The Auditor of the City and County of Denver is independently elected by the citizens of Denver. He is responsible for examining and evaluating the operations of City agencies and contractors for the purpose of ensuring the proper and efficient use of City resources and providing other audit services and information to City Council, the Mayor, and the public to improve all aspects of Denver's government. The Audit Committee is chaired by the Auditor and consists of seven members. The Audit Committee assists the Auditor in his oversight responsibilities regarding the integrity of the City's finances and operations, including the reliability of the City's financial statements. The Audit Committee is structured in a manner that ensures the independent oversight of City operations, thereby enhancing citizen confidence and avoiding any appearance of a conflict of interest.

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Audit report year: 2018
AUDITOR’S REPORT

We have completed an audit of the Department of Parks and Recreation’s contract with Flog, LLC, at Willis Case. The objective of the audit was to determine whether Flog, LLC, at Willis Case complies with the terms of its contract regarding accurate revenue reporting, payments owed to the City, and sales tax payments.

As described in the attached report, our audit revealed that the concessionaire and the Department of Parks and Recreation need to improve compliance with the revenue contract terms in the contract, and define the meaning of gross revenues in the contract. Flog needs to modify and improve its practices for reporting to the City both percentage payments and sales tax revenue. Parks and Recreation needs to improve oversight of the concessionaire’s point-of-sale system and recordkeeping and compliance with terms of the contract. Further, the contract requires that the recordkeeping system be satisfactory to the City Auditor. Unfortunately, this audit report highlights a recordkeeping system that is not satisfactory to the City Auditor.

By improving internal controls and contract administration, Flog and Parks and Recreation will be able to ensure revenue reporting terms are in compliance. Our report lists several related recommendations.

This performance audit is authorized pursuant to the City and County of Denver Charter, Article V, Part 2, Section 1, General Powers and Duties of Auditor, and was conducted 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.

We extend appreciation to personnel at Flog and Parks and Recreation who assisted and cooperated with us during the audit.

Denver Auditor’s Office

Timothy M. O’Brien, CPA
Auditor
Flog, LLC, at Willis Case
August 2018

Objective
This audit examined several objectives regarding compliance with key terms of the contract between the City and Flog, LLC, at Willis Case. First, we evaluated revenue reported by Flog and determined whether it was paying the correct percentage to the City under the contract. Next, we determined whether Flog was applying the correct sales tax to transactions and then paying the correct sales taxes to the City.

Background
The Department of Parks and Recreation manages four contracts between Flog and the City. This audit focused on its contract with Flog to sell concessions at Willis Case Golf Course. Flog offers food, and beverages, including alcohol beverages, in the clubhouse located on Willis Case. It first won the contract at the end of 2007, with the agreement expiring in 2017. Flog’s contract was renewed in early 2018.

Highlights
Our audit of the Department of Parks and Recreation’s contract with Flog, LLC, at Willis Case Golf Course revealed deficiencies in Flog’s compliance with the contract and in Parks and Recreation’s oversight of the agreement.

FINDING 1: Flog Is Not Complying with Revenue Reporting Requirements and Needs to Improve Its Recordkeeping
- Flog is deducting the costs of discounts and complimentary items, which is not specifically allowed under the contract with the City.
- Flog’s October 2017 monthly report was missing one day of sales.
- Flog’s sales tax reporting was incorrect.

FINDING 2: Parks and Recreation Is Not Adequately Overseeing the Contract with Flog
- Parks and Recreation’s oversight of revenue reporting is limited.
- Parks and Recreation has not defined what capabilities Flog’s point-of-sale system to track transactions must have.
- Department officials were unaware of Flog’s processes for reporting revenue; including deducting costs of discounts and complimentary items. In addition, the contract and other authoritative governance documents are unclear on whether this practice is allowed.

Our report makes multiple recommendations to Flog and to Parks and Recreation for improving recordkeeping and contract compliance.

For a copy of this report, visit www.denvergov.org/auditor or contact the Auditor’s Office at 720.913.5000.
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BACKGROUND

Denver Parks and Recreation manages four contracts between Flog, LLC, and the City. This audit focused on Flog’s contract to sell concessions at Willis Case Golf Course. Flog offers food and beverages, including alcohol beverages, in the clubhouse located on Willis Case. Willis Case Golf Course is located northwest of downtown Denver, off Interstate 70 between Tennyson Street and Sheridan Boulevard. It has held this contract since November 2007, and the agreement expired in December 2017. Flog’s contract was renewed in March of 2018.1

The terms of the contract require Flog to pay the City a portion of its revenues through a guaranteed annual minimum payment of $20,000. Once gross revenue exceeds the $20,000 paid to the City, Flog is required to pay the City 9 percent of all additional gross revenues.

