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**McLeland Tennis Center  
Audit**

March 10, 2017



**City of Fort Worth  
Department of Internal Audit**

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Fort Worth, Texas 76102

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**The McLeland Tennis Center Audit was conducted as part of the Department of Internal Audit's Fiscal Year 2017 Annual Audit Plan.**

### **Audit Objectives**

The objectives of this audit were to:

- review close-out items related to the City's contract with the current tennis contractor; and
- determine whether there are current contract oversight issues that should be improved upon with the new tennis contractor and contract.

### **Audit Scope**

Our audit covered the period from October 1, 2013 through September 30, 2016.

### **Opportunities for Improvement**

Improve contract monitoring to ensure compliance with contractual terms

Modify inspection checklist to require signatures and dates

Make necessary contract revisions

Implement a formalized transition process

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## **Executive Summary**

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The Department of Internal Audit conducted an audit of the McLeland Tennis Center (MTC). Internal Audit assessed whether contract requirements were met and whether the City's Park and Recreation Department effectively monitored the contract. Internal Audit also assessed whether the new contract included provisions that reduce the City's risk and/or address specific issues identified during the audit. Based on our audit results, inadequate contract monitoring resulted in contractual obligations not being met. Also, additional contract provisions were deemed necessary within the new/current contract.

We concluded that the City failed to adequately monitor the MTC contract. For example, the City did not require that the contractor report MTC activity and financial information as required by the contract. In the one instance where financial information was provided, the Department of Internal Audit was unable to substantiate reporting accuracy or completeness. Also, there was no documentation to support that the City conducted routine facility inspections as was required. The City also did not require detailed invoices to validate amounts paid to the contractor for Fort Worth Independent School District (FWISD) court usage.

Although the contractor paid the amount that was required on an annual basis, payments were not made quarterly as was required by the contract. There was no evidence that the contractor maintained the required insurance coverage throughout the term of the contract, and we were unable to obtain documentation to support that the contractor made the required repair and maintenance expenditures during FY2014. It should be noted that documentation reviewed during the audit supported vendor compliance with repair and maintenance requirements during FY2015 and FY2016.

Transition risk, such as ownership of the website domain, was not adequately addressed in the new contract. Also, the new contract did not cap the City's potential cost related to FWISD's court usage. Park management indicated that the new vendor agreed not to bill the City for FWISD's court usage up to \$4,000. However, without adequate recordkeeping, it is difficult (if at all possible) to determine FWISD's historical court usage. In addition, telephone and alarm services provisions are not reflective of the intentions of the parties, and require further clarification.

Our audit findings are discussed in further depth within the [Detailed Audit Findings](#) section of this report.



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## Background

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The City of Fort Worth (CFW) owns a full-service tennis complex, the McLeland Tennis Center (MTC), located at 1600 W Seminary Drive, Fort Worth, TX 76115. The City-owned facility is located in District 9, but serves the entire city. Since January 1993, the City has contracted out the management and operations of the facility to various third parties. The tennis facility was constructed in 1962, and has 14 lighted outdoor and two climate-controlled indoor courts.

In June 2000, the Mayor and City Council authorized the City (via M&C #26013) to enter into a Memorandum of Understanding with the Fort Worth Independent School District (FWISD), granting FWISD coaches and students use of the MTC outdoor tennis courts for practice and tournament court usage. In collaboration with the various contractors who have managed the facility since 2000, the City has continued to honor this agreement with FWISD.

In April 2005, the CFW executed a contract with 2tennis.net LLC, granting the contractor responsibilities for management and operations of the MTC, replacing the prior contractor. A new contract and subsequent renewals resulted in 2tennis.net managing and operating the MTC for 11 years and 5 months from April 2005 through August 2016.

The terms of the contracts with 2tennis.net have varied slightly over the contractor's 11 years of managing the facility. However, during FY2014 - FY2016, the basic financial arrangements of the amended contract allowed the contractor to retain the revenue generated by the day-to-day operations of the facility, but required the contractor to assume certain operational costs of the facility (i.e. payroll, telephone, internet, cable, etc.). The contract also required the contractor to remit, to the City, an annual rental fee of \$10,500 (payable in equal quarterly amounts). Per the terms of the contract, 2tennis.net was responsible for the following key contractual provisions:

- operating the MTC as a public municipal tennis facility to members of the general public seven (7) days per week;
- providing tennis lessons and tournaments, court rentals, and a certified tennis professional on-staff;
- providing a pro-shop and concessions;
- establishing a center advisory committee;
- maintaining required insurance coverage;
- minimizing the use of utilities;
- providing basic repairs and maintenance to the tennis courts (periodic repainting and restriping, wind screens, etc.) up to \$2,500 per year;
- maintaining an acceptable appearance of the center that meets the City's Facility Cleanliness Standards; and,
- maintaining financial records for three years after contract expiration.

