MOT was not defined or explained on the invoice.

⁹ A portion of the invoices had multiple violations and were only counted once to avoid duplication in the questioned or identified cost totals.

- (2) The Village recoup \$3,803.88 in permit fees reimbursed to the Contractor in error.
- (3) The Village enhance its review process for monitoring contract performance and invoicing against contract terms.
- (4) The Village provide additional training to staff on Contract requirements.

Management Response Summary:

- (1) The Village will amend the contract.
- (2) The Village has recouped the permit fees.
- (3) The Village has already created an administrative policy for handling pre-construction contract processes.
- (4) The Village will continue to train staff regarding the administrative policy for handling pre-construction contract processes.

Allegation (3): The Contractor performed work without a permit from the Village Building Department. The allegation is **supported**.

Finding (3): The Village did not issue permits prior to the commencement of work for six (6) of 12 projects (50%) under the Contract.

Section 105.1 of the Village's Buildings and Building Regulations Ordinance, Municipal Code section 14-32 (Ordinance 5-12, § 1, 5-10-2012; Ordinance 4-14, § 2, 2-13-2014; Ordinance 17-15, § 1, 9-10-2015) states,

Any contractor, owner, or agent authorized in accordance with Chapter 489, F.S. who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any impact-resistant coverings, electrical, gas, mechanical, plumbing or fire protection system, or accessible or flood resistant site element, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

The Village's Code of Ordinances, Appendix C, further clarifies that a permit is required for driveways and sidewalks.

Additionally, Section 6.0 Scope of Services of the RPF incorporated into the Contract stated that the requested services would include the construction and/or deconstruction of residential sidewalks and driveways and that one (1) permit from the Building Department Office would be required to perform the work. The permit would be filed at the Contractor's expense and would cover the entire sidewalk replacement program.

The Contractor did not obtain one permit for the entire sidewalk replacement program as of the date the audit was initiated. Instead, the Village issued multiple permits for certain individual projects under the Contract. Under this process, six (6) of the 12 Contractor's projects (50%) did not have a permit for the work when the work commenced.

As a result of our audit discussions, the Village stated it revoked all permits issued to individual projects under the Contract and issued a master permit for the entire Contract on September 7, 2018, as a corrective action. The balance of permit fees collected under the revoked permits was applied to the new master permit, and the difference was paid by the Contractor.

We re-calculated the master permit fee that should have been billed and collected using the total amount paid to the Contractor to date less the amount reimbursed to the Contractor for permit fees.¹⁰

Master Permit Fee Calculation¹¹

Appendix C (Ordinance)	Fee	Base Amount	Total
Application fee	\$75.00	1	\$ 75.00
Master permit fee	2%	\$444,258.50	\$ 8,885.17
		Permit fee base	\$ 8,960.17
Florida Statutes			
DBPR surcharge fee	1%	8,960.17	\$ 89.60
BCA surcharge fee	1.5%	8,960.17	\$ 134.40
		Total permit fee that should have been collected	\$ 9,184.17

Prior to the corrective action and additional permit fee collections, the Village had not collected **\$4,909.15** in permit fees that should have been collected. This occurred because not all projects had permits at the time the work was completed. This is an

¹⁰ The permit fees that were reimbursed by the Village in the amount of \$3,803.88 are included in Finding 2. Since the recommendation is to recoup the funds, we left the amount in the recalculation to show the actual amount charged and separately addressed the reimbursement that was in error.

¹¹ The Village's Buildings and Building Regulations Ordinance, Municipal Code section 14-32 (Ordinance 5-12, § 1, 5-10-2012; Ordinance 4-14, § 2, 2-13-2014; Ordinance 17-15, § 1, 9-10-2015) states that on buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the village's comprehensive fee schedule as set forth by resolution of the village council. The Code of Ordinance, Appendix C requires a \$75 non-refundable application fee that is added to the permit fee and that master permit fees shall be two percent of the valuation unless a fixed fee is listed (there was no fixed fee listed). The valuation shall be considered the greater denomination of either the notarized contract (there was no value attached to the contract) or the valuation determined by the International Building Code Section 109.3. The valuation in this Contract was based on the value of the work completed by the Contractor, as submitted in the invoices.

Section 533.721, Florida Statutes, Surcharge, states the Department of Business and Professional Regulations (DBPR) requires a surcharge assessed at the rate of one percent of the permit fees associated with the enforcement of the Florida Building Code (FBC) and at a minimum \$2.00 be charged on any permit issued. Section 468.631, Florida Statutes, Building Code Administrators (BCA) and Inspectors Fund, requires a surcharge of one and one half percent of all permit fees associated with the enforcement of the FBC and at a minimum \$2.00 be charged on any permit issued.

identified cost that has been recouped by the Village. The master permit fee calculated by the Village staff in the amount of \$9,075.46 has been paid by the Contractor.

Permit fee	Amount
What should have been paid	\$ 9,184.17
Actual payments	\$ 9,075.46
Difference owed by the Contractor	\$ 108.71

The difference between what should have been billed and collected and the actual amount is considered identified cost since this cost can be collected by the Village and is in violation of the Ordinance and Contract. The additional identified cost for permit fees (underpayments) is **\$108.71**.