OBJECTIVE

This audit examined several objectives regarding compliance with key terms of the contract between the City and Flog. First, we evaluated the revenue reported by Flog and determined whether the concessionaire was paying the correct percentage to the City as required by the contract. Next, we determined whether Flog was applying the correct sales tax to transactions and paying the correct taxes to the City.

SCOPE

The audit team evaluated the accuracy and timeliness of payments Flog made to the City during 2016 and 2017.

METHODOLOGY

The audit team used several methodologies to fulfill the audit objectives and analyze Flog’s contract to provide concessions at Willis Case Golf Course, including:

- Evaluating Flog’s point-of-sale systems, including its method of recordkeeping;
- Reviewing supporting documentation for transactions and revenue reports;
- Identifying revenue deductions and evaluating the treatment of unique transactions, such as voids and discounts;
- Exploring potential fraud or theft at the concessionaire;
- Ensuring that categories of transactions used the correct percentage payments required by the contract (i.e., food and beverages, alcohol, and merchandise);
- Determining whether late fees were levied if applicable;

1 The Department of Parks and Recreation is in the process of amending the current contract for a start date of January 1, 2018 to ensure continuous contract coverage. Flog, LLC, continued to pay the percentage payments set in the contract to the City.
• Calculating sales revenue and comparing to the revenue payment made by the concessionaire to the City and state;
• Obtaining sales tax rates for concession sales items from 2016 through 2017;
• Calculating sales tax due based on the corrected revenue;
• Calculating the correct sales tax amount and comparing to the amount paid by the concessionaire; and
• Verifying sales taxes were paid on time by the concessionaire.
FINDING 1

Flog at Willis Case Golf Course is Noncompliant in Reporting Revenues, and Its Recordkeeping Needs Improvement

In 2016 and 2017, Flog at Willis Case Golf Course generated more than $500,000 in revenue. This amounts to approximately $60,000 in percentage payments annually to the City and County of Denver for operating a business at a City-owned golf course. The largest amounts of revenue are generated during the summer season between May and September. As a concessionaire of the City and operator of a business housed in City facilities, it is vital for the City to ensure Flog is complying with contract requirements.

Overall, our audit found Flog’s reporting of gross revenues was not in accordance with contract requirements. There were also shortcomings in recordkeeping within Flog’s point-of-sale system (its computerized system that records sales) and with the Department of Parks and Recreation’s oversight of the concessionaire’s revenue reporting. Figure 1 details Flog’s annual gross revenue for 2016 and 2017.

**FIGURE 1.** Annual Gross Revenues Reported by Flog at Willis Case

Our assessment found Flog has not complied with requirements to report gross revenues as defined by the contract with the City. Second, Flog’s point-of-sale system and recordkeeping need improvement to enhance revenue reporting capabilities. As a result, we were unable to validate gross revenues for 2016 and 2017. We make recommendations below to address weaknesses in reporting, compliance, and contract monitoring.
Noncompliance Reporting Revenue in Accordance with the Contract
Definition of Gross Revenues

We identified three issues in Flog’s reporting of gross revenues:

1. Discounts and complimentary items were offered to customers and employees when contract language and other authoritative governance documents related to gross revenues are unclear on whether this is an acceptable practice;
2. A daily sales amount was not included in the monthly reporting for October 2017; and
3. Sales tax reporting is inaccurate.

These are all areas of noncompliance with the definition of gross revenues in the contract.

**Discounts and Comps Are Not Included in Gross Revenues** - The 2007 contract requires Flog at Willis Case to submit monthly revenue reports to Parks and Recreation with its gross revenues for the previous month. According to the contract, gross revenues is defined as “the aggregate of fees, receipts, sales and income of any kind derived directly or indirectly from the operation of the concession and before deducting any costs, expenses or losses.”

We conducted testing to verify whether Flog was following this definition. We tested two months of daily receipts to ensure the daily receipts matched up with the monthly reports. We found that Flog offers discounts on purchases as well as complimentary items, or “comps,” to its employees and customers. When Flog reports gross revenues to the City, it reports only the funds received after the discount or comp has been applied, not the full price amount. However, contract language and other authoritative governance documents defining gross revenues are unclear on whether deducting discounts from gross revenues is allowed.

In our testing, we compared the daily receipts for one month in 2016 and one month in 2017 to the monthly reports submitted to Parks and Recreation. In May 2016, our testing revealed that because of the discounts and comps, gross revenues were decreased in the amount of $114.56. In October 2017, we identified a decrease of $84.87. The results of that review can be found in Table 1.

