

# **CITY AUDITOR'S OFFICE**



## **Audit of Department of Parks and Recreation Darling Tennis Center Contract Compliance**

**Report PR014-1819-07**

**April 4, 2019**

**RADFORD K. SNELDING, CPA, CIA, CFE**

**CITY AUDITOR**

## TABLE OF CONTENTS

<b>BACKGROUND .....</b>	<b>1</b>
<b>OBJECTIVES .....</b>	<b>1</b>
<b>SCOPE AND METHODOLOGY .....</b>	<b>1</b>
<b>FINDINGS, CONCLUSIONS AND RECOMMENDATIONS.....</b>	<b>2</b>
<b>1. Areas of Non-Compliance by the Operator .....</b>	<b>3</b>
<b>2. Improvements Needed in Monitoring Contract Compliance.....</b>	<b>6</b>
<b>MANAGEMENT RESPONSE.....</b>	<b>11</b>

**Audit of Department of Parks and Recreation  
Darling Tennis Center Contract Compliance  
Report PR014-1819-07**

**BACKGROUND**

The city of Las Vegas (city) built the Amanda & Stacy Darling Memorial Tennis Center (Center) at Kellog-Zaher Park in the Summerlin area. This center opened in 2005 and is Nevada’s largest tennis facility with 23 lighted tennis courts on 11 acres. Through an endowment with the Amanda and Stacy Darling Memorial Foundation, the city received \$1 million dollars for maintenance and operations of the Center.

The Center is located on land that the city holds a patent on from the Bureau of Land Management (BLM) for use as a park. This land is subject to the Recreation and Public Purposes Act 43, U.S.C. 869 et seq. (the “R&PP Act”). The R&PP Act contains conditions which, in essence, require the city to use the land for recreational and public purposes and not transfer operational control of the land to a third party.

In 2010, the city requested proposals for the operation and management of the Center. A local tennis management company (Operator) was selected. The city entered into the Darling Tennis Center Operation Contract (contract) on September 3, 2010 with this Operator. This contract is a five-year contract and renewable for three additional five-year periods. The first renewal of this contract was exercised beginning on September 1, 2015. Since execution of the original contract, there have been five modifications.

The Operator manages the Center and offers court rentals, various adult and youth tennis programs, leagues, tournaments, and private lessons. All revenue generated from the Center is retained by the Operator and operational expenses are the responsibility of the Operator.

A Senior Management Analyst within the Parks and Recreation department has been designated as the Project Manager over this contract.

**OBJECTIVES**

The objective of the audit was to assess the adequacy of compliance with the contract by both the Operator and the city.

**SCOPE AND METHODOLOGY**

The scope of the audit was limited to a review of compliance with the provisions within the current contract and the five modifications. Review of Operator submissions and transactions was limited to the period from January 1, 2017 through June 30, 2018. The last date of fieldwork was December 6, 2018.

Our audit methodology included:

- Research of contract provisions,
- Interviews of city and Operator employees,
- Observations of operations at the Center, and
- Review of available data and reports.

We conducted this performance audit in accordance with generally accepted government auditing standards except for the requirement for an external peer review every three years. 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 exception to full compliance is because the City Auditor's Office has not yet undergone an external peer review. However, this exception has no effect on the audit or the assurances provided.

## **FINDINGS, CONCLUSIONS AND RECOMMENDATIONS**

The following findings and conclusions were noted:

- The Operator is out of compliance with various contract provisions. See Finding #1.
- Improvements are needed in the city's monitoring of the Operator's compliance with the contract provisions. See Finding #2.

Further information is contained in the sections below.

## 1. Areas of Non-Compliance by the Operator

### Criteria

A service provider doing business with the city should comply with the provisions of their contract.

