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MICHAEL POST, C.P.A., M.B.A.
HARRIS COUNTY AUDITOR

March 5, 2021

Jack Cagle
Harris County Commissioner Precinct 4
1001 Preston, Suite 950
Houston, TX 77002

Dear Commissioner Cagle:

The Harris County (County) Auditor's Office Audit Division has completed an audit of the Farm League Play It Forward Concession Agreement (Agreement). The results of our audit are included in the attached report.

We appreciate the time and attention provided by you and your staff during this engagement. Please anticipate an email request to complete the Audit Division's Post Engagement Survey. We look forward to your feedback. If you have any questions, please contact me or Errika Perkins, Chief Assistant County Auditor, 713-274-5673.

Sincerely,

A handwritten signature in blue ink that reads "Michael Post". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Michael Post
County Auditor

Report Copies:
District Judges
County Judge Lina Hidalgo
Commissioners:
R. Jack Cagle
Rodney Ellis
Adrian Garcia
Tom Ramsey
Christian D. Menefee

AUDIT REPORT
FARM LEAGUE PLAY IT FORWARD CONCESSION AGREEMENT

March 5, 2021

Executive Summary

OVERALL CONCLUSION

The Farm League Play It Forward (Concessionaire) was generally in compliance with the financial terms of the Agreement. The audit identified several opportunities for improvement regarding the Concessionaire's compliance with the payment remittance calculations, payment frequency, and insurance requirements outlined in the Agreement. These issues were discussed with Management, and an action plan has been developed that should address the issues identified by June 30, 2021.

SCOPE AND OBJECTIVE

The objective of this engagement was to evaluate the Concessionaire's financial compliance with the terms of the Agreement. The audit engagement's scope period was May 9, 2017, to September 30, 2020.

SUMMARY OF AUDIT ISSUES

- Payments were not submitted to Harris County in a timely manner.
- Payments were not submitted accurately to Harris County for fiscal year 2019.
- The Concessionaire did not comply with the insurance requirements.

The audit issues, management's action plan to address the issues, and background information regarding this audit are discussed in more detail on the following pages.

AUDIT ISSUES

ISSUE #1: Payments were not submitted in a timely manner.

What is the Issue: The Concessionaire is not consistently remitting quarterly payments, including their statement of financial activities, to the County in a timely manner as required by the Agreement.

What is Expected: Paragraph 3 of Section 4 of the Agreement requires the Concessionaire to send the County the amounts owed within twenty (20) days of the end of each reporting quarter.

Why it Matters: Not remitting payments on a quarterly basis has resulted in non-compliance with the Agreement and could result in financial loss to the County.

Why it Happened: The Concessionaire waits until they receive an invoice from the Harris County Auditor's Office Accounts Receivable department (Accounts Receivable) before they remit payments. However, Accounts Receivable has been inconsistently invoicing the Concessionaire by issuing invoices in some instances on a semi-annual basis. The Concessionaire has generally paid within 2-5 days after being invoiced.

What Action(s) are Suggested:

Accounts Receivable should:

- Invoice the Concessionaire by the 10th day of the month after the end of each quarter. The invoicing should include a description that reminds the Concessionaire of the Agreements requirement to pay the greater of \$4,500 or 10% of all gross amounts received.
- Include an additional description on the invoice reminding the Concessionaire that their statement of financial activities for the reporting period must be included with their quarterly remittance.

MANAGEMENT'S ACTION PLAN

Accounts Receivable:

Responsible Party: Dan Baumel, Interim Director of Accounts Receivable

Management Action Plan: Management agrees with the issue and Accounts Receivable will implement controls, including routine supervisory review of the master billing schedule, to ensure that invoices are delivered to the Concessionaire by the 10th day of the month after the end of each quarter. The invoice will include a description that reminds the Concessionaire of the agreements requirement to pay the greater of \$4,500 or 10% of all gross amounts received.

Furthermore, additional descriptions will be added to invoices reminding the Concessionaire that their statement of financial activities for the reporting period must be included with their quarterly remittance.

Due Date: June 30, 2021

AUDIT ISSUES

ISSUE #2: Payments were not submitted accurately to Harris County.

What is the Issue: For fiscal year 2019, the Concessionaire did not remit the correct payment amount to the County. The amount paid to the County was \$4,331.50 less than what is required per the Agreement.

What is Expected: Section 4 of the Agreement specifically states that the “Concessionaire will pay to the County the Greater of Four Thousand Five Hundred and No/Dollars (\$4,500) per quarter or Ten Percent (10%) of all gross amounts received by Concessionaire in operation of the Park.”

Why it Matters: Not submitting the correct payment amount resulted in a financial loss to the County Commissioner Precinct 4 Park Fund.

Why it Happened: The Concessionaire reduced fiscal year 2019 revenue amounts by \$36,650. Per The Concessionaire’s President, the reduction to their gross amounts received was to reflect donated materials and services to the Farm League Precinct 4 Park. This decision was made by the Concessionaire’s management and without notice or authorization by Harris County Commissioner Precinct 4.