The total amount of Contractor invoices paid for work that was not properly permitted prior to work commencement totaled \$122,497.75, which is 28% of the total amount paid for work performed under the Contract. The work commencing prior to a permit being issued is considered a questioned cost because it is in violation of the Ordinance and the Contract.

Questioned Costs (QC)	Amount
Total Unpermitted Work	\$122,497.75
Accounted QC Total ³ in Finding 2 and Finding 6	\$ 97,744.00
Unaccounted QC Total	\$ 24,753.75

This increases the risk that inspections are not obtained as required and that work completed may not be in compliance with the Florida Building Code (FBC) and Ordinance. Proper permitting has been resolved in the corrective action; however, the proper permit fees have not been paid due to the calculation errors. This increases the risk that required payments for surcharges may not be properly paid to the State of Florida.

Recommendations:

- (5) **The Village collect the balance of the permit fees that are still owed by the Contractor in the amount of \$108.71.**
- (6) **The Village review the surcharge amounts paid to the State of Florida and provide additional payment to the State of Florida for any surcharges owed, after additional permit fees are collected.**
- (7) **The Village update policies and procedures to provide additional guidance to staff and to ensure the proper project valuation is used when calculating and billing permit fees.**
- (8) **The Village create and implement a system of tracking and monitoring for the future projects and permit fees that will be owed by the Contractor under the master permit.**

- (9) Village staff completing work should develop and implement a review process to ensure that all projects have proper permits prior to the commencement of work.

Management Response Summary:

- (5) The Village has collected the balance of the permit fees.
- (6) The Village has verified the surcharge amounts as being properly submitted to the State of Florida.
- (7) In conjunction with the newly created administrative policy, the Village will continue to train staff to ensure proper valuation occurs.
- (8) In conjunction with the newly created administrative policy, the Village will continue to train staff to ensure proper tracking and monitoring occurs.
- (9) The Village has already created an administrative policy for handling pre-construction contract processes requiring Village construction project “kick-off” meetings with appropriate staff in order to review the project and ensure that all projects have proper permits prior to the commencement of work.

Allegation (4): The Village did not properly complete inspections for work performed by the Contractor. The allegation is **supported**.

Finding (4): The Village’s Building Official did not conduct a final inspection for 75% of projects and did not conduct a final inspection for one project prior to final payment.



the Certificate of Occupancy or Certificate of Completion. The Buildings and Building Regulations Ordinance provides,

building official shall inspect or cause to be inspected, at various intervals, all construction or work for which a permit is required, and a final inspection shall be

made...upon completion, prior to the issuance of the Certificate of Occupancy or Certificate of Completion.

We found that the Building Official has not performed final inspections on nine (9) of the 12 projects (75%) that the Village characterized as completed and for which the Finance Department issued final payment. Because the inspections have not been completed, the Certificate of Occupancy or Certificate of Completion cannot be issued for those projects. The Village made final payment on each of these projects without setting aside retainage or inspecting the projects to verify that the projects were actually completed to specifications.

The Building Official completed inspections for the other three projects we reviewed; however, one of the three did not receive a final inspection until after the final payment was made to the Contractor. The Village expended a total of \$320,669.75 for the 10 projects that were not properly inspected. This resulted in **\$27,490.50⁴** in questioned costs.

The process that Village staff uses to review and approve invoices for payment does not include input from the Building Official responsible for inspections. According to Resolution 29-17, it is the end-user department's responsibility to ensure the proper receipt of ordered goods or services and verify receipt of ordered purchases agree with the purchase order prior to approving the invoice. Additionally, the Finance Department, which reviews purchase requisitions for compliance with purchasing policies and pays invoices as the final step in the invoice approval process, does not review the invoices for proper final inspection from the Building Official.

The Building Official has not completed permit inspections for 75% of the projects completed under the Contract, even though final payment has occurred for these projects. Additionally, one project had the final inspection after the final payment. Therefore, final inspections were not completed prior to final payments. By not requiring final inspections prior to the final payment, the risk is increased that work completed may not be in compliance with the FBC, the Contract, and Village's Buildings and Building Regulations Ordinance.

Recommendations:

- (10) The Village should include the final permit inspection as part of the invoice review and approval process.**
- (11) The Village should include review of contract requirements as part of the invoice review and approval process.**
- (12) Inspections should be completed with a certificate of completion issued prior to final payment.**
- (13) The Contract should be amended to require the final inspection prior to final payment for work completed.**

Management Response Summary:

- (10) The Village has already created an administrative policy for handling construction contract processes to implement this recommendation.**
- (11) The Village has already created an administrative policy for handling construction contract processes to implement this recommendation.**
- (12) The Village has already created an administrative policy for handling construction contract processes to implement this recommendation.**
- (13) The Village will amend the contract.**

FINDINGS NOT RELATED TO THE ALLEGATIONS**Finding (5): The Village did not pay invoices for construction services within the time prescribed by the Florida Prompt Payment Act.**

Section 218.735(1)(b), Florida Statutes (Prompt Payment Act) states,

If an agent need not approve the payment request or invoice which is submitted by the contractor, payment is due 20 business days after the date on which the payment request or invoice is stamped as received as provided in s. 218.74(1).