### Condition

The Operator was found to be out of compliance with the following contract provisions:

#### Deliverables Not Submitted

*The Operator shall submit the below-listed Deliverables electronically to the Project Manager. Upon request by the Project Manager, the Operator shall provide any supporting documentation needed by the City to adequately evaluate the Deliverables. (B-5 a-j)*

- a. Security Plan – to be submitted no later than 60 calendar days after contract Award.*
- b. Safety Program – to be submitted no later than 60 calendar days after contract award.*
- c. Proposed Operating Budget – to be submitted no later than March 1<sup>st</sup> of each year.*
- d. Independently Reviewed Financial Statements – to be submitted no later than 60 calendar days after the end of each fiscal year.*
- e. Operating Statement – to be submitted no later than 10 business days after the beginning of each new calendar month.*
- f. Program Report – to be submitted no later than 10 business days after the beginning of each new calendar quarter.*
- g. Program Schedule – to be submitted no later than 15 calendar days after contract award.*
- h. Fee Schedule – to be submitted no later than thirty days prior to the effective date of the revised fee schedule.*
- i. Personal Injury Report – to be submitted as soon as practically possible following the assertion of personal injury.*
- j. Damage Report – to be submitted as soon as practically possible following discovery of report or damage.*

*The Operator shall establish a Fee Schedule. No more than a “reasonable” charge may be imposed for the use of the Center or its services. Subsequent revisions to the fee schedule shall be submitted no later than 30 days prior to the effective date of the revised fee schedule. (C-3a, b, B-5h)*

The Operator is not consistently providing these deliverables to the Project Manager as outlined in the contract. The Operator does not have a documented security plan or safety plan as required by the contract.

Bank Statements Not Provided

*Each month, the city will receive a bank statement and an itemization of all activity in the joint account. (B-3b)*

The Operator is not providing the city with copies of monthly bank statements and an itemization of all activity in the joint account. However, several Parks and Recreation employees have access to view account activity online.

Financial Statements Not Reviewed by Independent Auditor

*The Operator shall submit the below-listed Deliverables electronically to the Project Manager. Upon request by the Project Manager, the Operator shall provide any supporting documentation needed by the City to adequately evaluate the Deliverables. (B-5 a-j)*

- d. Independently Reviewed Financial Statements – to be submitted no later than 60 calendar days after the end of each fiscal year.*

*The Operator shall keep, throughout the term of this Contract and any extensions thereof, all books and records customarily used in this type of operation in accordance with GAAP (Generally Accepted Accounting Principles). (B-2b)*

The Operator's financial statements are not independently reviewed by an auditor as required by the contract. They are compiled. The independent auditor's opinion for the Center's 2017 financial statements explains the difference between a compilation and a review as follows:

*A compilation is limited to presenting in the form of financial statements and supplementary schedules, information that is the representation of management. We have not audited or reviewed the accompanying financial statements and accordingly, do not express an opinion or any other form of assurance on them.*

Without independently reviewed or audited financial statements, there is no assurance that the Operator's books and records are being kept in accordance with GAAP as required by the contract.

Daily Deposits Not Being Made

*The Operator shall make daily deposits of all funds collected from the operation of the Center into a joint account established by the Operator and the City. (B-3a)*

While the Operator is making regular deposits of funds collected from the operations of the Center, we identified that these deposits are not always made on a daily basis as required by the contract.

Electronic Inventory of City-Owned Property Not Maintained

*Operator Maintenance responsibilities shall include: Maintain a complete electronic inventory of all City-owned property located at the Center. Ensure that inventory procured by the City or with City funds is accounted for as City Property. (B-6 a viii)*

The Operator is not maintaining a complete electronic inventory of all city-owned property located at the Center as required by the contract. No documentation was found showing that control of the city's property at the Center was transferred to the Operator.

Employee Background Checks and Drug Tests Not Completed

*The Operator shall conduct background checks and drug-testing of employees in accordance with the Operator's policies and procedures. (C-5 d)*

The Operator has not been completing employee background checks or drug tests. The Operator recently signed up with a background check service company.

Advertising and Marketing Materials Not Submitted for Approval

*The Operator and the Project Manager shall mutually agree on Center advertising campaigns, exterior and interior signage, brochures, newsletters, promotional publicity, and other marketing materials. (C-4b)*

The Operator is not providing advertising and marketing materials to the Project Manager for review and approval.