**TABLE 1. 2016 and 2017 Daily and Monthly Revenue Reconciliation**

<table>
<thead>
<tr>
<th>Month/Year</th>
<th>Monthly Gross Revenues Reported</th>
<th>Monthly Gross Revenues Including Discounted Amounts</th>
<th>Difference between Gross Revenues with Discounts Included and Gross Revenues Reported</th>
<th>Impact of the 9% Revenue Owed to the City Because of Discounts Deducted</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 2016</td>
<td>$63,007.92</td>
<td>$64,280.82</td>
<td>$1,272.90</td>
<td>$114.56</td>
</tr>
<tr>
<td>July 2016</td>
<td>$77,335.92</td>
<td>$78,437.40</td>
<td>$1,101.48</td>
<td>$99.13</td>
</tr>
<tr>
<td>February 2017</td>
<td>$18,628.18</td>
<td>$19,026.53</td>
<td>$398.35</td>
<td>$35.85</td>
</tr>
<tr>
<td>October 2017</td>
<td>$39,421.66</td>
<td>$40,364.66</td>
<td>$943.00</td>
<td>$84.87</td>
</tr>
</tbody>
</table>

**Source:** Flog’s daily receipts and monthly revenue reports.

After completing this review, we inquired with Flog personnel to obtain the gross revenues, discounts, and comps for each month of 2016 and 2017. We learned this type of documentation
would be too time-consuming for the concessionaire to provide, because the point-of-sale system cannot generate monthly reports. Each of the daily gross revenue summaries would have to be downloaded from the point-of-sale system. Instead of requesting the additional 22 months of data, we decided to review the discounts and comps for one additional month for 2016 and 2017. This would include a busier month, July 2016, and a slower month, February 2017.

The results of that review can also be found in Table 1. After reviewing discount and comp records for all four months, we determined that the range of decreased revenue to the City for these types of transactions was between $36 and $115 per month. After calculating an average of these amounts, the impact to the City is approximately $1,000 per year. For the 10-year life of the contract, this amounts to approximately $12,000. Due to the deduction of discounts and comps, the amount of taxable revenue reported on sales tax returns is also impacted.

We researched other City contracts with concessionaires to determine how gross revenues are defined in situations when discounts and comps are allowed. A Denver International Airport contract effective in 2013 states “a reduction from gross revenues shall be allowed for advertised discounts, discounts approved in writing by the City and discounts given to employees displaying an Airport issued badge.” In addition, we found that Parks and Recreation has worked with another concessionaire and included discounts in the contract for another event. In the case of a music festival to be held in a Denver park in 2018, the concessionaire can issue discounted tickets to neighborhood residents and can provide these tickets up to an amount agreed to by the City. The concessionaire is also required to pay a set fee to the City of $2 per one-day ticket sold and $6 per three-day ticket sold for both full-priced and discounted tickets.

In both the airport and the music festival contracts, the City ensures it receives appropriate compensation, and the concessionaire is still allowed to issue discounts because the contract specifically states these conditions.

In meeting with Flog and Parks and Recreation personnel toward the end of the audit to discuss the report findings, Parks and Recreation informed us that it consulted with the City Attorney’s Office and was informed that the Denver Revised Municipal Code (D.R.M.C.), Section 53-24, provides guidance that discounts can be deducted from gross revenues. Upon reviewing this guidance, we found that this section of the D.R.M.C. is referring to sales tax, and that it was not explicitly clear that discounts are an allowable deduction from gross revenues. Since this information was provided so late in our audit process, we were unable to thoroughly clarify this concern with the City Attorney’s Office. Therefore, to ensure the concessionaire and Parks and Recreation are clear on how to address the issue, we recommend an amendment is made to the contract to specifically outline how to report discounts.

**Daily Sales Revenue for October 2017 Is Incorrect** – When conducting our review of the transactions for October 2017, we found that sales from one day were not included in the total of the monthly reporting to the City. The total sales for the day in question were approximately $600. As a result, the percentage payment to the City for this month was underreported and so was the
sales tax. This miscalculation was identified when comparing the daily sales totals to the weekly spreadsheets and then to the monthly report. The accountant for Flog did not include this daily sales amount when calculating the total sales for the month. The practice to calculate and report sales include manual processes, which increases the opportunity for error. These issues will be discussed in more detail later in the report.

**Gross Revenues Are Rounded on Sales Tax Returns** – Our testing determined that gross revenues reported each month on the sales tax returns are rounded to the nearest $10. By rounding the revenue, Flog is not providing an accurate picture to the City of the revenue received. Flog personnel informed us that Parks and Recreation required the concessionaire to report its state vendor fee rate on its monthly gross revenues reports. However, this tax break is not specified in the contract definition of gross revenues, is not required to be included in Flog’s monthly or annual reporting to the City, and Parks and Recreation personnel indicated this practice was not recommended to Flog.