The Village does not require that a Village agent approve the payment request or invoice prior to an invoice being submitted for payment. Thus, payment is due 20 business days after the date on which the payment request or invoice is stamped as received as provided in s. 218.735(1)(b), unless the Village rejects the pay request in writing and specify the deficiency and the action necessary to make the payment request or invoice proper.

Section 218.735(9), Florida Statutes, provides that all payments due under the section and not made within the time periods specified “bear interest at the rate of 1 percent per month.” The interest is potentially due to the Contractor.

We found that four (4) out of 21 invoices (19%) were not processed and paid in accordance with the requirements in the Prompt Payment Act.¹²

Four (4) invoices were paid 31 to 34 business days after the date of receipt. Although the Contractor has not sought interest from the Village under the Prompt Payment Act, the Contractor may seek payment, resulting in unnecessary increases in the taxpayers’ burden.

This potential violation may have occurred because the Village has not implemented a process for stamping invoices as received as provided in section 218.74(1) and because

¹² The invoices were not date stamped with the date that the invoice was received and did not have an invoice date; therefore, the invoice date / received date used was the date the invoices were emailed to the Village.

the Village's Purchasing Policy (Resolution 29-17) provides that the Village's standard for payment of invoices is 30 days from invoice date. Even if the Village relied upon this standard, the Village did not meet it when the Village paid four of the 21 invoices 31 to 34 business days after the date the invoices were received.

Interest Charges

Invoice	Invoice Amount	# Days over 20	Daily Interest Rate ¹³	Total Potential Interest
201811	\$16,445.00	14	0.0003333333	\$ 77
201812	\$11,045.50	14	0.0003333333	\$ 52
201813	\$ 1,930.00	14	0.0003333333	\$ 9
201816	\$ 6,218.75	11	0.0003333333	\$ 23
Total Questioned Cost				\$ 161

The interest charge of **\$161** is considered a questioned cost because these are costs that may be owed to the Contractor. This amount can be avoided in the future, if the invoices are processed timely in accordance with the Prompt Payment Act requirements for construction services. The avoidable cost is the \$161 interest charge multiplied by 2 years equals **\$322**.

Recommendations:

- (14) The Village update its Purchasing Policy to comply with the Prompt Payment Act requirements for payment of construction services.
- (15) The Village implement a process for date stamping invoices when received and pay or reject the construction service invoices within the timelines, as required by the Prompt Payment Act.
- (16) The Village pay the Contractor the \$161 calculated for the interest charge.

Management Response Summary:

- (14) The Village will update its purchasing policy to implement the recommendation.
- (15) The Village has already created an administrative policy for handling construction contract processes to implement this recommendation.
- (16) The Village will pay the contractor the calculated interest.

¹³ The daily interest rate calculation is 1% / 30 days = 0.0003333333 daily interest.

Finding (6): The Village paid invoices without issuing a purchase order, as required by the Village's Purchasing Policy.

The Village's performance of the Contract is governed by the Village's Resolution 29-17, Purchasing Policy, revised July 2017. The Purchasing Policy states,



All contracts and progress payments will be entered through the purchasing system as a purchase order so that the entire contract amount for the fiscal year is encumbered in the accounting system immediately.

The Village paid 10 of 21 invoices from the Contractor (47.6%) totaling \$36,570.63 although the Village had not entered those projects performed under the Contract into the computer system as a purchase order, as required by Resolution 29-17. This resulted in an additional **\$23,842.75** of questioned costs.⁷

We noted that in those cases where the Village did issue purchase orders as required by the Purchasing Policy, they were all approved by the Village Council or appropriate party, the Village's purchase order information was consistent with the Contractor's invoice, and the invoiced rates were consistent with the Contract's pricing.

Many of the issues we found relating to the Village's performance under the Contract can be attributed to Village staff not sufficiently reviewing the Contract and the Purchasing Policy requirements prior to requesting, approving, and authorizing payment to the Contractor for work. In response to our determination that the Village was not complying with the Purchasing Policy, the Village staff responded that they are not required to issue purchase orders for projects under \$10,000 under Resolution 29-17; however, the Resolution requires that *all contracts* be issued a purchase order so that the entire contract amount for the fiscal year is encumbered in the accounting system immediately.

The risk of over payment or payment exceeding the Village's budgeted and encumbered amount is increased when Contractor invoices are not reviewed for compliance with governing policies.

Recommendation:

- (17) The Village comply with the Resolution 29-17 Purchasing Policy requirements.**
- (18) The Village provide additional training to staff on Resolution 29-17 Purchasing Policy requirements.**

Management Response Summary:

- (17) The Village will amend its purchasing policy.**

(18) The Village will continue to train staff regarding its purchasing policy.**Finding (7): Written requirements are inconsistent.**

The Village has multiple documents used as written guidance related to its payment, permitting, and inspection processes which include:

1. Permits and Inspections
 - a. Florida Building Code (FBC), 6th Edition 2017
 - b. Building and Building Regulations Ordinance, Chapter 14
2. Permit Fees
 - a. Florida Statutes, Permit Fee Surcharges
 - b. FBC, 6th Edition 2017
 - c. Building and Building Regulations Ordinance, Chapter 14
 - d. Resolution 14-18, Building Department Fee Schedule
3. Payments
 - a. Florida Statutes, Prompt Payment Act
 - b. Resolution 29-17, Purchasing Policy and Procedures