**Cause**

- Lack of attention to detailed requirements within contract by Operator.
- Contract provisions not being adequately monitored by Project Manager. See Finding #2.

**Effect**

- Non-compliance by Operator with contract provisions.

## **Recommendations**

- 1.1 Parks and Recreation management should evaluate these areas of non-compliance by the Operator and either request compliance in these areas or amend the contract to reflect the expectations of management if they differ from the provisions within the contract.
- 1.2 Parks and Recreation management should review the contract for any other provisions that differ from their expectations and amend the contract accordingly.

## **2. Improvements Needed in Monitoring Contract Compliance**

### **Criteria**

Project Managers should monitor contract compliance by service providers doing business with the city.

### **Condition**

A Senior Management Analyst within the Parks and Recreation Department has been designated as the Project Manager for this contract. The contract defines the Project Manager as the city representative who is responsible for the coordination of contract performance between the city and the Operator. The contract outlines those responsibilities as follows:

*The Project Manager will be the Operator's principal point of contact at the city regarding any matters relating to this contract, will provide all general direction to the Operator regarding contract performance, and will provide guidance regarding the city's goals and policies. The Project Manager is not authorized to waive or modify any material scope of work changes or terms of the contract. (D-3)*

Improvements are needed in monitoring this contract as evidenced by the following:

#### Areas of Non-Compliance Not Addressed

The areas of non-compliance identified in Finding #1 had not been identified and addressed by the Project Manager.

#### No Documented Monitoring Procedures

While the Project Manager maintains regular contact with the Operator and responds to questions and requests as needed, there are no documented procedures outlining



management's expectations for the Project Manager's monitoring of the individual provisions within this contract.

#### Inadequate Tracking and Evaluation of Deliverables

*The Operator shall submit the below-listed Deliverables electronically to the Project Manager. Upon request by the Project Manager, the Operator shall provide any supporting documentation needed by the City to adequately evaluate the Deliverables. (B-5 a-j)*

- a. Security Plan – to be submitted no later than 60 calendar days after contract Award.*
- b. Safety Program – to be submitted no later than 60 calendar days after contract award.*
- c. Proposed Operating Budget – to be submitted no later than March 1<sup>st</sup> of each year.*
- d. Independently Reviewed Financial Statements – to be submitted no later than 60 calendar days after the end of each fiscal year.*
- e. Operating Statement – to be submitted no later than 10 business days after the beginning of each new calendar month.*
- f. Program Report – to be submitted no later than 10 business days after the beginning of each new calendar quarter.*
- g. Program Schedule – to be submitted no later than 15 calendar days after contract award.*
- h. Fee Schedule – to be submitted no later than thirty days prior to the effective date of the revised fee schedule.*
- i. Personal Injury Report – to be submitted as soon as practically possible following the assertion of personal injury.*
- j. Damage Report – to be submitted as soon as practically possible following discovery of report or damage.*

*The city shall review all deliverables and other submittals in a timely manner. (D-4 (c))*

The Operator is required to provide various reports and schedules (deliverables) to the Project Manager on a regular basis. The Project Manager has not been consistently receiving or requesting these deliverables from the Operator in accordance with the contract. There are no documented procedures outlining the extent of the review to be completed on the deliverables received and who beyond the Project Manager should be involved in their review.

#### No Electronic Inventory of Property

*Operator Maintenance responsibilities shall include: Maintain a complete electronic inventory of all City-owned property located at the Center. Ensure that inventory procured by the City or with City funds is accounted for as City Property. (B-6 a viii)*

The Operator is responsible for maintaining a complete electronic inventory of all city-owned property located at the Center. The Project Manager has not implemented any procedures to ensure this is being done and to periodically verify the continued existence of the city's property.

#### No Equipment Listing

*The City will reimburse the Operator for replacement of existing equipment that has reached the end of its life-cycle, and for upgrades to the Center, subject to the City's prior written approval of said replacement or upgrade. (B-6d)*

The city is to reimburse the Operator for replacement of existing equipment that has reached the end of its life-cycle and for upgrades to the Center. However, the city does not have a listing of equipment along with their life-cycles for reference in evaluating reimbursement requests.