City responsibilities included: paying for utility related expenses (e.g., water, sewer, electricity, gas, and waste disposal), ice machine rental, structural maintenance of the tennis courts and outdoor grounds; requesting department budgetary funding to resurface two courts per fiscal year; providing fire and extended insurance coverage on the center and center contents owned by the City; and paying the contractor for the FWISD's court usage.



During the spring of 2016, the City's Park and Recreation Department issued a Request for Proposal (RFP) for management and operations of the MTC to prospective bidders. Upon proposal evaluation, the contract was awarded to Lifetime Tennis Inc. (contract #48111) for a five-year term, with two optional five-year renewal periods. While many of the operational requirements of this contract align with the 2tennis.net contract, the new contract provided the following:

- increase rental income to \$25,000 (\$14,500 more than the prior contract);
- an annual capital improvement fee of \$5,000 for the first year (an increase of \$2,500 over the prior contract) and increasing by \$1,000 per year each subsequent year;
- expansion of the hours of operation to 97 hours per week (37 hours more, per week, than the prior contract);
- waiving City's reimbursement of FWISD's use of the MTC courts up to \$4,000;
- implementation of a community outreach program by contractor;
- an increase in contractor-required insurance coverage amounts;
- broader involvement in the Advisory Committee to include more varied representation; and,
- on-line player registrations and reservations.

Lifetime Tennis Inc. assumed operations of the facility on September 1, 2016.

### **Outdoor Courts**



Source: <http://www.mclelandtennis.com/about.html>

### **Indoor Court**



Source: <http://www.mclelandtennis.com/about.html>



## Objectives

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The objectives of this audit were to:

- review close-out items related to the City's contract with the current tennis contractor; and,
- determine whether there are current contract oversight issues that should be improved upon with the new tennis contractor and contract.

## Scope

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Our audit covered the period from October 1, 2013 through September 30, 2016, and covered the MTC Management and Operations Contract between the City of Fort Worth and 2tennis.net and the contract with the new contractor, Lifetime Tennis, Inc.

The audit scope was limited to the provisions of the contract and contractor transition. This audit did not focus on tennis operations nor did we evaluate the Request for Proposal or contract award process.

## Methodology

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To achieve the audit objectives, the Department of Internal Audit performed the following:

- interviewed key personnel within the Park and Recreation Department and the terminating contractor;
- interviewed Property Management personnel to understand the typical transition process for leasing a City-owned facility;
- performed a walkthrough of the facility prior to the City's transition to the new vendor;
- reviewed old and new contracts to identify key provisions and changes; and,
- obtained and reviewed documentation to assess compliance with key contract provisions.

We conducted this audit in accordance with generally accepted government auditing standards, except for peer review<sup>1</sup>. 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.

<sup>1</sup> Government auditing standards require audit organizations to undergo an external peer review every three years. A peer review is planned in 2017 for the three-year period ending December 31, 2016.

## Audit Results

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Documents required to support contract compliance were not readily available, and at times, were created upon Internal Audit's request. We found that contract-related documents were on hard drives (including one previously assigned to a retired employee), in emails, on flash drives, in network folders, hardcopies retained by various personnel, and/or the documents were not retained. The City's Park and Recreation Department admitted to not adequately monitoring the MTC contract.

The prior and current contractor accepted/accepts prepayment for tennis services. Upon inquiry regarding what would happen to prepayments in the event that the contract terminates prior to the contractor's ability to fully satisfy those services, the Park and Recreation Department indicated that the contractor would be required to return the monies to the patron. Although Section 7 of the prior contract and Section 8 of the new contract contains no legal clause that would specifically require the contractor to do so, both contracts include a standard indemnification clause that would limit the City's risk exposure.

The contractor was contractually obligated to procure (at its own expense) an alarm service for the MTC. However, since the alarm system routes directly to the CFW's police dispatch, a payment amount was not determined. The contract required payment for a service that was provided by the City. As a result, neither the CFW nor the contractor pays for alarm monitoring services.