We noted the following inconsistencies:

Permits and Inspections

We found the Buildings and Building Regulations Ordinance, Municipal Code section 14-32 (Ordinance 5-12, § 1, 5-10-2012; Ordinance 4-14, § 2, 2-13-2014; Ordinance 17-15, § 1, 9-10-2015) conflicts with the Village's Code of Ordinances, Appendix C, (Res. No. 67-05/06, § 1, 4-13-2006; Res. No. 17-10, § 1, 6-10-2010; Res. No. 19-15, §§ 1(Exh. A), 2, 6-11-2015; Ord. No. 8-17, § 2, 7-13-2017) and Resolution 14-18 for the time extension allowed. Section 14-32 allows for an extension of 180 days versus the Appendix C and Resolution that allows an extension of only 90 days.

Permit Fees

- The Village's Code of Ordinances, Appendix C, (Res. No. 67-05/06, § 1, 4-13-2006; Res. No. 17-10, § 1, 6-10-2010; Res. No. 19-15, §§ 1(Exh. A), 2, 6-11-2015; Ord. No. 8-17, § 2, 7-13-2017) and Section 553.721, Florida Statutes, are inconsistent with different fee percentages and minimum amounts related to permit fee surcharges for the Department of Business and Professional regulation. Resolution 14-18 does not incorporate Section 553.721, Florida Statutes.
- The Village's Code of Ordinances, Appendix C, (Res. No. 67-05/06, § 1, 4-13-2006; Res. No. 17-10, § 1, 6-10-2010; Res. No. 19-15, §§ 1(Exh. A), 2, 6-11-2015; Ord. No. 8-17, § 2, 7-13-2017) does not incorporate Section 468.631, Florida Statute, related to the permit fee surcharge for the Building Code Administrators and Inspectors Fund.
- FBC (also, International Building Code), Ordinance, Appendix C and Resolution 14-18 contain inconsistent definitions of the term "Valuation".
- The Village's Code of Ordinances, Appendix C, (Res. No. 67-05/06, § 1, 4-13-2006; Res. No. 17-10, § 1, 6-10-2010; Res. No. 19-15, §§ 1(Exh. A), 2, 6-11-2015; Ord. No. 8-17, § 2, 7-13-2017) contradicts itself related to the "after the fact" permit

fees that may be applicable in emergency work if the permit application is not submitted appropriately.

Invoice and Payment

Resolution 29-17 is inconsistent with the Prompt Payment Act requirement for construction services invoices payment. The Prompt Payment Act states that “if an agent must approve the payment request or invoice prior to the payment request or invoice being submitted to the local government entity, payment is due 25 business days after the date on which the payment request or invoice is stamped as received” and if there is no need for an agent to approve the payment request, then the payment is due within 20 business days. Resolution 29-17 does not specifically define a due date for construction services invoices, but the standard for payment of vendor invoices is within thirty days of the invoice date (*see report Finding 5 for more detail about interest charges*).

Regular review of the written guidance may have revealed inconsistencies between the Ordinance and FBC requirements as well as between Resolution 29-17 and the Prompt Payment Act.

Operations are more prone to error when there are inconsistencies in the written guidance. This potentially decreases the efficiency of the process, as well as, increases the risk of errors including improper billing, non-compliance, and penalties.

Recommendations:

- (19) The Village update written guidance related to permits, permit fees, and invoice payments to be consistent throughout all written documentation and follow the Florida Statutes.**
- (20) Staff should be provided additional training on the revised written guidance.**

Management Response Summary:

- (19) The Village will update the written guidance.**
- (20) The Village will continue to train staff regarding its permits, permit fees, and invoice payment guidance documents.**

Finding (8): The processes related to inspections could be enhanced.

The majority of the Village’s processes were adequate with proper controls in place. We noted an area in the inspection process that could be enhanced. Inspection dates for completion of inspections were not entered into the computer system within a reasonable time period. There was no supporting documentation to show when the inspection occurred because the Village uses an electronic/paperless method and enters the information directly into the computer system. Entries reviewed that were related to this Contract had 5-6 month entry delays from when the actual inspection was stated to have occurred.

Delayed entry of inspection information into the computer system may affect the accuracy of the entry, decrease the reliability of the information, and delay the close out of the permit. When permit inspections are not completed prior to final payment, there is an increased risk that the work may not meet standards and if payment has been fully provided, it may be difficult for the Village to recoup the fees or obtain corrective actions from the Contractor.

Recommendation:

-
- (21) The Village enter permit inspections into the computer system at the time of occurrence or document the inspection manually outside of the system (until they are able to be entered into the computer system with the documentation retained) to ensure the accuracy of the inspection dates.**

Management Response Summary:

-
- (21) The Village will update its practices and policies.**

**SUMMARY OF POTENTIAL FINANCIAL AND OTHER BENEFITS
IDENTIFIED IN THE AUDIT**

Questioned Costs

Finding	Description	Questioned Costs
2	Invoice Non-Compliance with Contract	\$ 368,171.50
4	Inspections did not properly occur	\$ 27,490.50
3	Permits not obtained prior to commencement of work	\$ 24,753.75
5	Prompt Payment Act Interest	\$ 161.00
6	Invoice Non-Compliance with Purchasing Policy	\$ 23,842.75
	TOTAL QUESTIONED COSTS	\$444,419.50

Identified Costs

Finding	Description	Identified Costs
2	Reimbursement of ineligible permit fees	\$ 3,803.88
3	Permit Fees not paid, but recouped	\$ 4,909.15
3	Permit Fees not paid	\$ 108.71
	TOTAL IDENTIFIED COSTS	\$ 8,821.74

Avoidable Costs

Finding	Description	Avoidable Costs
5	Prompt Payment Act Interest	\$ 322
	TOTAL AVOIDABLE COSTS	\$ 322

ATTACHMENT

Attachment 1 – Village of Tequesta’s Management Response, page 24-30.

