

# **AUDITOR'S REPORT**

## **CLEAR CREEK GOLF COURSE REVENUE CONTRACT COMMISSIONER PRECINCT 1 FOR THE 26 MONTH PERIOD ENDED JUNE 30, 2014**



**September 4, 2015**

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**BARBARA J. SCHOTT, C.P.A.**  
**HARRIS COUNTY AUDITOR**

September 4, 2015

Commissioner El Franco Lee  
County Commissioner, Precinct 1  
1001 Preston, Suite 950  
Houston, Texas 77002

Mr. Mike Post  
Chief Assistant County Auditor – Accounting Division  
1001 Preston, 8<sup>th</sup> Floor  
Houston, Texas 77002

RE: Clear Creek Golf Course Revenue Contract engagement for the 26 month period ended June 30, 2014

The Audit Services Department performed procedures relative to the Clear Creek Golf Course Revenue Contract engagement. The objective of the engagement was to evaluate controls for collecting and recording annual payments from CLP Clear Creek Golf, LLC, which was formerly CNL Income Clear Creek, LLC (Concessionaire) and to evaluate the compliance with the requirements of the Agreement. Our procedures included the following:

- Evaluated the annual payments made to the County for the 26 month period ended June 30, 2014, to identify whether payments were made in accordance with the requirements of the Agreement and whether they were received, recorded, and deposited timely.
- Selectively tested the Concessionaire's compliance with the terms of the Agreement, including the maintenance of specified types and amounts of insurance coverage and the payment of all ad valorem taxes for real and personal property located at the premises.
- Examined the County's Clear Creek Golf Club special revenue fund to identify whether funds were used for improvement and operation of the Clear Creek Golf Club as required by Local Government Code §331.006(b) *Concessions*.
- Evaluated the Clear Creek Golf Club fees to identify whether they met the minimum fees authorized by Exhibit "B" of the Agreement.
- Inquired of the County Auditor's Office if they have prescribed or agreed upon accounting forms used by the Concessionaire.
- Observed Clear Creek Golf Club's sales transactions to obtain reasonable assurance that pro shop and food and beverage transactions were recorded in the cash registers (point of sale system).

Commissioner El Franco Lee  
County Commissioner, Precinct 1

Mr. Mike Post  
Chief Assistant County Auditor – Accounting

- Selectively tested whether the Concessionaire is correctly transferring sales revenue data from the point of sale system to their accounting records.
- Determined whether the Concessionaire is reporting the correct amounts for all gross revenue and whether they are applying the correct percentage when calculating the annual payment amount sent to the County as outlined in the Agreement.

The engagement process included providing you with a combined engagement and scope letter and conducting an entrance and exit conference with your personnel. The purpose of the letter and conferences were to explain the process, identify areas of concern, describe the procedures to be performed, discuss issues identified during the engagement, and solicit suggestions for resolving the issues. A draft report was provided to you and your personnel for review.

The work performed required our staff to exercise judgment in completing the scope objectives. As the procedures were not a detailed inspection of all transactions, there is a risk that error or fraud was not detected during this engagement. The official therefore, retains the responsibility for the accuracy and completeness of their financial records and ensuring sufficient controls are in place to detect and prevent fraud.

The enclosed Auditor's Report presents the significant issues identified during our procedures, recommendations developed in conjunction with your staff, and any actions you have taken to implement the recommendations.

We appreciate the time and attention provided by you and your staff during this engagement.

Sincerely,



Barbara J. Schott  
County Auditor

cc: District Judges  
County Judge Ed Emmett  
Commissioners:  
R. Jack Cagle  
Jack Morman  
Steve Radack  
Devon Anderson  
Vince Ryan  
William J. Jackson

**TABLE OF CONTENTS**

**OVERVIEW .....4**

**RESULTS .....5**

**ISSUES AND RECOMMENDATIONS .....6**

**Authorized Minimum Fees .....6**

**Financial Statements .....7**

**Complimentary Green Fee Documentation .....8**

**County Prescribed or Agreed Upon Accounting Forms.....9**

**Electricity Reimbursement.....10**

**Insurance Coverage.....11**

**RISK ASSESSMENT AND SUMMARY OF RECOMMENDATIONS.....12**

## OVERVIEW

Harris County entered into an Agreement on February 18, 1986, granting BSL Management, Inc. the right and responsibility to construct, operate, and maintain an 18 hole golf course, driving range, practice putting greens, practice tee and fairways, 19<sup>th</sup> hole area, and a permanent watering system for all tees, fairways, greens, and other ancillary facilities. The initial term of the Agreement was thirty years, and pursuant to the First Amendment to the Agreement, dated September 1, 1987, the Agreement shall automatically extend for two additional ten (10) year terms under the same conditions and terms unless either party indicates in writing its intent to terminate the Agreement at least 180 days prior to the termination date. According to a Commissioners Court Order to the Agreement, dated November 21, 2006, CNL Income Clear Creek, LLC was authorized as the Concessionaire, and in 2012, CNL Income Clear Creek; LLC changed their registered name to CLP Clear Creek.