We concluded that inadequate monitoring of the prior contract contributed to the failure to identify and/or remedy deficiencies.

- Monthly financial reports were not provided for each month of the contract.
- The contractor consistently paid the required annual fee of \$10,500. However, payments were not made in the required payment intervals and late fees were not assessed.
- Facility inspections were not performed and/or documented as was required. During our audit, only one documented facility inspection was provided.
- Detailed invoices were not provided to support billings submitted to the CFW for FWISD practice and tournament court usage fees.
- Not all insurance provisions were met and the extent of coverage exceeded that normally required by the CFW.
- Documentation was not provided to support that court fees were approved annually.
- The contractor was contractually obligated to provide alarm services that were already being provided by the CFW.
- Documentation provided to support Center Advisory Committee meetings was unreliable, and meetings were not held according to contract provisions.
- The CFW did not execute an adequate transition process between contracts.

In addition, the new contract failed to include provisions that reduce the City's risk or address specific issues identified during the audit. The Department of Internal Audit also noted deficiencies in the contract transition process, such as failure to conduct inventory and failure to conduct and document facility inspections.



## Overall Evaluation

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High	Medium	Low
<a href="#"><u>Lack of contract monitoring</u></a>		
<a href="#"><u>Absence of pertinent contractual provisions</u></a>		
<a href="#"><u>Crucial steps not addressed during transition period</u></a>		



## Detailed Audit Findings

### 1. Contract requirements were not met.

A review of contractual provisions revealed that neither the contractor nor the Park and Recreation Department fulfilled their responsibilities in regards to contract compliance and monitoring.

**Monthly Reporting.** Section 12.1 of Contract #43353 required the MTC contractor to provide a summary of MTC activities and financial transactions to the City on a monthly basis. During the audit, the Department of Internal Audit requested copies of monthly reports and were provided a FY2015 financial summary that documented the contractor’s revenue, by type and by month. However, we were unable to substantiate whether the financial information provided was complete, accurate, submitted to the CFW each month or prepared after Internal Audit’s request.

**Rental Payments.** Based on our audit results, the contractor consistently paid the required annual fee of \$10,500. However, payments were not made in required payment intervals or amounts. For example, as noted in the following chart, equal quarterly installments of \$2,625.00 were not made on or before the tenth (10th) day of January, April, July, and October as was required by the contract.

Fiscal Year	Time Period	Contract Months	Posting Date	Amount Paid	Total Paid						
2012	10/1/2011–9/30/2012	12	5/01/2012	\$1,000	8/14/2012	\$9,000	9/18/2012	\$ 500			\$10,500
2013	10/1/2012–9/30/2013	12	6/10/2013	\$5,250	6/17/2013	\$5,250					\$10,500
2014	10/1/2013–9/30/2014	12	12/3/2013	\$2,500	5/21/2014	\$5,000	9/29/2014	\$3,000			\$10,500
2015	10/1/2014–9/30/2015	12	2/20/2015	\$2,500	6/19/2015	\$8,000					\$10,500
2016	10/1/2015–8/31/2016	11	3/01/2016	\$2,625	3/18/2016	\$2,625	6/1/2016	\$5,250	8/30/2016	\$1,750	\$12,250
TOTALS:		59									\$54,250

Section 4.4 of contract #43353 requires that any payment not made by its due date should be assessed a late fee of 12% interest for each day the payment is delinquent. Since the Park and Recreation Department did not record the actual receipt date of the contractor payments, Internal Audit used the check date (and verified it against the general ledger posting date for reasonableness) to approximate the payment date. Based on check dates, Internal Audit calculated the amount that should have been charged in late fees to the contractor, for the three-year audit period FY2014 through FY2016, to be approximately \$735.

During our audit period, ten of the 12 (83%) required payments ranged from 52 to 234 days late (based on the check date), and were paid in check amounts varying from \$1,750 to \$8,000. It should be noted that the contractor paid \$12,250 during FY2016. The additional \$1,750 (\$12,250 payment less \$10,500 annual fee) was to pay for the additional two months for which the contract was extended. As previously noted, the contractor did not always pay timely and the City failed to assess late fees.

**Facility Inspections.** Within Section 3.7(c) of Contract #43353, the CFW agrees to perform monthly facility inspections and submit facility checklists to the contractor, identifying areas of concern. The



contract further requires that the contractor correct all problems cited in the checklist within two weeks from the date on which the checklist is provided to the contractor.

