



CITY AUDITOR'S OFFICE

Coronado Golf Course Lease

January 11, 2022

AUDIT REPORT NO. 2113

CITY COUNCIL

Mayor David D. Ortega

Vice Mayor Tammy Caputi

Tom Durham

Betty Janik

Kathy Littlefield

Linda Milhaven

Solange Whitehead



January 11, 2022

Honorable Mayor and Members of the City Council:

Enclosed is the audit report for the *Coronado Golf Course Lease*, which was included on the Council-approved FY 2021/22 Audit Plan. This audit was conducted to evaluate contract compliance and effectiveness of contract administration.

We found that remedial actions have not been taken despite the golf course operator's noncompliance with lease terms. The operator had not made the first lease payment in July 2021 and did not provide transaction records for this audit. Further, the operator had not timely addressed past safety and maintenance issues. As well, the City's contract file should be more complete and organized.

If you need additional information or have any questions, please contact me at (480) 312-7867.

Sincerely,

Sharron E. Walker, CPA, CFE, CLEA
City Auditor

Audit Team:

Paul Christiansen, CPA, CIA, CISA – Sr. Auditor

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AUDIT HIGHLIGHTS

Coronado Golf Course Lease

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WHY WE DID THIS AUDIT

An audit of the Coronado Golf Course Lease was included on the City Council-approved fiscal year (FY) 2020/21 Audit Plan. The audit objective was to evaluate contract compliance and effectiveness of contract administration.

BACKGROUND

In November 2005, the City entered a 30-year lease with Odanoroc LLC to operate the Coronado Golf Course.

The City owns 36 acres of the 44-acre Coronado Golf Course, located just south of Thomas Road and east of Miller Road. Since 1976, this City-owned land along with 8 acres owned by Odanoroc LLC has been operated as a 9-hole golf course and driving range.

The lease agreement requires the operator to pay all maintenance and operational costs associated with the development, redevelopment, and future renovation of the facilities and to make semi-annual payments of 10% of gross greens fees beginning in July 2021.

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WHAT WE FOUND

Despite operator noncompliance, remedial actions have not been taken.

The lease agreement requires the golf course operator to meet certain obligations. However, we found the operator:

- Did not make the first lease payment in July 2021.
- Did not provide transaction data or other records to support the summary amounts provided.
- Had also not resolved prior safety and maintenance issues timely.

The contract file should be more complete and organized.

City policies require the contract administrator to maintain documents pertaining to contract-related activity in a contract file. We found:

- The reasoning and justification for not taking enforcement action for the golf course operator's noncompliance is not documented.
- Historical documentation of known past performance issues was not maintained in the contract file.
- Contract file organization and retention practices can be improved.

WHAT WE RECOMMEND

We recommend Parks and Recreation Director ensure that the contract administrator:

- Works with the City Attorney's Office to identify appropriate contract remedies to obtain compliance from the golf course operator.
- Documents decisions and actions related to contract performance and operations and develops an effective organization system for the contract file.

MANAGEMENT RESPONSE

The department agreed with the recommendations and estimated completing its action plan by May 31, 2022.

BACKGROUND

The City owns 36 acres of the 44-acre Coronado Golf Course, located just south of Thomas Road and east of Miller Road. Since 1976, this land along with 8 acres owned by Odanoroc LLC has been operated as a 9-hole golf course and driving range.

In November 2005, the City entered a 30-year lease with Odanoroc LLC to operate the Coronado Golf Course. At the end of the lease term in 2035, Odanoroc LLC has two additional 10-year renewal options.

Before the previous golf course lease expired, the golf course users and neighbors had expressed support for the land's continued use as an affordable golf facility but with a higher level of maintenance. In June 2005, the City Council directed staff to prepare a Request for Proposal as the first step in establishing a new Coronado Golf Course lease. When no formal responses to the RFP were received, Odanoroc LLC, the owner of the 8-acre parcel, offered to negotiate with the City to continue operating the golf course.

The golf course comprises nine different parcels of land with three different owners, as shown in Figure 1 on page 4:

- The City acquired seven parcels, outlined in red, between 1975 and 1983. Each of these parcels has a deed restriction or an easement limiting its use.
 - Five parcels have a deed restriction limiting their use to open space, park, golf course, or playground for 45 years after acquisition. The last of these deed restrictions expires at the end of 2024.
 - Six parcels have easements allowing their use for flood control and drainage needs of the Indian Bend Floodway.
- Odanoroc LLC owns the parcel outlined in yellow.
- A neighboring development owns a parcel of land of which two portions, outlined in blue, are used. For these, the City obtained a permanent easement for flood control and drainage or, if not needed for flood control, for municipal purposes.