Pursuant to the First Amendment to the Agreement, as consideration for the use of the three tracts owned by the County, in addition to the surrender to the County of all fixed improvements at the termination of the Agreement, the Concessionaire is required to pay the County 9% of the annual gross receipts. The Agreement defines “annual gross receipts” as all money and the market value of all property and services received by the Concessionaire for entrance to or use of all or any part of the golf club premises or any facilities or equipment thereon. All payments are due to the County’s Treasurer’s Office within 20 days from the end of each operating year, which is defined as the 12 month period ended April 30th. As such, payments are due to the County’s Treasury Department by May 20th of each year. The County Auditor’s Grants and Accounts Receivable Department (Accounts Receivable) is responsible for monitoring the billing, collection, and recording of all annual payments received from the Concessionaire.

The golf course is located in Clear Creek, which is near Pearland and convenient to downtown Houston, The Medical Center, and The Galleria. This 6,917 yard Scottish Links course is inside Tom Bass Park and was designed by Joe Finger, Ken Dye, and Baxter Spann.



## RESULTS

Based on the procedures performed during the testing of the Clear Creek Golf Course Revenue Contract engagement, controls over compliance with the Agreement need improvement. Specifically, the following was noted during testing:

- Certain “Special Pricing” set and charged by the Concessionaire does not meet the minimum fees authorized by Exhibit “B” *Minimum Fee Schedule for Use of Golf Course and Facilities* (Exhibit B) of the Agreement.
- The Agreement does not require the Concessionaire's financial statements to be audited by an independent auditor.
- The Concessionaire does not have sufficient controls in place to ensure that documentation supporting complimentary green fees is maintained.
- The Concessionaire and Accounts Receivable did not agree upon accounting forms to be used by the Concessionaire as required by the Agreement.
- The Concessionaire did not procure a meter for making electricity connections and continuing service as required by the Agreement.
- The Concessionaire did not comply with the terms of the Agreement with regards to maintenance of specified types and amounts of insurance coverage approvals.

These and other matters are discussed in the Issues and Recommendations Section of this report.

However, the Concessionaire and the Commissioner’s Precinct 1 Office (Office) appear to be in compliance with the following terms of the Agreement:

- The annual payments made to the County for the 26 month period ended June 30, 2014, were made in accordance with the requirements of the Agreement, and they were received, recorded, and deposited timely.
- Payment of all ad valorem taxes for real and personal property located at the premises were made in accordance with the Agreement.
- The Concessionaire is reporting the correct amounts for all gross revenue, and they are applying the correct percentage when calculating the annual payment amount sent to the County as outlined in the Agreement.

Outside of the Agreement and statutory compliance items discussed above, no issues were noted with the following engagement objectives:

- The recording of pro shop food and beverage transactions in the cash registers (point of sale system).
- The transfer of sales revenue data from the point of sale system to the Concessionaire’s accounting records.
- There were no disbursements from the Clear Creek Special Revenue Fund; thus, testing of disbursements was not applicable.