What Action(s) are Suggested:

Commissioner Precinct 4’s – Office should discuss the requirements contained in Section 4 of the Agreement with the Concessionaire. This communication should include the following expectations:

- The quarterly balance due is the “Greater of” \$4,500 or 10% of “all gross” amounts received.
- A “Statement of Financial Activities” for the reporting period must be included with all payments.
- An additional annual “Statement of Financial Activities” must also be provided to the County no later than January 30th each year.

County Auditor’s Office - Accounts Receivable should issue an invoice for \$4,331.50 to the Concessionaire for the revenue variance noted for 2019.

MANAGEMENT’S ACTION PLAN

Commissioner Precinct 4

Responsible Party: Bill Jackson, Parks and Recreation Division Director

Management Action Plan: We agree with this issue and we will discuss the requirements contained in Section 4 of the Agreement with the Concessionaire pertaining to the quarterly amount due, the “Statement of Financial Activities” being included with all payments, and the annual “Statement of Financial Activities” due no later than January 30th each year.

Due Date: June 30, 2021

AUDIT ISSUE AUDIT ISSUES

ISSUE #2: Payments were not submitted accurately to Harris County. (Continued).

Accounts Receivable

Responsible Party: Dan Baumel, Interim Director of Accounts Receivable

Management Action Plan: We agree with the issue and Accounts Receivable will issue an invoice for the amount of \$4,331.50 to the Concessionaire for the revenue variance noted for 2019.

Due Date: April 30, 2021

AUDIT ISSUES

ISSUE #3: The Concessionaire did not comply with the insurance requirements.

What is the Issue: The Concessionaire did not comply with the insurance requirements listed in the Agreement. Specifically the following was noted:

1. The Certificate of Liability Insurance did not list Harris County as an additional insured entity under the policy.
2. The Concessionaire is not maintaining Workers' Compensation insurance.
3. The Concessionaire is not providing the County with copies of all insurance policies and renewal certificates.

In addition, the insurance section of the Agreement does not mention whether the policy maintained by the Concessionaire should be an occurrence or claims made based policy.

The Concessionaire did provide the County with an updated Certificate of Liability Insurance upon notice from the auditors. The Certificate now includes the County as an additionally insured entity.

What is Expected:

1. Section 8 of the Agreement requires the Concessionaire to maintain an insurance policy that includes the County as an additionally insured entity.
2. The insurance section also requires "Workers' Compensation Insurance covering its employee who perform work or service in connection with the park or its operation."
3. The Agreement requires copies of all insurance policies and renewal certificates be submitted to the County.
4. Per discussion with the County's Risk Management department, the Agreement should specify a requirement regarding policy type (claim or occurrence based).

Why it Matters: Not complying with the insurance section of the Agreement could expose the County to unnecessary risks resulting in financial loss.

Why it Happened: The Certificates were not reviewed by County personnel, including the Insurance Specialist from the County's Risk Management department.

What Action(s) are Suggested:

Commissioner Precinct 4's Office should:

1. Require the Concessionaire to provide the Certificate of Liability Insurance when a renewal occurs. The division should work with the County's Risk Management department to determine that insurance complies with Agreement requirements.
2. Discuss with the County's Risk Management department and the County Attorney's Office any additional requirements that may need to be amended or included in current and future Concessionaire agreements. The initial discussion should include concessionaire agreement policy types (Occurrence versus Claims Made) and Workers' Compensation coverage needs of the Concessionaire. The Workers' Compensation discussion should include the impact of volunteers assisting in Concessionaire operations.

ISSUE #3: The Concessionaire did not comply with the insurance requirements (Continued).

MANAGEMENT'S ACTION PLAN

Commissioner Precinct 4

Responsible Party: Bill Jackson, Parks and Recreation Division Director

Management Action Plan:

1. We agree with the issue and we will inform the Concessionaire that they are required to provide the Certificate of Liability Insurance when a renewal occurs. In addition, we will work with the County's Risk Management department to develop a process whereby each time a Certificate of Liability Insurance is provided, it is reviewed by the County's Risk Management department to ensure compliance.
2. We agree with the issue and we will discuss with the County's Risk Management department and the County Attorney's Office any additional requirements that may need to be amended or included in current and future Concessionaire agreements regarding but not limited to (Occurrence versus Claims Made) and Workers' Compensation coverage needs of the Concessionaire including the impact of volunteers assisting in Concessionaire operations.

Due Date: June 30, 2021

BACKGROUND

The County acquired a tract of approximately 27.3397 acres of land at 19717 Steubner-Airline Road on which a park has been constructed and requires the services of a third party to maintain and operate. The County entered into a concession agreement with The Farm League Play It Forward to maintain and operate the park and to pay to the County funds in the amount of the greater of \$4,500.00 per quarter or 10% of all gross amounts received by concessionaire in the operation of the park.