ACKNOWLEDGEMENT

The Inspector General’s audit staff would like to extend our appreciation to the Village of Tequesta management and staff for their assistance and support in the completion of this audit.

This report is available on the OIG website at: <http://www.pbcgov.com/OIG>. Please address inquiries regarding this report to the Director of Audit by email at inspector@pbcgov.org or by telephone at (561) 233-2350.

EXHIBIT LIST

Exhibit 1 – Summary of Testing Exceptions

Exhibit 2 – Timeline

EXHIBIT 1 – SUMMARY OF TESTING EXCEPTIONS¹⁴

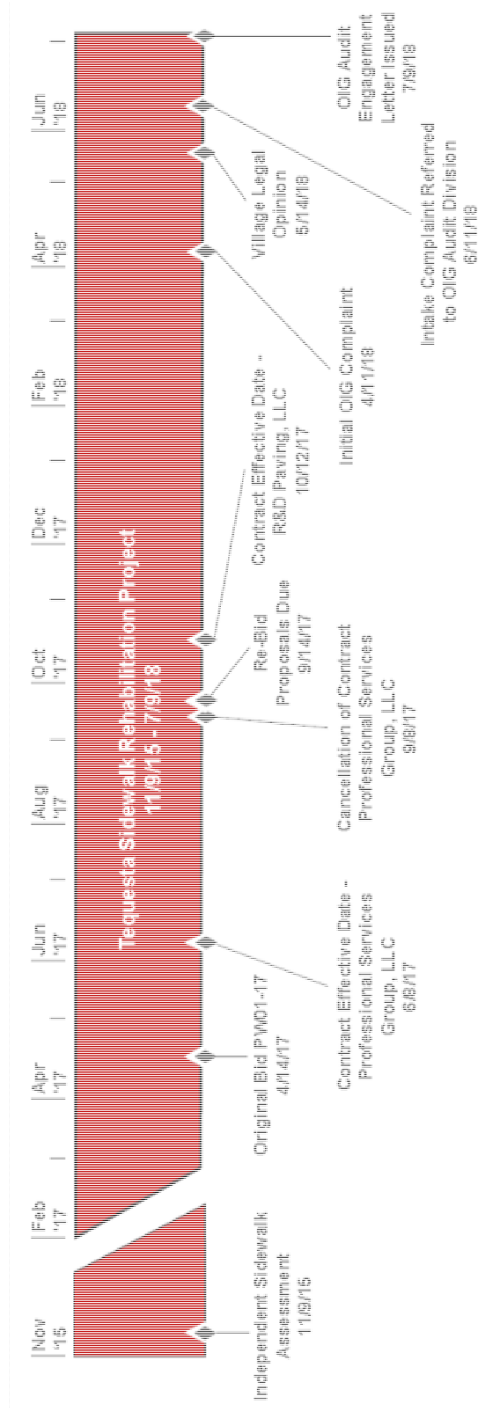
Invoice Detail of Summary of Testing Exceptions									
Invoice Date	Invoice/Check #	Description	Questioned Costs	Identified Costs	No Permit Inspection	No allowable item	No Purchase Order		
10/23/2017	201701	October 2017 sidewalk repair North Place and Country	\$ 9,483.00	\$ -	x				y
11/21/2017	201702	Furnish and Install Concrete - Willow Road	\$ 24,783.75	\$ -	y				
12/01/2017	201704	November 2017 miscellaneous sidewalk repairs for water distribution	\$ 5,711.00	\$ -	x				y
12/05/2017	201705	Sidewalk improvement south side of Tequesta Dr	\$ 59,385.00	\$ -	x				
01/09/2018	201706	January 2018 sidewalk improvement - South Side of Tequesta Drive	\$ 71,122.60	\$ -	x				
01/30/2018	201804	Sidewalk improvement south side of Tequesta Drive	\$ 33,180.00	\$ -	x				y
01/09/2018	201707	Demo and replacement of driveways on Tequesta Drive	\$ 28,542.50	\$ -	x				y
01/22/2018	201802	January 2018 demo and replacement of driveways on Tequesta Drive	\$ 42,227.50	\$ -	x				y
01/30/2018	201803	Demo and replacement of driveways on Tequesta Drive	\$ 7,420.00	\$ -	x				y
01/22/2018	201801	January 2018 bridge repairs	\$ 6,994.00	\$ -	x				x
02/26/2018	201805	February 2018 Permit fee sidewalk Tequesta Drive	\$ -	\$ 2,609.11					y
04/05/2018	201806	Install sidewalk on Tequesta Drive from Point Drive to El Portal	\$ 82,160.33	\$ -					y
06/26/2018	201817	Sidewalk project Point Drive to El Portal	\$ 35,209.07	\$ -					y
04/14/2018	201807	Sidewalk repair Constitutional Park asphalt repairs	\$ 2,430.00	\$ -	x				y
05/23/2018	201811	Oak Ridge Lane Sidewalk Repairs	\$ 16,445.00	\$ -					
05/23/2018	201812	Intracoastal Circle Sidewalk Repair	\$ 11,045.50	\$ -	y				
04/23/2018	201809	Permit fee for Oak Ridge Lane sidewalk repair	\$ -	\$ 531.30					x
04/23/2018	201808	Permit fee for Intracoastal Circle sidewalk repair	\$ -	\$ 399.89					x
04/23/2018	201810	Permit fee for Willow Road sidewalk repair	\$ -	\$ 263.68					x
05/23/2018	201813	Short Avenue and Tequesta Dr sidewalk repair	\$ 1,930.00	\$ -	x				x
06/29/2018	201816	Willow Road sidewalk repairs 4/23/2018	\$ 6,218.75	\$ -					y
Total			\$ 444,246.90	\$ 3,803.88					