## ISSUES AND RECOMMENDATIONS

Subject	Background	Issue	Recommendation	Management Response
<p>Authorized Minimum Fees</p>	<p>Exhibit B of the Agreement specifies the minimum price the Concessionaire is to charge for green fees, golf cart rentals, and buckets of balls to be used on the driving range.</p> <p>Exhibit B is silent as to any special pricing such as time of day, day of the week, type of player (Police, Fire, Military, etc.), and any memberships.</p> <p>Management informed us that their Riding Green Fees and their special pricing for Police, Fire, Military, Seniors, and Senior League players included the golf cart rental. As such, the Riding Green Fees or special pricing fees should equal or exceed the sum of the green fee and golf cart rental set as the minimum in Exhibit B of the</p>	<p>The Office and the Concessionaire do not have sufficient controls in place to ensure that the minimum fee structure outlined in Exhibit B of the Agreement is utilized at all times. During testing, it was noted that the Concessionaire established different green fee amounts depending on the time and day of the week and also set special pricing for Police, Fire, Military, Seniors, and Senior League players. As a result, 7 of 10 (70%) Riding Green Fee amounts and 100% of the special pricing for Police, Fire, Military, Seniors, and Senior League players were below the minimum fee structure outlined in Exhibit B of the Agreement.</p> <p>Not charging the minimum fees authorized by Exhibit B of the Agreement has</p>	<p>Office Management and the Concessionaire should implement procedures to monitor the Agreement for compliance with Exhibit B to ensure the minimum fees are charged by the Concessionaire.</p> <p>In addition, Office Management and the Concessionaire should determine whether they want to allow special pricing for certain professions, memberships, or players and work with the County Attorney's Office to consider amending the Agreement to address any specific discounts that will be offered. If no amendment is made to allow for such discounts, the Concessionaire should change its fee structure to meet the minimum requirements of Exhibit B</p>	<p>Office Management met with the Concessionaire and is working on an implementation plan for monitoring and compliance with Exhibit B.</p> <p>Office Management will consult with the County Attorney on amending the Agreement to address any special pricing and/or discounts that will be offered.</p> <p>Office Management will consult with the County Attorney's office on whether to seek reimbursement for the estimated financial loss to the county.</p> <p><b>County Attorney's Office</b> The language in the report is acceptable to us. Any renegotiation of the Agreement and consultation as to meaning may be</p>

## ISSUES AND RECOMMENDATIONS

Subject	Background	Issue	Recommendation	Management Response
(Continued) Authorized Minimum Fees	Agreement.	resulted in an estimated financial loss during the audit period of \$20,114 to the Concessionaire and \$1,810 to the County, utilizing the 9% payment structure pursuant to the Agreement.	of the Agreement.  Finally, Office Management should work with the County Attorney to determine whether the County should seek reimbursement for the \$1,810 estimated financial loss.	handled by our office.
Financial Statements	<p>The Concessionaire's financial statements are prepared in-house at their corporate office, and they are not audited by an independent auditor.</p> <p>The Concessionaire's annual payment to the County is based on the annual revenue presented in their financial statements.</p>	<p>The Agreement does not require the Concessionaire's financial statements to be audited by an independent auditor.</p> <p>Not requiring financial statements to be audited by an independent auditor could lead to financial misstatements which could result in an erroneous payment amount sent to the County.</p>	<p>Office Management should work with the County Attorney to consider amending the Agreement to include a requirement that the Concessionaire submit independently audited financial statements with their annual payments. Doing so would give the County reasonable assurance over the accuracy of the financial statements used to generate the annual payments submitted by the Concessionaire.</p>	<p>Office Management supports the recommendation to amend the Agreement to require the Concessionaire to submit independently audited financial statements with their annual payments and will refer this item to the County Attorney for recommendation and action.</p> <p><b>County Attorney's Office</b> The language in the report is acceptable to us. Any renegotiation of the Agreement and consultation as to meaning may be handled by our office.</p>

## ISSUES AND RECOMMENDATIONS

Subject	Background	Issue	Recommendation	Management Response
Complimentary Green Fee Documentation	<p>Pursuant to the Agreement, the Concessionaire shall operate and manage all concessions and collections of green fees on the premises. The amount of any fees and all rates and prices charged shall be subject to the prior approval of Commissioners Court. By execution of the Agreement, Commissioners Court agreed that the fees set by the County will not be less than the minimum fees as set forth in Exhibit B of the Agreement.</p> <p>Complimentary green fee certificates are currently being issued to nonprofit organizations and/or given to all PGA tournament players as a marketing tool.</p>	<p>The Concessionaire does not have sufficient controls in place to ensure that documentation supporting complimentary green fees is maintained. During testing, the Concessionaire could not provide documentation supporting 5 of the total 51 (9.8%) complimentary green fee certificates redeemed in April 2014. In addition, the Agreement is silent as to whether the Concessionaire is authorized to issue complementary green fees.</p> <p>As a result, the Concessionaire is not in compliance with Exhibit B of the Agreement.</p>	<p>Office Management, in conjunction with the Concessionaire, should determine whether they want to continue issuing complementary green fees as a marketing tool and, if necessary, work with the County Attorney's Office to amend the Agreement to authorize the issuance of complementary green fees.</p> <p>In addition, if the Agreement is amended to authorize the issuance of complementary green fees, the Concessionaire should implement controls to ensure that all complementary green fee certificates redeemed are maintained onsite according to the County's record retention policy and are monitored for authorization and completeness. This should include maintaining a</p>	<p>Office Management met with the Concessionaire and is currently seeking an amicable resolution of all issues outlined in the audit.</p> <p>A consultation with the County Attorney's office is forthcoming to address complimentary green fees and the extent of the offerings.</p> <p><b>County Attorney's Office</b> The language in the report is acceptable to us. Any renegotiation of the Agreement and consultation as to meaning may be handled by our office.</p>