During the audit, the Department of Internal Audit requested copies of monthly checklists. Internal Audit was provided only one checklist dated December 18, 2013. The checklist displayed the typed name of a CFW employee, but did not bear the signature of a City representative or the contractor. Furthermore, there was no documentation to support that deficiencies noted within this one checklist were addressed. Park and Recreation staff stated that additional facility inspections were occasionally conducted. However, since checklists supporting additional inspections were not provided, we were unable to substantiate those statements.

**FWISD Court Usage.** The City of Fort Worth and FWISD entered into a Memorandum of Understanding (MOU) in June 2000, whereby the City was required to grant FWISD unlimited use of the MTC outdoor tennis courts during regular weekday practices (play before 5 p.m.) during the traditional school year free of charge. The City's contractor agreed to comply with this MOU.

Section 5.2 of Contract #43353 requires the contractor to provide an itemized monthly invoice to the CFW, documenting FWISD's daily practice times and dates, in an amount up to a maximum of \$4,000 per contract year. Internal Audit's review of contractor invoices revealed that the contractor submitted non-itemized annual billings of \$4,000.

The CFW paid a total of \$4,000 during FY2015 and \$4,666.67 in FY2016. The additional \$666.67 (\$4,000/12 months x 2 months) was applicable to the extended months of July and August, although summer months are not included in the traditional school year. The City did not pay the Contractor for FWISD usage during FY2014, and we found no evidence that the vendor billed the CFW during FY2014.

**Insurance.** Section 6.1 of Contract #43353 requires the contractor to procure insurance coverage (General Liability, Auto, Workers' Compensation, and Property) for the MTC facility. However, Internal Audit found certain insurance provisions that were not met.

- a) Internal Audit was unable to obtain Auto, Workers' Compensation, and Property insurance policies from either the contractor or the City's Park and Recreation Department for periods prior to June 18, 2016. We, therefore, could not verify whether the contractor obtained the required insurance coverage prior to June 18, 2016. It should be noted that documentation supported General Liability insurance coverage for the period prior to June 18, 2016, and for the period July 1, 2016 through July 1, 2017.
- b) Documentation indicated that there was a lapse in all required insurance coverages for a total of 13 days - - from June 18, 2016 through June 30, 2016.
- c) The annual aggregate limit of \$2 million, procured by the contractor, did not comply with the contractual requirement of \$2.5 million. Internal Audit noted that the \$2.5 million requirement was beyond the City's \$2 million normal aggregate limit requirement.

**Court Resurfacing.** Section 10.4 of contract #43353 obligates the City to contribute to the betterment of the tennis facility by annually requesting funding to resurface two courts per fiscal year via the department's annual budget proposal.

Testing revealed that while Park staff requested funding to resurface two courts via their FY2014 annual budget proposal, they did not request court resurfacing funding during either FY2015 or FY2016. While the City had a \$10,000 budget for court resurfacing in FY2014, they never expended



any of these monies, even though there was a net unexpended encumbrance remaining in the MTC budget of \$16,277 at the end of the fiscal year.

In collaboration with other external parties, funding was raised to resurface 11 of the 14 courts during the first quarter of FY2016. The total cost of the resurfacing/court improvement project (which included court repair and resurfacing, post replacements, cabana and post painting, net replacement, and windscreen replacement) was \$61,285.

**Fee Approvals.** Section 5.1 of contract #43353 requires approval of court usage fees, in writing and on an annual basis, by the Park and Recreation Department Director. Additionally, the contract requires that the contractor submit a schedule of all fees for the upcoming year on or before August 1<sup>st</sup> of each year.

The City Park and Recreation Department informed our audit team that the Director did not approve court usage fees on an annual basis. Rather, the Director approved fees as the contractor requested changes. Park and Recreation Department staff were, however, unable to provide documentation to support that the Director approved court usage fees or provide Internal Audit a copy of historical fees charged by the contractor.

**Facility Maintenance.** Section 10.2 of Contract #43353 obligates the contractor to expend up to \$2,500.00 per year for basic repairs and maintenance to the tennis courts (including periodic repainting and restriping, as well as any necessary replacement of nets and windscreens due to ordinary wear and tear).

While invoices reviewed during the audit validated that the contractor expended the required expenditure of \$2,500 for FY2015 and FY2016, we were unable to obtain documentation to substantiate the required \$2,500 expenditure in FY2014.