y Counted toward Questioned Cost; or Identified Cost

x Noted as an exception but already counted toward Questioned cost; for another testing procedure

¹⁴ Exhibit 1 is only based on the Contractor's submitted invoices and it does not include other questioned and identified costs included in the report.

EXHIBIT 2 – TIMELINE



ATTACHMENT 1 – VILLAGE OF TEQUESTA'S MANAGEMENT RESPONSE



Keith W. Davis, Esq.
 Florida Bar Board Certified Attorney
 City, County and Local Government Law
 Email: keith@davisashtonlaw.com

November 13, 2018

Megan Gaillard, Director of Audit
 Palm Beach County Office of Inspector General
 P.O. Box 16568
 West Palm Beach, Florida 33416

Re: Village of Tequesta Draft Audit Report – Audit of Sidewalks Rehabilitation and Construction Contract

Dear Ms. Gaillard:

On behalf of Village of Tequesta Acting Manager James M. Weinand and the Village of Tequesta Public Works, Building, Finance, and Administration Departments, please accept this response to the above referenced draft audit report. As requested, the following will respond to the findings and recommendations contained in said report, and will offer Village management's proposed corrective action.

There are eight (8) findings in the report, seven (7) of which contain recommendations. The findings and recommendations will be addressed here in the order that they are presented in the Draft Audit Report.

It is important to stress that this audit was born out of a resident complaint alleging corruption at all levels of Village government, and that the Office of Inspector General found no indicators of public corruption. It is also important to stress that despite the findings contained in the draft audit report, the draft audit report acknowledges that the Village properly procured this contract, and that "the majority of the Village's processes are adequate with proper controls in place." In addition, during the exit interview with Village staff, the Office of Inspector General, through Mr. Carey himself, acknowledged that the findings in the draft audit report are not outside the realm of normal or typical findings when this type of audit is conducted, and that they are meant to make a good process even better.

With this in mind, the findings and the specific recommendations associated with each finding meant to improve the Village's operations will be addressed in turn, along with Village management's proposed corrective action thereto:

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◆ LEADING EXPERTS IN LOCAL GOVERNMENT LAW AND ETHICS ◆

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Management Response to Audit of Sidewalks Rehabilitation and Construction Contract

Finding 1. Resident complaint that the Village used funds from the Stormwater Utility Fund to pay for Public Works projects unrelated to Stormwater Utility projects and not approved by the Village Council is unsupported.

This finding verifies that funding for this contract was properly allocated between stormwater utility dollars, water utility dollars, and general operations dollars. In addition, this finding verifies that Village Council approvals were properly obtained for all expenditures.

RECOMMENDATIONS:

There are no recommendations associated with this finding. However, Village management reiterates the finding of compliance, asserts its good faith work on this sidewalk rehabilitation project, and appreciates that this good faith work and compliance is recognized by the Office of Inspector General.

Finding 2. Resident complaint that the Village was billed by the contractor for sidewalk rehabilitation and replacement services that were not clearly defined in the contract, or that were outside the scope of the contract.

This finding hinges on the issue of the description of the work to be performed, and specifically the distinction between performing work for removing old asphalt sidewalk vs. performing work for removing old concrete sidewalk. In addition, this finding points out one job that this contractor performed for the Village on a separate unrelated matter that was not included in the contract, but that was mistakenly processed as though it was.

First, the Village bid this contract in a manner that "bundles" all work necessary to obtain the end result of new sidewalks throughout the Village, on an "as needed" basis from place-to-place over a period of years. Bidders provided pricing for "all inclusive" work by the square foot, including removal of existing sidewalk (which sometimes was several inch thick concrete and sometimes was several inch thick asphalt), removal and disposal of debris, ground preparation, grading, and forming & pouring a new sidewalk. Separate pricing was bid and obtained based on whether the final new product was entirely new sidewalk or the replacement of existing; whether the final new product was to be concrete or asphalt; and whether the work being performed was sidewalk or driveway apron. The successful bidder was, by far, the low bidder in the procurement process, which as noted above was procured correctly.