As a result, Flog has underreported gross revenues as well as sales tax for the past two years. We also noted that Flog is modifying numbers on its monthly revenue reports and rounding revenue on its Denver sales tax returns, which are practices not permitted in the contract.

**RECOMMENDATION 1.1**

Flog, LLC, should adjust reporting practices to ensure compliance with the revenue reporting terms established in the contract.

*Agency Response: Agree, Implementation Date – October 2018*

**Point-of-Sale System and Recordkeeping Need Improvement to Enhance Revenue Reporting**

Flog utilized the Aloha system as the point-of-sale system in 2016 and 2017. The system can add sales tax to each transaction, has specific keys for menu items, and can provide daily reports of sales to Flog for its recordkeeping. However, the system, which had not been upgraded in several years, could not generate real-time inventory reports, had to be accessed from one computer to obtain revenue numbers, and could not create weekly, monthly, or annual reports. Due to these limitations, Flog personnel manually entered daily sales information into a weekly sales spreadsheet that was then sent to the accountant. The accountant took that information and calculated the monthly gross revenues required to be reported to the City as well as on sales tax returns.

We identified three issues with Flog’s point-of-sale system, including:

1. Limited functionality to generate regular and recurring sales reports for specific time periods, necessitating manual processes,
2. Inconsistency by staff when applying sales tax to every transaction, and
3. Confusing product keys and labels.

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2 The State of Colorado Vendor Fee is the portion of state sales tax a retailer is allowed to keep for collecting the tax. The rate is 3.3 percent of tax collections for businesses that remit sales tax revenue to the state on time each month.
Revenue Reports Cannot Be Generated from the Point-of-Sale System – The 2007 contract required the concessionaire to provide monthly and annual reports to the City that detailed gross revenues. As previously mentioned, our testing of the daily receipts for October 2017 revealed that one day’s sales had not been included in the monthly gross revenue reported to the City. One reason this error occurred and was not identified before now is because Flog’s point-of-sale system for the audit period had not been upgraded in several years and did not have the capability to create monthly and annual gross revenues reports. Therefore, Flog personnel had to manually calculate and enter the revenue into the report format.

Due to these limitations, Flog had a new point-of-sale system, My Axis Point, installed in June 2018, past the period of our evaluation. The new system is supposed to have improved flexibility and functionality to allow management to review inventory and sales numbers for the day in real time. Although this is an important step forward, it will be important for Flog to ensure its system can track the concessionaire’s compliance with the reporting terms of the contract.

Confusing Method of Applying Sales Tax to Individual Orders – Flog is required to pay the City sales tax each month. As a home rule city, Denver collects sales taxes from each business making taxable retail sales in Denver. Flog paid sales tax on the gross revenue it reported on its sales tax returns in 2016 and 2017. However, the method of collecting sales tax from its customers is confusing and difficult to understand and audit.

In testing Flog’s daily receipts, we learned the concessionaire applies sales tax to transactions using “inclusive” and “exclusive” sales tax methods. Inclusive sales taxes were explained to us as taxes already included in the sale price of the item being sold, such as alcohol and to-go orders. Exclusive sales taxes are added at the end of the order for items that do not have sales taxes included in the sale price.

As we reviewed individual daily transactions, we found inconsistencies in how sales taxes were being included from the method explained. For example, we found that sales taxes were added to transactions with a mix of inclusive and exclusive sales items, but the tax was applied to the entire order. We also found receipts where the entire order was composed of inclusive sales items, but sales tax was still added to the total.

Essentially, in the case of these two examples, it appeared sales items were double-taxed. However, after further review and inquiries with Flog personnel, we learned that inclusive and exclusive taxes were not included in the method explained during testing. In fact, inclusive sales items do not have any sales tax added into their sales price. No additional surcharge is added to the price of alcohol or to-go items. All sales tax applied to orders must be manually added by the staff member. According to the owner, if a customer is planning to take the sale item outside or onto the golf course, then the staff member does not add sales tax to the transaction to make the sale quickly. If the order will be consumed inside and includes food, the order has sales tax applied. The owner also stated that other eligible taxes Flog pays to the City are taken out of the

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revenue it makes from that day’s total sales. Overall, the owner stated that sales taxes are paid for all transactions. However, only the owner knew exactly how Flog applies sales taxes.