- The FY2015 expenditure was for a \$4,600 vacuum purchased for the indoor courts. The contractor contributed \$2,500 towards the purchase, while the Fort Worth Sports Advisory Council contributed the remaining \$2,100.
- The contractor's FY2016 expenditure contributed to the \$61,285 multi-funded project previously discussed.

**Advisory Committee Meetings.** Section 3.7(d) of contract #43353 states that the contractor shall ensure that the Advisory Committee meets quarterly during the months of January, April, July and October. While an Advisory Committee was formed and met with City Park and Recreation representatives, Park and Recreation staff and the contractor indicated that Advisory Committee meetings were not held as stipulated in the contract.

Park and Recreation staff and the contractor further stated that Advisory Committee meetings were discontinued due to multiple factors such as lack of a quorum and counterproductive meetings.

**Telephone Services.** Although Section 9.3 of the current contract #48111 requires Lifetime Tennis, Inc. to pay local and long distance telephone service, the City paid for these expenses at the time of the audit. Park and Recreation staff indicated that while the intention of the City is for the contractor to pay for these telephone expenses, a disagreement with the prior contractor (over ownership of the telephone lines) resulted in the City's decision to pay for the telephone services outright, and to invoice the contractor for these expenses on a quarterly basis. As of the end of audit fieldwork, the



City had not invoiced the contractor for these services. By paying telephone expenses that are the responsibility of the contractor, the City incurs an unnecessary expense.

In summation, the City's Park and Recreation staff failed to monitor compliance with contractual provisions. Without adequate contract monitoring and compliance, the City is unable to:

- effectively evaluate the contractor's performance;
- ensure that facilities are adequately maintained;
- validate court usage fees paid to the contractor;
- validate timely receipt of payments from the vendor;
- mitigate the City's risk exposure (loss, vandalism, theft, etc.); and,
- support the approval of fees charged.

**Recommendation 1A:** *The Park and Recreation Director should ensure adherence to contracts, by both the Park and Recreation Department and the contractor, and should ensure on-going contract monitoring by designated Park staff.*

**Auditee Response:** Concur. A contract compliance and monitoring checklist was developed and implemented on December 14, 2016 with assistance of the department's contract compliance section. The document was reviewed with and provided to Lifetime Tennis on January 6, 2017. The contract compliance checklist identifies all required contract deliverables including:

- Monthly: Activities and Financial Transactions Report; Center Evaluation Report; Tournaments, Leagues and Lessons Report
- Bi-Monthly: Center Evaluation & Inspection and Advisory Committee Agenda and Minutes
- Quarterly: Rental Payment Schedule and Advisory Committee Report
- Annually: Plan for Community Involvement, Center Fee Approval and proof of insurance [workers compensation, general commercial liability, auto insurance and commercial property insurance]

**Target Date:** December 15, 2016

**Responsibility:** District Superintendent (Athletics Section)

**Recommendation 1B:** *The Park and Recreation Director should enhance the inspection checklist to include remediation dates for identified deficiencies, as well as a formal sign-off required by the City representative and contractor to acknowledge notice of facility deficiencies.*

**Auditee Response:** Concur. The inspection checklist was developed and implemented in line with the beginning of the new contract on September 1, 2016. Further refinement was completed and implemented on September 18, 2016. Remediation requirements and due dates are included in the McLeland Tennis Center Contract (CSC No. 48111) Management Inspection Form (9-1-16). The protocol for administering the Inspection Form includes: 1. Delivery of the checklist to the contractor by written notification seven (7) days after completion of the physical inspection; 2. Contractor is required to sign and return the checklist within five (5) days of receipt from the city and upon receipt, if contractor is to correct any issues contractor shall address and remedy the issues within two weeks; 3. The final checklist requires formal sign-off by the Assistant Director of Golf/Athletics within three (3) days upon final



receipt by the city and may be up to fourteen (14) days due to any corrections to facility that are required and verified by City Staff; and 4. The final executed checklist is distributed to the contractor and a copy is recorded in the MTC contract agreement master file.

**Target Date:** September 1, 2016

**Responsibility:** District Superintendent (Athletics Section)

**2. Key provisions that would help minimize the City's risk exposure are not included in the current contract.**

While many additions incorporated into the new contract with Lifetime Tennis, Inc. provide better clarification and/or legal protection to the City, the Department of Internal Audit identified additional areas where key provisions could further minimize the City's risk.