(continued on next page)

Figure 1. Coronado Golf Course Land Ownership



- Red – City of Scottsdale
- Yellow – Odanoroc LLC
- Blue – City easement from a neighboring landowner

SOURCE: Auditor analysis of Coronado Golf Course parcel deeds and 2020 aerial photo obtained from the City’s Land Information System.

Lease Agreement Rights and Obligations

In November 2005, the City approved the lease of the city-owned and city-controlled land to the owner of the private parcel. To fund needed course repairs and improvements, the lessee agreed to perform specified renovations and repairs in exchange for no lease payments for 15 years. Under the lease agreement, the golf course operator is responsible for:

- Funding construction, maintenance and operational costs associated with the development, redevelopment, and future renovation of the facilities.
- Providing and maintaining necessary equipment.
- Operating the facility as a low-cost golf course, with rates competitive with similar 9-hole golf courses in the area.

- Using the property solely for conventional golf.
- Maintaining accurate books and records and providing semi-annual reports on gross greens fees.
- Making semi-annual payments of 10% of gross greens fees beginning in July 2021.

The lease requires the City to maintain the flood control structures, multi-use paths, and any public sewer or water lines. The City agreed to waive the \$1 per 9-holes surcharge that is standard on City-owned golf facilities.

The City's rights are maintained if the lessee sells its interest in the facility or operations or defaults on its obligations. Specifically, in the event of a default, the lease agreement allows the City to terminate the agreement and repossess the facility, claim and enforce a lien, or cause a receiver to be appointed to operate the golf course. If the City takes any of these actions, the lease agreement requires the supplemental parcel to be available for the golf course operation.

Lease Agreement Administration

A Parks and Recreation manager assigned as the contract administrator is responsible for operational oversight of the Coronado Golf Course lease. Reporting to the Director of Parks and Recreation, the manager also oversees lease agreements for three other City-owned golf courses.

Real Estate staff, within the Capital Project Management department, also assist with the lease agreement, primarily by tracking the operator's required certificates of insurance.

OBJECTIVES, SCOPE, AND METHODOLOGY

An audit of the Coronado Golf Course Lease was included on the City Council-approved fiscal year (FY) 2020/21 Audit Plan. The audit objective was to evaluate contract compliance and effectiveness of contract administration.

To gain an understanding of the lease agreement, we reviewed Contract No. 2005-165-COS and the associated council reports. To gain an understanding of the agreement's contract administration, we interviewed Community Services and Public Works Divisions' assigned personnel, including the Parks and Recreation Manager and the Real Estate Management Specialist.

We reviewed recent audit reports issued by this office relating to contract compliance, administration and lease agreements. We also reviewed Administrative Regulation (AR) 215 *Contract Administration* to gain an understanding of authoritative policies.

To assess contract compliance and evaluate whether the City has adequate controls to ensure effective administration of the agreement, we:

- Reviewed Odanoroc LLC's summary of annual revenues for 2019, 2020, and 2021 through October.
- Requested underlying sales transaction data and scheduling documentation for a judgmental sample of five days; however, the operator refused to provide access to these records.
- Evaluated whether the operator's accounting system and books and records met the contract requirements.
- Reviewed available City correspondence with the golf course operator and other records of actions taken to obtain compliance with the lease agreement.
- Reviewed neighborhood complaints and code enforcement activities to evaluate whether the operator has repaired and maintained the facility and improvements or has used the property for any unallowable purposes.
- Determined whether the required annual certificates of liability insurance were provided by Odanoroc LLC.
- Reviewed the contract files to evaluate whether they meet the requirements of Administrative Regulation (AR) 215 *Contract Administration*.

Our audit found that remedial actions have not been taken despite operator noncompliance and the contract file should be more complete and organized.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Audit work took place from August through November 2021.

FINDINGS AND ANALYSIS

1. Despite operator noncompliance, remedial actions have not been taken.

Although required by the lease agreement, the golf course operator did not make the first lease payment in July 2021 and has not filed semiannual revenue reports during the lease term. Further, the operator did not provide transaction data or other records to support the summary amounts he provided for this audit and had also not resolved prior safety and maintenance issues timely.