According to the 2007 contract, “sales and receipts must be recorded on a cash register or computer system designed to accurately record all sales and receipts.” The method Flog is using to apply sales tax to orders is not accurate or well-designed. The application of sales tax is difficult to analyze and interpret because the sales tax is not consistently applied, and it is difficult when reviewing the sales records to know when sales tax should or should not be applied. Flog set up this application of sales tax based on ease of use, but its method is confusing and needs improvement.

**Unclear Product Keys and Labels and Improper Setup in the Point-of-Sale System** – Upon testing Flog’s daily receipts, we found that several product sale items were labeled with acronyms, shortened naming conventions, single letters or numbers, and missing product labels. Some examples include, “UTRA,” “SAM,” “HB,” HB1,” “MOSC,” and “CHIX” charges. This method of labeling is problematic because it is not easy to determine for either staff or auditors, what the product is from the naming convention, and difficult to audit due to the various labels for each product.

After completing our review of these product labels, Flog personnel informed us that many of these items are miscellaneous buttons for specials and add-ons, and in some cases, the employees themselves were unsure what product the keys were tied to. Because Flog staff could not explain many functions in the point-of-sale system, we were not able to recalculate revenue. The concessionaire should be aware of what each product is on its point-of-sale system, and staff should be trained on each product key. Flog personnel stated that their new point-of-sale system will not have any product acronyms or confusing product keys.

According to Section 4-2 of the contract, the “Concessionaire agrees to establish and maintain a system of bookkeeping satisfactory to the Auditor.” As a result of the various concerns identified in reporting and recordkeeping of revenue, Flog’s point-of-sale system needs improvement.

**RECOMMENDATION 1.2**

Flog, LLC, should ensure the point-of-sale system and recordkeeping procedures are enhanced to properly track and report gross revenues and meet the City’s contract requirements.

**Agency Response: Agree, Implementation Date – October 2018**
RECOMMENDATIONS

We make the following recommendations to Flog at Willis Case Golf Course to improve compliance and recordkeeping for its contract with the City:

1.1 Revenue Reporting - Flog, LLC, should adjust reporting practices to ensure compliance with the revenue reporting terms established in the contract.

**Auditee Response: Agree, Implementation Date - October 2018**

Auditee Narrative: We will meet with the Contract Administrator from the Department of Parks and Recreation to review all details of accounting.

1.2 Point-of-Sale System Capabilities - Flog, LLC, should ensure the point-of-sale system and recordkeeping procedures are enhanced to properly track and report gross revenues and meet the City’s contract requirements.

**Auditee Response: Agree, Implementation Date - October 2018**

Auditee Narrative: We will meet with the Contract Administrator from the Department of Parks and Recreation to review the new POS system and answer any questions regarding reports.
FINDING 2

The Department of Parks and Recreation Does Not Provide Adequate Oversight of Flog Willis Case’s Contract and Point-of-Sale System to Verify Revenues

In accordance with the contract, Flog Willis Case is required to submit monthly and annual revenue reports to the Department of Parks and Recreation that detail gross revenue for the audit period. Ensuring Flog’s accurate reporting of gross revenue to the City is an important component of contract monitoring. In accordance to Executive Order 8, as the initiating authority, Parks and Recreation is responsible for ensuring the terms of the contract are met.

Upon completing an analysis of Flog’s financial records, we found that Parks and Recreation’s oversight to verify gross revenues are reported accurately needs improvement in two key areas. First, Parks and Recreation does not review the concessionaire’s point-of-sale system to obtain an understanding of recordkeeping and reporting functionalities. In addition, the department does not require specific features of the system for reporting. Second, Parks and Recreation was not aware that Flog is including discounted and complimentary item amounts in gross revenues when reporting to the City. We have developed recommendations for improvement in these areas.

Oversight of the Concessionaire’s Point-of-Sale System and Revenue Reporting Is Lacking

After evaluating Flog’s records, we identified several errors regarding compliance with the contract revenue terms, with the point-of-sale system, and with recordkeeping. Due to Parks and Recreation’s lack of oversight, these errors have continued throughout the duration of the contract.

The Concessionaire’s Point-of-Sale System Needs to Be Evaluated – To determine if financial records reported by a concessionaire are accurate, source files from the point of sale need to be reviewed to ensure validity. Parks and Recreation relies on the reporting of the concessionaire as its assurance the revenue reported is correct.

In 2016, we conducted an audit of Parks and Recreation’s Contract Administration Practices. The audit found that Parks and Recreation should act to strengthen contract administration practices. One issue found that contract files do not include sufficient documentation surrounding certain decisions and in ensuring third-party compliance. The overall finding was that Parks and Recreation should take steps to strengthen contract administration practices. According to Executive Order 8, as the initiating authority overseeing the Flog contract, Parks and Recreation is responsible for monitoring performance under the contract throughout the life of the contract by:

- Ensuring the terms of the contract are met; and

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• Documenting contract monitoring and deliverables.