**Web Domains and Social Media Accounts.** Upon termination of the contract with the prior MTC contractor, there was some contention over who would retain rights to the web domain (www.mclelandtennis.com) used to publicize the City-owned facility. When the prior contract was terminated, the prior vendor retained the web domain until the new contractor purchased it for \$250. The new contractor also purchased an additional domain (www.mclelandtennis.org) that is currently used to promote the facility. At the time of the audit, the prior domain was not being used nor being redirected to the new site. Internal Audit noted that the prior domain has since been redirected.

Neither contract (prior or current) addresses the assignment of ownership/usage of MTC web domains and social media accounts upon termination of contract. Although the City "owns" the MTC social media account (MTC Facebook) used to promote the tennis facility, the contractor has full access to that account for posting of MTC information. Additionally, the contract did not require the contractor to relinquish all rights to MTC social media accounts upon contract termination. Such action would prevent contractors from retaining ownership at contract termination. The retention of MTC web domains and/or social media accounts by old contractors could result in postings about the facility, which could lead to confusion by current and/or potential tennis patrons.

**FWISD Court Usage.** As noted on page 7 of this report, the City is required to grant FWISD use of outdoor courts during regular weekday practices during the traditional school year, free of charge. The revised contract no longer requires the City to pay the contractor the first \$4,000 of FWISD practice and tournament court fees. Instead, the current vendor will waive the \$4,000 court fees. However, this contract provision could imply that the City is responsible for any charges beyond the contractor's cap. Because detailed invoices for actual FWISD court usage under the previous contractor were not provided, the City has no historical data by which to calculate potential expenses. As a result, this could expose the City to an unbudgeted expense for which the City may be unable to remunerate.

**Rental Payments.** Section 4.5 of the current contract stipulates that any payment not made by the due date shall bear a late fee/interest charge. However, the contract does not define when a payment is considered "made by the due date", and could result in different interpretations. Different interpretations could result in imposing late fees when the contractor is not aware that the payment is late, or the City's non-assessment of fees for payments submitted late.



**Recommendation 2A:** *The Park and Recreation Director, in conjunction with the City Attorney, should purchase MTC web domains from Lifetime Tennis, Inc. and should incorporate additional language into the current and subsequent contracts to protect the ownership of the domains, as well as social media sites.*

**Auditee Response:** Concur. On October 6, 2016 the website was secured. The Park and Recreation Department will work with the City Attorney's Office to ensure that the City's interest in the McLeland Tennis Center website and any social media accounts is protected.

**Target Date:** March 31, 2017

**Responsibility:** Assistant Director-Golf/Athletics, with consultation from the City Attorney's Office

**Recommendation 2B:** *The Park and Recreation Director, in conjunction with the City Attorney, should contractually minimize the City's payment obligation to Lifetime Tennis, Inc. for FWISD's usage of the courts beyond the amount currently included in the contract.*

**Auditee Response:** Concur. The current Agreement contains a provision that acknowledges the use of McLeland Tennis Center ("Center") by the Fort Worth Independent School District ("FWISD") for daily tennis practice during the FWISD's annual tennis season. This provision requires Lifetime Tennis to waive practice and tournament court fees for the FWISD in the amount of \$4,000.00 per contract year. From this standpoint, the City does not have a contractual requirement to pay Lifetime Tennis any funds for FWISD's use of the Center.

However, a Memorandum of Understanding from June of 2000 between the City, Peter Brown (who was the Center manager at the time), and FWISD allows, among other things, the FWISD to use the Center free of charge during the traditional school year for regular weekday practice. The MOU also requires the City to reimburse Mr. Brown for all play utilized by the FWISD within 30 days of a receipt of an invoice. Whether this MOU is currently in effect or whether any of the obligations of the City to make payments to Mr. Brown were assigned to any future management company operating the Center is questionable. The MOU does contain a clause that allows termination of the MOU upon written notice. To the extent that this MOU may still be in effect, the Park and Recreation Department has determined that it is in the best interest of the City to issue a written notice of termination of the MOU to remove any doubt as to whether the City's ongoing obligations under the MOU still exist.

**Target Date:** March 31, 2017

**Responsibility:** Assistant Director-Golf/Athletics, with consultation from the City Attorney's Office

**Recommendation 2C:** *The Park and Recreation Director, in conjunction with the City Attorney, should amend the contract to clarify the intent of payments "made by the due date".*

**Auditee Response:** Concur. The current Agreement with Lifetime Tennis, Inc., includes the specific due dates applicable to each rental payment and annual capital improvement fee payment. The Agreement contains an additional provision that assesses interest on any payment not made by the due date, with such interest to accrue from the applicable due date of each payment through and including the date paid. Because the interest accrues from the due date of any required payment through and including the date paid, the intent of the parties has always been to tie any such payment to the date received by the City.