#### No Documented Quarterly Property Inspections

*City Maintenance responsibilities shall include...perform on-site inspections, at minimum quarterly, of maintenance and housekeeping at the Center, and provide an inspection report to the Operator within 15 working days after each inspection. (B-6 (b)(iv))*

Quarterly on-site property inspections along with reports being provided to the Operator are not being completed as required by the contract.

#### No Fee Reasonableness Review

*The Operator shall establish a Fee Schedule. No more than a "reasonable" charge may be imposed for the use of the Center or its services. Subsequent revisions to the fee schedule shall be submitted no later than 30 days prior to the effective date of the revised fee schedule. (C-3a, b, B-5h)*

The Project Manager is not reviewing the reasonableness of charges in the Operator's fee schedule as required by the contract.

#### No Advertising and Marketing Materials Review

*The Operator and the Project Manager shall mutually agree on Center advertising campaigns, exterior and interior signage, brochures, newsletters, promotional publicity, and other marketing materials. (C-4b)*

The Project Manager is not reviewing and approving all advertising and marketing materials as required by the contract.

### **Cause**

- Lack of documented procedures for monitoring the contract.
- Expectations for review of contract deliverables have not been formally defined.

### **Effect**

- Areas of non-compliance are not being identified and brought to the attention of the Operator.
- Center maintenance could be neglected.

### **Recommendations**

- 2.1 Parks and Recreation management should document and implement procedures for the Project Manager to follow in monitoring the provisions within this contract.
- 2.2 Parks and Recreation management should have the Project Manager track receipt of contract deliverables and maintain contract files for storage of these deliverables.
- 2.3 Parks and Recreation management should document and implement procedures outlining the extent of the reviews to be completed on the contract deliverables and identify other city staff that should be involved in the reviews.
- 2.4 Parks and Recreation management working with the Operator should document all city-owned property at the Center. Management should then evaluate and document how they want the Operator to comply with the contract provisions requiring that an electronic inventory of all city-owned property located at the Center be maintained. Management should document and implement procedures to periodically verify the continued existence of the city's property. Management should also document the procedures they want the Operator to follow in the disposal of city property and provide this to the Operator.
- 2.5 Parks and Recreation management should maintain a listing of the Center's equipment along with their estimated lives for evaluating Operator reimbursement requests.
- 2.6 Parks and Recreation management should request that Operations and Maintenance personnel begin completing quarterly on-site inspections of the Center and provide written inspection reports to both the Operator and the Project Manager. The Project Manager and/or Operations and Maintenance personnel should then implement procedures for following-up to ensure maintenance issues are addressed.

Audit of Department of Parks and Recreation  
Darling Tennis Center Contract Compliance  
PR014-1819-07  
April 4, 2019

- 2.7 Parks and Recreation management should have the Project Manager (or others) review the reasonableness of fees currently being charged at the Center and any future revisions to the fees.
- 2.8 Parks and Recreation management should require that the Project Manager review and approve marketing materials of the Center.

## **MANAGEMENT RESPONSE**

### **1. Areas of Non-Compliance by the Operator**

- 1.1 Parks and Recreation management should evaluate these areas of non-compliance by the Operator and either request compliance in these areas or amend the contract to reflect the expectations of management if they differ from the provisions within the contract.

#### **Management Action Plan:**

Parks and Recreation management met with the Operator on December 17, 2018 to review the areas of non-compliance, discussed items that needed compliance and discussed possible amendments to the agreement.

**Estimated Date of Completion:** June 1, 2019

- 1.2 Parks and Recreation management should review the contract for any other provisions that differ from their expectations and amend the contract accordingly.

#### **Management Action Plan:**

Parks and Recreation management will review the existing agreement, make recommendations for amendments and will meet with the City Attorney's Office to revise the contract

**Estimated Date of Completion:** June 1, 2019

### **2. Improvements Needed in Monitoring Contract Compliance**

- 2.1 Parks and Recreation management should document and implement procedures for the Project Manager to follow in monitoring the provisions within this contract.