Although Parks and Recreation is checking monthly reports to ensure percentage payments are correct, this oversight is limited and only reviews the surface of revenue reporting compliance. These verifications and reconciliations can come in the form of reviewing reports the point-of-sale system creates to measure compliance with the contract terms or reconciling each month’s revenue reports with weekly or daily reports from the point-of-sale system.

**Develop Point-of-Sale System Requirements** – For the City to be confident that a point-of-sale system meets the requirements of the contract, it is important for the City to specify the requirements for the point-of-sale system first. By signing the contract with the City, the concessionaire agreed to develop and maintain a system of bookkeeping satisfactory to the Auditor, as noted in Section 4-2 of the contract. With the new point-of-sale system having been installed, 2018 is the opportune time to detail what Flog is responsible for in maintaining the point-of-sale system.

We found another government entity that developed requirements for the use of point-of-sale systems by businesses that collect sales tax.\(^5\) The state of New York requires each transaction on the point-of-sale system to detail the individual item(s) sold, the selling price, the tax due, the invoice number, the date of sale, the method of payment, and terminal number/transaction number. Further, the requirements state that a point-of-sale system must maintain auditable internal controls, and that records must have the capability to trace any transaction back to the original source, or forward to a final total. Finally, the requirements state that documentation describing the automated data processing of the system must be made available upon request. Requirements such as these, and those that Parks and Recreation determines to be a necessity, would provide Parks and Recreation with the tools to evaluate and ensure the concessionaire is using a point-of-sale system that has the capability to accurately report revenue on a regular and consistent basis.

**RECOMMENDATION 2.1**

The Department of Parks and Recreation’s Director of Finance and Administration should obtain an understanding of the Flog, LLC, point-of-sale system’s functionality so Parks and Recreation can properly monitor compliance of gross revenues reported.

**Agency Response:** Agree, Implementation Date – December 31, 2018

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RECOMMENDATION 2.2

The Department of Parks and Recreation’s Director of Finance and Administration should discuss detailed requirements of Flog, LLC’s, point-of-sale system with the concessionaire to ensure accurate reporting of gross revenues.

Agency Response: Agree, Implementation Date – December 31, 2018

Unclear Use of Discounts and Complimentary Items in Reporting Gross Revenues

After completing testing of Flog’s daily receipts, we reached out to Parks and Recreation’s contract management and Golf Enterprise Fund management about the use of discounts and comp items at Flog. It appeared that neither the contract management personnel nor the Golf Enterprise Fund manager were aware the concessionaire was using discounts and comps in its calculation of gross revenues and had not discussed these practices with the concessionaire. The Golf Enterprise Fund manager further said that a conversation with Flog would not occur because the contract allows discounts and comps to be included in the calculation of gross revenues.

Discounts Are Not Specifically Mentioned in the Contract – Although Parks and Recreation management stated they interpret the definition of gross revenues to include the discounted and comp amounts and have referenced the language in the Denver Revised Municipal Code, the issue is still unclear. The contract definition of gross revenues does not specifically mention discounts and comps as allowable deductions. Therefore, an amendment to the contract is necessary to resolve this issue.

RECOMMENDATION 2.3

The Department of Parks and Recreation’s Director of Finance and Administration should amend the definition of gross revenues in the Flog, LLC, contract to address how discounts and complimentary items should be reported.

Agency Response: Disagree

Due to a lack of oversight and monitoring, Parks and Recreation is not familiar with Flog’s point-of-sale system and therefore, does not know how its monthly revenue numbers are calculated. In addition, Parks and Recreation has missed identifying other revenue reporting errors and contractual deviations without comparing the point-of-sale records to monthly reports. Consequently, Parks and Recreation cannot provide assurance, through its internal controls, that the revenue reported by Flog is correct. By implementing the following recommendations, Parks and Recreation can establish stronger contract oversight and internal controls for monitoring the contract.
RECOMMENDATION 2.4

The Department of Parks and Recreation’s Director of Finance and Administration should require a review of Flog, LLC’s, 2016 and 2017 financial records for compliance with reporting of gross revenues and seek collection of unpaid revenue.

Agency Response: Disagree
RECOMMENDATIONS

We make the following recommendations to the Department of Parks and Recreation to improve oversight of the City's concessionaire contract with Flog at Willis Case Golf Course:

2.1 **Point-of-Sale System's Functionality** - The Department of Parks and Recreation's Director of Finance and Administration should obtain an understanding of the Flog, LLC, point-of-sale system's functionality so Parks and Recreation can properly monitor compliance of gross revenues reported.