The City Attorney's Office will work with the Park and Recreation Department to clarify the Agreement so that intent of the parties is more clearly stated.

**Target Date:** March 31, 2017

**Responsibility:** Assistant Director-Golf/Athletics, with consultation from the City Attorney's Office

**3. The transition of the MTC facility, from the City to the new contractor Lifetime Tennis, Inc. lacked several crucial steps.**

Best practices require a formalized transition process between the lessor and lessee on or before the beginning of the new contract. This process should include an evaluation and the recipient's acceptance of the current condition of the facility and existence of equipment, fixtures, etc. at the time of exchange. General business practice would also require that all parties formally accept a complete inventory listing.

The contract between 2tennis.net and the City of Fort Worth expired on August 31, 2016. The City's Park and Recreation Department conducted a "Post Contract Documentation Checklist and Inspection" on the contract termination date. During this process, Park management generated an inventory listing to identify assets that would be retained by the City. Since there was no documented beginning inventory under the old contract, it is not possible to verify that the ending inventory included all items that should have been retained at the facility. The transition of assets was more of a negotiation between the contractor and the City. Also, there was no walkthrough and formal acceptance of the condition of the MTC on the date the facility was leased to the new contractor.

The contract with the new vendor, Lifetime Tennis, Inc., commenced the following day, September 1, 2016. Upon request for documentation, Internal Audit learned that there was not a formalized transition process executed by the Park and Recreation Department to transfer operations of the City-owned facility to the new MTC contractor, Lifetime Tennis at the onset of the contract. While both parties approved an initial inventory listing for the current contract, the inventory listing was signed and dated on the date the Internal Audit requested the document. This was two months after the contract's effective date.

Internal Audit reviewed the ending inventory listing with the prior contractor, and based on our knowledge gained during the course of the audit, determined that the ending inventory listing excluded assets known to be owned by the City. For example, during the contract transition period, a \$4,500 floor scrubber (purchased in December 2014), tennis nets, windscreens, and a gas court blower were listed on documentation completed during the facility walkthrough. However, these items were not included in the transition inventory listing. We also noted that a City-owned wet vacuum was included in the predecessor's final inventory list, although the wet vacuum was not included in the succeeding vendor's beginning inventory log.

The lack of a formalized transition process could lead to disputes over ownership of assets and facility condition. This could result in a loss of City assets and/or the contractor not being required to return the facility in the manner in which it was at the inception of the contract.

**Recommendation 3A:** *The Park and Recreation Director should require a re-inspection of the MTC facility, verification of MTC assets, and should obtain Lifetime Tennis, Inc.'s written acceptance of the inspection and the inventory listing.*



**Auditee Response:** Concur. Staff will re-inspect the facility to verify and document the existing assets through recording of model name/number (and serial number where available) of machinery and equipment and/or by obtaining photographic documentation of the asset by March 15, 2017. Upon completion staff will obtain Lifetime Tennis, Inc.'s written acceptance of the inspection and inventory listing by March 30, 2017. The inventory, supporting detail and signature acceptance signed-off by the Assistant Director Golf/Athletics shall be recorded in the MTC contract agreement master file and the athletic section's asset inventory file for the MTC by March 31, 2017.

**Target Date:** March 31, 2017

**Responsibility:** District Superintendent (Athletics Section)

**Recommendation 3B:** *The Park and Recreation Director should develop a formal transition process upon contract execution and/or termination.*

**Auditee Response:** Concur. Staff will develop a step-by-step process in conjunction with current Property Management Department procedures to establish a formal transition process upon contract execution and/or termination. The process shall include security of the building (changing locks), inspection of all supplies and inventory belonging to contractor and to CFW, allowance of time for current contractor to remove inventory and supplies, inspection of all assets (both vertical and horizontal) and document any items to be repaired, final payments to CFW and contractor to reimburse clients for any services not rendered. All above items shall be documented accordingly and signed and dated by contractor and CFW representative.

**Target Date:** June 30, 2017

**Responsibility:** Assistant Director – Golf/Athletics, with consultation with Property Management Department



## Acknowledgements

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