#### **Management Action Plan:**

Parks and Recreation management will create a spreadsheet to document deliverables required by the Operator. Procedures for monitoring the contract will be outlined on a separate page of the spreadsheet. The deliverables will also be added into Oracle for an electronic reminder.

**Estimated Date of Completion:** June 1, 2019

- 2.2 Parks and Recreation management should have the Project Manager track receipt of contract deliverables and maintain contract files for storage of these deliverables.

**Management Action Plan:**

As part of 2.1, Parks and Recreation management will create a spreadsheet to document deliverables required by the Operator. Procedures will be included in the document. The deliverables will also be added into Oracle for an electronic reminder. Once deliverables are received from the Operator, the Project Manager will have documents/emails saved in a common drive folder that will be accessible to Parks and Recreation Management.

**Estimated Date of Completion:** June 1, 2019

- 2.3 Parks and Recreation management should document and implement procedures outlining the extent of the reviews to be completed on the contract deliverables and identify other city staff that should be involved in the reviews.

**Management Action Plan:**

The procedures will identify the staff person who is responsible for each area of review.

**Estimated Date of Completion:** June 1, 2019

- 2.4 Parks and Recreation management working with the Operator should document all city-owned property at the Center. Management should then evaluate and document how they want the Operator to comply with the contract provisions requiring that an electronic inventory of all city-owned property located at the Center be maintained. Management should document and implement procedures to periodically verify the continued existence of the city's property. Management should also document the procedures they want the Operator to follow in the disposal of city property and provide this to the Operator.

**Management Action Plan:**

Parks and Recreation management will use the property inventory list that was created during the RFP process. The list includes city-owned property at the center at the agreement's inception. In addition, an inspection by the Project Manager and Facilities Management will be conducted to document any additional city-owned property. The final list will be reviewed and evaluated by both the Project Manager and the Operator. The Operator has stated that any city owned property (in working order or not) has been kept at the center. If the items were not being used, they were kept in storage. A determination will be made by Parks and Recreation management as to the viability of the list and items that have worn out their useful lifespan.

**Estimated Date of Completion:** June 1, 2019

- 2.5 Parks and Recreation management should maintain a listing of the Center's equipment along with their estimated lives for evaluating Operator reimbursement requests.

**Management Action Plan:**

As part of 2.4, an inspection by the Project Manager and Facilities Management staff will be conducted to document any city-owned property, including equipment. The list will be reviewed and evaluated by both the Project Manager and the Operator and kept on file in the designated common drive folder.

**Estimated Date of Completion:** June 1, 2019

- 2.6 Parks and Recreation management should request that Operations and Maintenance personnel begin completing quarterly on-site inspections of the Center and provide written inspection reports to both the Operator and the Project Manager. The Project Manager and/or Operations and Maintenance personnel should then implement procedures for following-up to ensure maintenance issues are addressed.

**Management Action Plan:**

Parks and Recreation management will meet with Operations and Maintenance management to create a quarterly schedule for inspections. A report will be created and provided to the Operator and Project Manager. The Project Manager will include this in Oracle to receive an electronic notification.

**Estimated Date of Completion:** June 1, 2019

- 2.7 Parks and Recreation management should have the Project Manager (or others) review the reasonableness of fees currently being charged at the Center and any future revisions to the fees.

**Management Action Plan:**

In accordance with a contract deliverable, Parks and Recreation management will be receiving program and fee information seasonally from the Operator. This will include all programs that are being offered at the center with associated fees. The Project Manager will review these fees and ensure they are in line with the other two vendors who have contracts with the department.

**Estimated Date of Completion:** June 1, 2019

Audit of Department of Parks and Recreation  
Darling Tennis Center Contract Compliance  
PR014-1819-07  
April 4, 2019

- 2.8 Parks and Recreation management should require that the Project Manager review and approve marketing materials of the Center.

**Management Action Plan:**

Parks and Recreation management has agreed that this provision be removed and the agreement be amended.

**Estimated Date of Completion:** June 1, 2019