**Auditee Response: Agree, Implementation Date - December 31, 2018**

Auditee Narrative: The Department agrees with this recommendation. Appropriate department staff will review the system's functionality with the Concessionaire.

2.2 **Requirements of the Point-of-Sale System** - The Department of Parks and Recreation's Director of Finance and Administration should discuss detailed requirements of Flog, LLC's, point-of-sale system with the concessionaire to ensure accurate reporting of gross revenues.

**Auditee Response: Agree, Implementation Date - December 31, 2018**

Auditee Narrative: The Department agrees with this recommendation. Appropriate department staff will evaluate the system's capabilities and provide requirements to FLOG, LLC, related to the tracking and reporting of all transactions.

2.3 **Amend the Current Contract Definition of Gross Revenues** - The Department of Parks and Recreation's Director of Finance and Administration should amend the definition of gross revenues in the Flog, LLC, contract to address how discounts and complimentary items should be reported.

**Auditee Response: Disagree**

Auditee Narrative: The Department disagrees with this recommendation. This Concession License, and all other Parks and Recreation revenue agreements, comply with the definition of Gross Sales as set forth in D.R.M.C Sections 53-23 (14) and 53-23 (21). Both the City Treasurer and the City Atorneys who deal with tax, accounting and treasury issues agree that this definition is clear. As a result, our practice is consistent with how the City defines Gross Revenues. In addition, the City Attorney's Office reviewed the definition of Gross Revenues in the Concession License and determined that the current language in the agreement is sufficient to reflect the City's current accounting and calculation practices, including the contractual requirement for the Concessionaire to adhere to all applicable law including the Denver Revised Municipal Code. As a result, the Department believes it is unnecessary to amend these agreements to reiterate the definition provided in D.R.M.C.

**Auditor's Addendum:** Although the Department of Parks and Recreation indicates that their concession revenue agreements follow the definition of Gross Sales in the Denver Revised Municipal Code (D.R.M.C.), the Sections mentioned specifically relate to gross sales for sales tax purposes and not gross revenues for revenue contracts. In our follow-up with the City Treasurer for clarification, he indicated that the definition of Gross Sales
provided in Chapter 53 in the D.R.M.C. is clear and is consistent with how most jurisdictions define Gross Sales for taxation purposes. However, his opinion had not been offered regarding treatment of discounts in relation to gross revenues, and he had not reviewed the language in the contracts. Therefore, we maintain our original stance that the definition of gross revenues as it relates to discounts is not defined in the contract, nor is it defined in other authoritative City governance documents. It therefore requires clarification.

2.4 **Review Flog’s 2016 - 2017 Financial Records for Compliance to Revenue Terms and Seek Collection** - The Department of Parks and Recreation’s Director of Finance and Administration should require a review of Flog, LLC’s, 2016 and 2017 financial records for compliance with reporting of gross revenues and seek collection of unpaid revenue.

**Auditee Response: Disagree**

Auditee Narrative: The Department disagrees with this recommendation. The Department does not have adequate resources to perform revenue audits. The Department relies on the Concessionaire’s contractual obligation in each Concession License Agreement to annually submit a report of Gross Revenues prepared and certified by an independent certified public accountant to provide assurances that reporting and payments to the City is accurate and complete. Upon receipt of the annual audit, Department staff analyze the information contained in the audit compared to the periodic reports and payments submitted to the City by the Concessionaire. Adjustments to monies owed are made either by invoicing the Concessionaire, issuing a refund to the Concessionaire, or issuing a credit to the Concessionaire’s account. In addition, provisions are in each agreement that enables the Auditor’s Office to audit concessionaire records. The Department will, however, begin requiring the Concessionaire to provide POS reports and verify that percentage payments are based upon the Gross Sales amounts indicated on these reports.
AGENCY RESPONSE

Flog, LLC, at Willis Case
4999 Vrain Street
Denver, CO 80212

August 8, 2018

Dear Mr. O’Brien,

Re: Audit findings

Our responses as follows:

Recommendation 1.1
Agree, Target date to implement: October 2018
Narrative for Recommendation 1.1: We will meet with the Contract Administrator from the
Department of Parks and Recreation to review all details of accounting.
Dave Keefe 720-261-1455

Recommendation 1.2
Agree
Target date to implement: October 2018
Narrative for Recommendation 1.2: We will meet with the Contract Administrator from the
Department of Parks and Recreation to review the new POS system and answer any questions
regarding reports.
Dave Keefe 720-261-1455

Please contact Dave Keefe at 720-261-1455 with questions.