The draft audit report labels \$368,171.50 as "questioned costs" which is the money paid to the contractor under the contract for work to remove old asphalt and install new concrete. The Village disagrees that these are "questioned costs." As written, Proposal A of the contract provides pricing for "Demolition, removal, disposal and replacement of four inch (4") concrete..." Likewise, Proposal E of the contract provides pricing for "Demolition, removal, disposal and replacement of four inch (4") asphalt..." There was no question that the Village intended, and the Village asserts that the contractor understood, that pricing was for the demolition, removal and disposal OF EXISTING SIDEWALK MATERIAL (regardless of whether it was concrete or asphalt), followed by replacement with either concrete (Proposal A) or asphalt (Proposal E) as directed by the Village from time to time and place to place. It was acknowledged by the Office of Inspector General during the exit interview for this audit, that if the contract proposals had been written to say "Demolition, removal, disposal OF EXISTING SIDEWALK MATERIAL and replacement of

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Management Response to Audit of Sidewalks Rehabilitation and Construction Contract

four inch (4") concrete (or asphalt)..." the issue would not exist. Further, the suggested corrective action for this finding is to revise the contract language in this way. **Although the Village disagrees that these are questioned costs, and likewise disagrees with the assertion that work to remove old asphalt and replace with a new concrete sidewalk was outside the scope of the contract or was not clearly defined in the contract, the Village will agree to revise/clarify the contract language as specified herein.**

Second, of the total costs labeled "questioned costs" in the draft audit report, \$6,994.00 is the result of work performed by this contractor on other matters not associated with this contract, which work was procured separately and distinctly from this contract. Unfortunately, the contractor's invoice for this unrelated work was mistakenly labeled as being part of this contract, and Village staff mistakenly processed the invoice as such.

Finally, the draft audit report labels \$3,803.88 as "identified costs" for permit fees reimbursed to the contractor in error. However, **these fees have been recovered by the Village in full.**

RECOMMENDATIONS:

1. Amend or re-bid the contract to clarify the issue of asphalt (and/or other surface) removal; consider piggybacking for these services.

RESPONSE: Although the Village disagrees with the identification of "questioned costs" and with the Office of Inspector General's above analysis of the contract language, the Village will nevertheless amend the contract as specified above to implement this recommendation.

2. Recoup \$3,803.88 in permit fees reimbursed to the contractor in error.

RESPONSE: This has already been completed.

3. Enhance the review process for monitoring contract performance and invoicing against contract terms.

RESPONSE: The Village has already created an administrative policy for handling pre-construction contract processes and will continue to train staff regarding same.

4. Provide additional training to staff on contract requirements.

RESPONSE: The Village has already created an administrative policy for handling pre-construction contract processes and will continue to train staff regarding same.

Finding 3. Resident complaint that the contractor performed work without being issued a proper building permit.

This finding states that of 12 separate projects that have been completed to date under the contract, six (6) were performed prior to the issuance of a building permit, and the other six (6) were issued separate project permits. This finding points out that the contract contemplates one master permit for all work performed under the contract, as opposed to individual project permits. This finding also acknowledges that **the Village has already taken the appropriate corrective action by revoking the previously issued six (6) permits and issuing one master permit as contemplated by the contract.** In addition, the Village

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Management Response to Audit of Sidewalks Rehabilitation and Construction Contract

has collected all permit fees associated with the master permit and has verified that surcharge fees submitted to the State of Florida are in the correct amount.

RECOMMENDATIONS:

1. Collect the balance of the permit fees that are still owed by the contractor in the amount of \$108,711.

RESPONSE: This has already been completed.

2. Review the surcharge amounts paid to the State of Florida and provide additional payment to the State of Florida for any surcharges owed, after additional permit fees are collected.

RESPONSE: This has already been completed. Correct permit fees have been collected from the contractor. Surcharge amounts were verified as being properly submitted to the State of Florida.

3. Update policies and procedures to provide additional guidance to staff to ensure the proper project valuation is used when calculating and billing permit fees.

RESPONSE: The Village's current processes for project valuation are sufficient to provide accurate valuations. However, in conjunction with the newly created administrative policy referenced above, the Village will continue to train staff to ensure proper valuation occurs.

4. Implement a system of tracking and monitoring for future projects and permit fees that will be owed by the contractor under the master permit.

RESPONSE: The Village's current processes are sufficient to provide accurate project tracking and monitoring. However, in conjunction with the newly created administrative policy referenced above, the Village will continue to train staff to ensure proper tracking and monitoring occurs.

5. Implement a review process to ensure that all projects have proper permits prior to the commencement of work.

RESPONSE: The Village has already created an administrative policy for handling pre-construction contract processes requiring Village construction project "kick-off" meetings with appropriate staff in order to review the project and ensure that all projects have proper permits prior to the commencement of work.

Finding 4. Resident complaint that the proper inspections were not performed by the Village for work performed by the contractor.

This finding states that the Village did not complete inspections of work performed under the contract and in one instance made final payment prior to a final inspection being conducted.

As of the writing of this Management response, all inspections have been performed for all work to date under the master permit, and all work performed has been determined to comply with the applicable requirements of the Florida Building Code.