## ISSUES AND RECOMMENDATIONS

Subject	Background	Issue	Recommendation	Management Response
(Continued) Complimentary Green Fee Documentation			folder for all complimentary green fee certificates that are redeemed and performing a quarterly review of all redeemed certificates to ensure they were properly authorized (signed by a manager) and all certificates are accounted for and maintained.	
County Prescribed or Agreed Upon Accounting Forms	Pursuant to Article VI of the Agreement, the Concessionaire shall keep accurate and complete records and accounts of all operations and all income in accordance with forms either prescribed by the County or agreed upon by the parties hereto.	<p>Accounts Receivable has not prescribed or agreed upon accounting forms to be used by the Concessionaire to ensure standardization and consistency of recordkeeping and accounting of operations and income at the golf club.</p> <p>Not prescribing or agreeing upon accounting forms for use has resulted in noncompliance with Article VI of the Agreement.</p>	Accounts Receivable Management should prescribe or agree upon the accounting forms that should be used by the Concessionaire to ensure standardization and consistency of recordkeeping and accounting of operations and income at the golf club.	<p><b>Commissioner's Office</b> Office Management supports the recommendation that approved accounting forms should be used by the concessionaire and will work with Accounts Receivable and Concessionaire to ensure forms are approved by the County.</p> <p><b>Accounts Receivable</b> Accounts Receivable agrees with the recommendation that approved accounting forms should be used by the Concessionaire and will work with the</p>

## ISSUES AND RECOMMENDATIONS

Subject	Background	Issue	Recommendation	Management Response
(Continued) County Prescribed or Agreed Upon Accounting Forms				Commissioner's Office and the concessionaire to ensure the proper forms are authorized by the County.
Electricity Reimbursement	Pursuant to the Agreement (Page 9, Article VIII, Paragraph C), the Concessionaire agrees to pay all public utility bills for electricity, gas, and water consumed within the area covered by this Agreement and to procure at its expense all meters and permits necessary for making connections and continuing service.	<p>The Concessionaire did not procure a meter for making electricity connections and continuing service as required by the Agreement. During testing, it was noted that a sub-meter was installed in lieu of a separate meter, and the County is billing the Concessionaire for electricity usage based on the sub-meter rather than the Concessionaire paying the electricity bill directly based on their own meter.</p> <p>As a result, the Concessionaire and the Office are not in compliance with the Agreement.</p>	Office Management should work with the Concessionaire and the electric company to facilitate the installation of a meter to track the Golf Course electrical usage and enable direct billing to the Concessionaire. If a separate meter is not feasible, the Office and the Concessionaire should consider an amendment to the Agreement allowing for a sub-meter and monthly billings by the County for electrical usage to bring the Concessionaire and the County into compliance with the Agreement.	<p>Office Management has referred the Concessionaire to the electric company for meter installation and will work with both parties to get a separate meter installed for billing purposes.</p> <p><b>County Attorney Response</b> The language in the report is acceptable to us. Any renegotiation of the Agreement and consultation as to meaning may be handled by our office.</p>

## ISSUES AND RECOMMENDATIONS

Subject	Background	Issue	Recommendation	Management Response
Insurance Coverage	Article IX of the Agreement requires the Concessionaire to deliver duplicate originals or certificates of all insurance policies to the County Attorney for review and approval.	Duplicate originals or certificates of all insurance policies were not delivered to the County Attorney's Office and, therefore, the County Attorney's Office did not review and/or approve the required insurance coverage as required by the Agreement.	The Concessionaire should forward duplicate originals or certificates for all current and future insurance policies to the County Attorney's Office for review and approval as required by the Agreement.	Office Management supports the recommendation that proof of insurance should be delivered to the County Attorney's office as required by the agreement.  <b>County Attorney Response</b> The language in the report is acceptable to us.