Sincerely,
Dave Keefe, Owner
davebkeefe@aol.com
August 07, 2018

Auditor Timothy O’Brien, CPA
Office of the Auditor
City and County of Denver
201 West Colfax Avenue, Dept. 705
Denver, Colorado 80202

Dear Mr. O’Brien,

The Office of the Auditor has conducted a performance audit of Department of Parks and Recreation – Flog, LLC at Willis Case.

This memorandum provides a written response for each reportable condition noted in the Auditor’s Report final draft that was sent to us on July 17, 2018. This response complies with Section 20-276 (c) of the Denver Revised Municipal Code (D.R.M.C.).

AUDIT FINDING 2
The Department of Parks and Recreation Does Not Provide Adequate Oversight of Flog Willis Case’s Contract and Point-of-Sale System to Verify Revenues

RECOMMENDATION 2.1
The Department of Parks and Recreation’s Director of Finance and Administration should obtain an understanding of the Flog, LLC point-of-sale system’s functionality so Parks and Recreation can properly monitor compliance of gross revenues reported.

<table>
<thead>
<tr>
<th>Agree or Disagree with Recommendation</th>
<th>Target date to complete implementation activities (Generally expected within 60 to 90 days)</th>
<th>Name and phone number of specific point of contact for implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agree</td>
<td>December 31, 2018</td>
<td>Fred Weiss, 720-913-0735</td>
</tr>
</tbody>
</table>

Narrative for Recommendation 2.1
The Department agrees with this recommendation. Appropriate department staff will review the system’s functionality with the Concessionaire.

RECOMMENDATION 2.2
The Department of Parks and Recreation’s Director of Finance and Administration should discuss detailed requirements of Flog, LLC’s point-of-sale system with the concessionaire to ensure accurate reporting of gross revenues.

<table>
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</tr>
<tr>
<td></td>
<td></td>
<td>720-913-0735</td>
</tr>
</tbody>
</table>

**Narrative for Recommendation 2.2**

The Department agrees with this recommendation. Appropriate department staff will evaluate the system’s capabilities and provide requirements to FLOG, LLC related to the tracking and reporting of all transactions.

**RECOMMENDATION 2.3**

The Department of Parks and Recreation’s Director of Finance and Administration should amend the definition of gross revenues in the FLOG, LLC contract to address how discounts and complimentary items should be reported.

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</tr>
</thead>
<tbody>
<tr>
<td>Disagree</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Narrative for Recommendation 2.3**

The Department disagrees with this recommendation. This Concession License, and all other Parks and Recreation revenue agreements, comply with the definition of Gross Sales as set forth in D.R.M.C Sections 53-23 (14) and 53-23 (21). Both the City Treasurer and the City Attorneys who deal with tax, accounting and treasury issues agree that this definition is clear. As a result, our practice is consistent with how the City defines Gross Revenues. In addition, the City Attorney’s Office reviewed the definition of Gross Revenues in the Concession License and determined that the current language in the agreement is sufficient to reflect the City’s current accounting and calculation practices, including the contractual requirement for the Concessionaire to adhere to all applicable law including the Denver Revised Municipal Code. As a result, the Department believes it is unnecessary to amend these agreements to reiterate the definition provided in D.R.M.C.

**RECOMMENDATION 2.4**

The Department of Parks and Recreation’s Director of Finance and Administration should require a review of FLOG, LLC’s 2016 and 2017 financial records for compliance with reporting of gross revenues and seek collection of unpaid revenue.

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<tr>
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Narrative for Recommendation 2.4
The Department disagrees with this recommendation. The Department does not have adequate resources to perform revenue audits. The Department relies on the Concessionaire’s contractual obligation in each Concession License Agreement to annually submit a report of Gross Revenues prepared and certified by an independent certified public accountant to provide assurances that reporting and payments to the City is accurate and complete. Upon receipt of the annual audit, Department staff analyze the information contained in the audit compared to the periodic reports and payments submitted to the City by the Concessionaire. Adjustments to monies owed are made either by invoicing the Concessionaire, issuing a refund to the Concessionaire, or issuing a credit to the Concessionaire’s account. In addition, provisions are in each agreement that enables the Auditor’s Office to audit concessionaire records. The Department will, however, begin requiring the Concessionaire to provide POS reports and verify that percentage payments are based upon the Gross Sales amounts indicated on these reports.

Please contact Fred Weiss at 720-913-0735 with any questions.

Sincerely,

[Signature]
Executive Director
Parks and Recreation.

cc: Valerie Walling, Deputy Auditor, CPA, CMC
    Sonia Montano, Audit Supervisor