A. To allow recovery of the operator’s initial investment in course repairs and renovations, the Coronado golf course lease agreement did not require a rent payment for the first 15 years. Although semiannual revenue reports were required to be filed since June 2006, the operator’s first lease payment was due on July 20, 2021.

1. As of December 15, 2021, the golf course operator has yet to pay the July 1 required lease payment and file the required supporting transaction detail. We estimate the overdue lease payment for January 1 through June 30, 2021, to be approximately \$9,400.¹

The lease agreement requires the golf course operator to pay semi-annual payments of 10% of “gross greens fees” and provide a reconciliation showing the how the rent amount was calculated, including “an itemization of the transactions giving rise to the Gross Greens Fees.”

Without detailed transactions, it would not be possible to determine if non-cash items, such as complimentary rounds, are included at “an amount equal to the value of the golf play” as stated in the lease agreement.

In September 2021, to encourage compliance with the required revenue reporting and lease payment, City staff provided the golf course operator a blank invoice to complete and return with the rental payment. The operator has not yet complied.

2. The lease agreement required the operator to provide all reports from the agreement’s inception in November 2005. However, there is no documentation that the operator has filed any of the required revenue reports in more than 15 years.

"Gross Greens Fees" shall mean the amount of all greens fees charged at the Golf Facility. Gross Greens Fees includes the value of allowing any and all persons to play golf at the Golf Facility during the term of this Agreement, regardless of whether such value is evidenced by receipts, rents, credits, payments in kind, complimentary goods or services provided, amounts rebated, or otherwise.

SOURCE: Coronado Golf Course Lease Agreement (2005-165-COS) paragraph 3.3.1

¹ Monthly golf revenues were not provided. This estimate is based on the summary activity for January 1 through October 31, 2021, apportioned evenly to the 6-month payment period of January 1 through June 30.

The contractor administrator had not yet consulted with the City Attorney’s Office to pursue the remedies outlined in the lease agreement as necessary to enforce these requirements.

- B. The operator would not provide transaction-level data for auditors to confirm summary revenue data he provided. The lease agreement requires the operator to “maintain a standard, modern system of accounting”, “maintain accurate books and records”, permit access to its records, and give “full cooperation and assistance” to allow the City to conduct an audit.

In response to our audit request, the golf course operator provided a summary of annual revenues for calendar years 2019 and 2020 and for the year to date, through October 2021. As shown in Table 1, these reports stated rounds and revenues for regular-rate greens fees and discounted rounds, which are charged at reduced rates such as junior and “replay” rates.

Table 1. Summary Report of Annual Greens Fees, 2019 through 2021 - Unaudited

Year	Rate Type	Rounds	Revenue	Average \$/Round
2019	Regular	12,129	\$152,261	\$12.55
	Discounted	924	\$6,449	\$6.98
	Total	13,053	\$158,710	\$12.16
2020	Regular	16,826	\$225,641	\$13.41
	Discounted	1,306	\$9,040	\$6.92
	Total	18,132	\$234,681	\$12.94
2021 ^a	Regular	11,352	\$153,937	\$13.56
	Discounted	594	\$4,230	\$7.12
	Total	11,946	\$158,167	\$13.24

^a Through October 31, 2021

SOURCE: Auditor analysis of Coronado Golf Course summary revenue report provided during the audit by the golf course operator.

However, the golf course operator refused to provide the detailed transaction data and access to the accounting and course reservations or scheduling records. Therefore, we were unable to assess the accuracy of the operator’s summary revenue report.

Further, without access to the underlying records, we cannot evaluate the completeness of records, which is particularly critical in a cash-only business such as this golf course. Based on the unaudited summary data in Table 1 on page 10, the lease payment through October

31, 2021, would total approximately \$15,816.² However, this estimate probably does not include the value of any complimentary golf rounds, which are required to be included.

C. The operator had also not resolved prior safety and maintenance issues timely.

- The operator took nearly four years to resolve neighbors’ complaints about the lack of a safety barrier around the golf course’s driving range. The lease agreement requires the operator to repair and maintain the facilities and improvements and to remediate all hazards and unsafe conditions. As shown in Figure 2, the City issued two Code Enforcement civil citations resulting in two court decisions and issued two Notice of Default letters before the golf course operator finally completed the driving range safety barrier in May 2018. Then a storm damaged the barrier four months after it was completed, and the operator did not complete the repairs until nine months later.