## RISK ASSESSMENT AND SUMMARY OF RECOMMENDATIONS

The risk matrix below presents the assessed level of risk or exposure identified during our procedures. Inherent risk relates to factors that because of their nature cannot be controlled or mitigated by management. Inherent risk includes factors such as legislative changes, number and dollar amount of transactions processed, and/or complex nature of transactions. Control risks relate to factors that can be influenced or controlled by management. Controls such as policies and procedures, electronic or manual approvals, system security access, and separation of job responsibilities may be instituted by management in order to mitigate control risk. Control risk is assessed during the planning phase in order to establish the nature, timing, and extent of testing and at the conclusion of the engagement in order to incorporate actions taken to implement our recommendations. The overall risk considers a combination of inherent and control risks.

<b>Inherent Risk:</b>	<b>Control Risk:</b>		<b>Overall Risk:</b>
<input type="checkbox"/> High <input checked="" type="checkbox"/> Moderate <input type="checkbox"/> Low	<b>Prior to Procedures</b>	<b>After Procedures</b>	<input type="checkbox"/> High <input checked="" type="checkbox"/> Moderate <input type="checkbox"/> Low
	<b>Adequate</b>	<b>Needs Improvement</b>	
<b>Type of Procedures:</b> Audit			
<b>Purpose:</b> To evaluate controls for collecting and recording annual payments from CLP Clear Creek Golf, LLC, which was formerly CNL Income Clear Creek, LLC (Concessionaire), and to evaluate the compliance with the requirements of the Agreement.			
<b>Priority Rating:</b>	<b>Audit Recommendations:</b> Commissioner Precinct 1 Office, Accounts Receivable, and CLP Clear Creek Golf, LLC (Concessionaire)		
1	Office Management and the Concessionaire should implement procedures to monitor the Agreement for compliance with Exhibit B to ensure the minimum fees are charged by the Concessionaire.  In addition, Office Management and the Concessionaire should determine whether they want to allow special pricing for certain professions, memberships, or players and work with the County Attorney’s Office to consider amending the Agreement to address any specific discounts that will be offered. If no amendment is made to allow for such discounts, the Concessionaire should change its fee structure to meet the minimum requirements of Exhibit B of the Agreement.  Finally, Office Management should work with the County Attorney to determine whether the County should seek reimbursement for the \$1,810 estimated financial loss.		
1	Office Management should work with the County Attorney to consider amending the Agreement to include a requirement that the Concessionaire submit independently audited financial statements with their annual payments.		

	Doing so would give the County reasonable assurance over the accuracy of the financial statements used to generate the annual payments submitted by the Concessionaire.
1	Office Management, in conjunction with the Concessionaire, should determine whether they want to continue issuing complementary green fees as a marketing tool and, if necessary, work with the County Attorney's Office to amend the Agreement to authorize the issuance of complementary green fees.  In addition, if the Agreement is amended to authorize the issuance of complementary green fees, the Concessionaire should implement controls to ensure that all complementary green fee certificates redeemed are maintained onsite according to the County's record retention policy and are monitored for authorization and completeness. This should include maintaining a folder for all complementary green fee certificates that are redeemed and performing a quarterly review of all redeemed certificates to ensure they were properly authorized (signed by a manager) and all certificates are accounted for and maintained.
1	Accounts Receivable Management should prescribe or agree upon the accounting forms that should be used by the Concessionaire to ensure standardization and consistency of recordkeeping and accounting of operations and income at the golf club.
1	Office Management should work with the Concessionaire and the electric company to facilitate the installation of a meter to track the Golf Course electrical usage and enable direct billing to the Concessionaire. If a separate meter is not feasible, the Office and the Concessionaire should consider an amendment to the Agreement allowing for a sub-meter and monthly billings by the County for electrical usage to bring the Concessionaire and the County into compliance with the Agreement.
1	The Concessionaire should forward duplicate originals or certificates for all current and future insurance policies to the County Attorney's Office for review and approval as required by the Agreement.

<b>Priority Rating</b>	<ol style="list-style-type: none"> <li><b>1. Implement immediately (30 – 90 days)</b> – Serious internal control deficiencies or recommendations to reduce costs, maximize revenues, or improve internal controls that can be easily implemented.</li> <li><b>2. Work towards implementing (6 – 18 months)</b> – Less serious internal control deficiencies or recommendations that can not be implemented immediately because of constraints imposed on the department (i.e., budgetary, technological constraints, etc.).</li> <li><b>3. Implement in the future (two – three years)</b> – Recommendations that should be implemented, but that can not be implemented until significant and/or uncontrolled events occur (i.e., legislative changes, buy and install major systems, requires third party cooperation, etc.).</li> </ol>
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