RECOMMENDATIONS:

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Management Response to Audit of Sidewalks Rehabilitation and Construction Contract

1. Include the final permit inspection as part of the invoice review and approval process.

RESPONSE: The Village has already created an administrative policy for handling construction contract processes to implement this recommendation.

2. Include review of contract requirements as part of the invoice review and approval process.

RESPONSE: The Village has already created an administrative policy for handling construction contract processes to implement this recommendation.

3. Complete the inspection process with a Certificate of Completion issued prior to final payment.

RESPONSE: The Village has already created an administrative policy for handling construction contract processes to implement this recommendation.

4. Amend the contract to state that final payment will not occur until a final inspection has occurred and a Certificate of Completion has been issued for the particular project.

RESPONSE: The Village will amend the contract to implement this recommendation.

Finding 5. Four (4) of 21 invoices under the contract were paid outside the 20 business day timeframe of the Florida Prompt Payment Act.

This finding points out that of the 21 invoices processed under this contract, four (4) did not get paid until between 31 and 34 business days after receipt, where the Florida Prompt Payment Act requires a 20 business day payment for invoices under construction contracts. This finding suggests that the payment delay may have occurred because the Village has not implemented a standard "stamping" process upon invoice receipt.

The draft audit report labels \$161.00 as "questioned costs" which is the potential interest that the contractor could seek to recover from the Village as a result of the delayed payments.

RECOMMENDATIONS:

1. Update the Village's purchasing policy to include prompt payment act requirements for construction contract invoices.

RESPONSE: The Village will update its purchasing policy to implement this recommendation.

2. Implement a process for date stamping invoices when received and pay or reject construction contract invoices within the timeframes required by the Florida Prompt Payment Act.

RESPONSE: The Village has already created an administrative policy for handling construction contract processes to implement this recommendation.

3. Pay the contractor \$161.00 in calculated interest charges.

RESPONSE: The Village will pay the contractor the calculated interest to implement this recommendation.

November 13, 2018

Management Response to Audit of Sidewalks Rehabilitation and Construction Contract

Finding 6. Ten (10) of 21 invoices under the contract were paid without issuing a purchase order.

This finding acknowledges that the Village's purchasing policy requires the use of a purchase order for all invoices under a contract, regardless of the amount of the invoice, and that ten (10) invoices, totaling \$23,842.75 were not paid with a purchase order. None of the invoices paid without a purchase order were in excess of \$10,000.00 which is the purchase order threshold for projects that are not associated with a contract. This finding also acknowledges that in the cases where purchasing orders were used, they were all approved by the Village Council or the appropriate party, that the purchase order information was consistent with the invoice, and that the invoice rates were consistent with the contract pricing.

The draft audit report labels \$23,842.75 as "questioned costs" which is the amount of invoices paid without a purchase order under the contract. However, this is clearly a process issue and there is no allegation that the funds should not have been paid to the contractor.

RECOMMENDATIONS:

1. Comply with the purchasing policy requirements.
RESPONSE: The Village will amend its purchasing policy to eliminate the need to utilize a purchase order for projects less than \$10,000.00 regardless of a contract. Additionally, the Village will continue to train staff regarding its purchasing policy.
2. Provide additional training to staff on purchasing policy requirements.
RESPONSE: The Village will continue to train staff regarding its purchasing policy.

Finding 7. Written guidance contains inconsistent terms.

This finding points out language in the Village's building fee schedule and administrative amendments to the Florida Building Code that require amendment to be consistent with each other and with current state law. These revisions will correct typographical errors and bring older local code current with more recent revisions to state law.

RECOMMENDATIONS:

1. Update written guidance related to permits, permit fees, and invoice payments to be consistent throughout all written documentation and with state law.
RESPONSE: The Village will update its written guidance to implement this recommendation.
2. Provide additional training to staff on written guidance.
RESPONSE: The Village will continue to train staff regarding its permits, permit fees, and invoice payment guidance documents.

Finding 8. The Village's inspection process could be enhanced.

This finding points out first that "the majority of the Village's processes were adequate with proper controls in place." However, this finding also suggests an opportunity

November 13, 2018

Management Response to Audit of Sidewalks Rehabilitation and Construction Contract

to enhance the Village's inspection process by ensuring timely entry of inspection data into the computer tracking system.


RECOMMENDATION:

1. Enter permit inspections into the computer tracking system at the time of occurrence to ensure accuracy of inspection dates.

RESPONSE: The Village will update its practices and policies to implement this recommendation.

On behalf of the Acting Village Manager and the staff of the Public Works, Building, Finance and Administration Departments, I want to thank you and your team for your observations and suggestions for improved administration of the Village's Sidewalks Rehabilitation and Construction Contract. The Village does not agree with all findings made in the draft audit report, but also appreciates that the draft audit report clearly dispels the resident complainant's allegations of corruption in Village government, and acknowledges many positive things, stating that "the majority of the Village's processes were adequate with proper controls in place." Further, we fully understand, as Mr. Carey noted during the audit exit interview, that the findings contained in the draft audit report are normal and typical findings when this type of audit is conducted. Finally, the Village acknowledges and agrees that implementation of the draft audit report's recommendations, as noted in this response, will only serve to make a good system even better.

Sincerely,



Keith W. Davis, Esq.
General Counsel, Village of Tequesta

KWD/br

cc: James M. Weinand, Acting Village Manager