Figure 2. Timeline of Resolution of Driving Range Safety Barrier Complaints

2014	2015	2016	2017	2018	2019
<ul style="list-style-type: none"> • November - Complaint to Code Enforcement • December - Notice of Violation Issued 	<ul style="list-style-type: none"> • April - Civil Citation Issued • June - City Court Rules Against City on Civil Citation 	<ul style="list-style-type: none"> • February - Notice of Default letter for not remediating a barrier hazard • April - Second Code Enforcement Case Opened • July - Second Civil Citation Issued • October - City Prevails in Court 	<ul style="list-style-type: none"> • June - Building Permit Issued • December - Second Notice of Default letter for not completing installation within the six months allowed by the contract 	<ul style="list-style-type: none"> • May - Barrier Completed • August - Barrier Damaged in Storm 	<ul style="list-style-type: none"> • May - Barrier Damage Repaired

SOURCE: Auditor analysis of contract file documents and Code Enforcement records for the Coronado Golf Course.

During this time, the neighbors repeatedly complained to City staff, to City management, and to the City Council demanding a resolution. In June 2017, responding to these

² The second payment is not due until January 20, 2022, for the period of July 1 through December 31, 2021. At that time, two additional months’ revenues will have been collected.

complaints, the City Manager reported to the City Council that while the lease agreement does not give the City authority to order a particular type of safety barrier, it does require the operator to operate and maintain the facility in a “first class manner” while considering the limits on greens fees that can be charged.³

- The operator took nearly four months to resolve a more recent neighborhood complaint. In mid-December 2020, a golf course neighbor submitted a Code Enforcement complaint about the driving range lights being aimed toward neighborhood homes. The lease agreement requires that exterior lighting be configured and maintained to minimize spillover outside the property. After two on-site inspections, Code Enforcement issued a Compliance Notice. After meeting twice with City staff, with the second meeting including some of the affected neighbors, the operator resolved this issue in mid-April by agreeing to direct the lights downward to avoid light trespass and shut them off earlier in the evening.

While the lease agreement requires the operator to repair and maintain the facilities and improvements and to remediate all hazards and unsafe conditions, the golf course operator had not resolved these issues in a timely manner despite the contract administrators’ efforts.

Recommendation:

The Parks and Recreation Director should ensure that the contract administrator works with the City Attorney’s Office to identify appropriate contract remedies to obtain compliance from the golf course operator for the past-due rent payments, any required reporting and disclosures, and any future safety and maintenance issues.

2. The contract file should be more complete and organized.

City Administrative Regulation 215 *Contract Administration* requires the contract administrator to maintain documents pertaining to contract-related activity, such as correspondence, data pertinent to the contract, and written documentation of performance issues. However, the contract administrators focused on working to get compliance issues corrected, rather than documenting actions taken or decisions made.

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³ The lease agreement limits greens fees to \$15, with annual inflation adjustments, or competitive with similar 9-hole golf courses in the area.

- A. The reasoning and justification for not taking enforcement action for the golf course operator's noncompliance is not documented.

After the City notified the golf course operator twice that it was in default of its lease obligations, the operator failed to remedy both situations within the stated correction period. However, the contract administrator's department did not initiate remedial actions.

City Attorney staff assisted department staff with each Notice of Default letter. However, the potential remedial actions discussed and decisions made during a February 2016 meeting were not documented in the contract file. In December 2017, while drafting the second letter, City Attorney staff advised the department to exercise one of the lease remedies if the requested improvements were not completed. The contract file does not document why the department has not pursued remedial action.

A **Notice of Default** letter is required to formally notify the operator that he has failed to meet the terms of the lease agreement. If the operator fails to correct the default within 30 days, the operator is in breach of the contract and may be subject to contract remedies.

As remedies, the lease agreement allows the City to terminate the agreement and repossess the facility, to claim a lien, to cause a receiver to be appointed, or to complete required work at the operator's expense.

SOURCE: Coronado Golf Course Lease Agreement (2005-165-COS) sections 9.1-9.2

- B. Historical documentation of known past performance issues was not being maintained in the contract file, which has impeded timely responsiveness. As well, some certificates of insurance were missing from the file.
- Due to incomplete contract file documentation, the contract administrator asked staff in other involved departments to share their historical information so he could use it when drafting a December 2015 letter to remind the operator of his contractual responsibilities.
 - In May 2016, the Mayor's chief of staff asked the contract administrator to prepare a factual update detailing the neighborhood complaints, staff action, and other related information. However, the contract administrator had to request the complaint history from Code Enforcement staff as it was not documented in the contract file.
 - Only 7 of the 42 historical information items listed in the City Manager's June 2017 update were available in the contract file.
 - The contract file included very little information related to the 2021 light trespass complaints. While there was an email related to the issue, the contract file did not include a copy of the Notice of Violation, City efforts to obtain compliance, and the final resolution.

- Certificates of insurance for March 2018 through February 2019 and the period after July 2021 were not in the contract file. After we inquired about these missing documents, the contract administrator obtained them for the file.

The context of past and current performance issues and enforcement efforts is critical to providing a timely response and taking appropriate level action. Further, documenting the operator's compliance with insurance requirements protects the City from possible loss.

C. Contract file organization and retention practices can be improved.

Currently, the contract files are largely unorganized repositories of internal City emails, correspondence with the operator and neighbors, and various other documents, such as copies of the contract, land ownership deeds, and certificates of insurance.

For example, electronic files were unorganized, although some related documents were grouped in subfolders. Some electronic file names did not reference relevant dates and many used different naming conventions. In some cases, multiple unrelated emails were combined into a single file, making it difficult to find a particular email or all emails about a specific topic. Additionally, other emails provided during the audit were not maintained in the paper or electronic contract files. Likewise, documentation of discussions and decisions of in-person meetings and phone calls were not often available in the contract files.

Recommendations:

The Parks and Recreation Director should ensure that the contract administrator:

- A. Documents decisions and actions related to contract performance and operations and retains these in the contract file.
- B. Creates a checklist to better ensure that all necessary documents are maintained in the contract file.
- C. Develops an effective organization system, including a file-naming convention, for the contract file.

MANAGEMENT ACTION PLAN

1. Despite operator noncompliance, remedial actions have not been taken.

Recommendation:

The Parks and Recreation Director should ensure that the contract administrator works with the City Attorney's Office to identify appropriate contract remedies to obtain compliance from the golf course operator for the past-due rent payments, any required reporting and disclosures, and any future safety and maintenance issues.

MANAGEMENT RESPONSE: Agree

PROPOSED RESOLUTION:

The Parks and Recreation Director and the contract administrator will work with the City Attorney's Office in moving forward with the most appropriate remedies to ensure compliance from the operator on past-due rent payments, safety, and maintenance issues.

Working through the City Attorney's Office, the city of Scottsdale and the contract administrator have already sent an updated contract draft to the operator that we feel addresses many of the operator's concerns with the initial agreement. We have clarified responsibilities and simplified the contract to create an agreement that can be administered as effectively as possible. We have also sent the operator an invoice for the past-due rent payments and clarified his responsibility for both rent payments and surcharge structure. At the time of this plan, a new agreement has not been executed.

In the future, the contract administrator will facilitate all invoicing for rent payments through the Remittance Processing Office, which will create a more documented structure of invoicing.

RESPONSIBLE PARTY: Contract administrator

COMPLETED BY: 5/1/2022

2. The contract file should be more complete and organized.

Recommendations:

The Parks and Recreation Director should ensure that the contract administrator:

- A. Documents decisions and actions related to contract performance and operations and retains these in the contract file.
- B. Creates a checklist to better ensure that all necessary documents are maintained in the contract file.

- C. Develops an effective organization system, including a file-naming convention, for the contract file.

MANAGEMENT RESPONSE: Agree

PROPOSED RESOLUTION:

- A. The department is working closely with Scottsdale Police Department, Code Enforcement, and Remittance Processing to ensure there is a central point of contact, the contract administrator, for any issues, complaints, or violations that occur with the operator. Departments outside of the Parks and Recreation Department will forward potential citations, complaints, emails, and any other correspondence to the contract administrator. The contract administrator will regularly touch base with these other departments to ensure documents related to the contract are available and retained in the contract file. Quarterly, the contract administrator will send a specific request to Code Enforcement to request copies of any correspondence that may have taken place between Code Enforcement and the Coronado Golf Course/operator. This should ensure there are no gaps in the contract file.
- B. The contract administrator will create a checklist to ensure necessary documents are maintained in the contract file.
- C. The contract administrator will develop a more organized file system, including a file naming convention, for the contract file. The department director and the contract administrator will work with the City Auditor's Office to create contract files, including file naming convention, that are most effective considering the nature of this type of contract.

RESPONSIBLE PARTY: Contract administrator

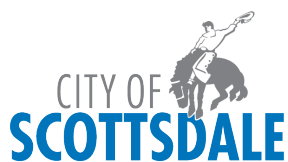
COMPLETED BY: 5/31/2022

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