



# City of Chattanooga

Stan Sewell  
Director

INTERNAL AUDIT  
City Hall  
Chattanooga, Tennessee 37402

Ron Littlefield  
Mayor

April 26, 2011

Mayor and City Council  
City of Chattanooga  
Chattanooga, TN 37402

RE: Post Audit Review of CDRC MarineMax Contract Audit, 10-02

Dear Mayor Littlefield and Council Members:

On June 23, 2010, the Internal Audit Division released an audit on the MarineMax contract for the lease and management of the Ross's Landing Marina. We performed certain procedures, as enumerated below, with respect to activities of the Chattanooga Downtown Redevelopment Corporation and Parks and Recreation Department in order to render a conclusion on the status of the recommendations made as a result of that audit. On December 14, 2010, the City Council approved a five year lease and management agreement with MarineMax for the operations of the Ross's Landing Marina.

This Post Audit Review consisted principally of inquiries of City personnel and examinations of various supporting documentation. It was substantially less in scope than an audit in accordance with generally accepted government auditing standards.

The evidence obtained provided a reasonable basis for our conclusions; however, had an audit been performed, other matters might have come to our attention that would have been reported to you and our conclusions may have been modified.

The conclusions of Audit 10-02 were that:

1. The proper guidelines were not followed in the development and execution of the MarineMax contract.
2. MarineMax is not in full compliance with the contract terms.
3. The City/CDRC does not have a system in place to properly manage the contract.

The audit contained five recommendations that addressed the audit's findings. Based on the review performed, we concluded that recommendations 1 and 5 were implemented, 2 and 3 were partially implemented and 4 was not implemented.

### **Recommendations Implemented (1, 5)**

We recommended (**Recommendation 1**) when the City/CDRC is considering any action with public property that falls within the guidelines of State Code 13-4-104 that they should get the proper referral before proceeding. In addition, the City/CDRC should follow the proper procurement procedures when contracting services.

We contacted the Regional Planning Agency and verified on May 10, 2010 the Planning Commission approved the Ross's Landing lease to MarineMax. This approval meets the guidelines as set by State Code 13-4-104.

We recommended (**Recommendation 5**) when the City/CDRC enters into a contract the terms should cover a maximum period of 3 years with appropriate annual renewals. If longer term contracts are utilized they should contain a clause allowing the City/CDRC to cancel without any penalty. We also recommended that lease agreements be bid with the structure requiring bidders to state a monthly rent payment for the lease of the property.

After reviewing the new contract with MarineMax, it stipulates the contract may be terminated without cause after August 31, 2013. Also, the contract added a new provision for monthly rent to begin after September 1, 2013 in the amount of \$4,200 plus the Percentage Rent amount as it applies.

### **Recommendations Partially Implemented (2, 3)**

We recommended (**Recommendation 2**) that the City/CDRC take steps to enforce the requirements of the contract. This includes but is not limited to conducting a periodic review of detail documentation of MarineMax's gross sales for the marina and comparing them to the amounts remitted to the City as gross sales. Late payment notices should be issued, when appropriate. In addition, the City/CDRC should review the security system on the MarineMax property to ensure it meets the standards in the contract. Finally, the City/CDRC should perform a periodic inspection of the MarineMax property and document any issues that are found or arise during the year. We also recommended that the City/CDRC not renew the contract until MarineMax can provide sufficient documentation to support their gross sales. This could include a reconciliation of the sales figures submitted to the City, to copies of the State Sales Tax return figures for the last five years.

Based upon information from both the Parks and Recreation and the Finance departments, they have been in contact with MarineMax management over the last few months diligently trying to obtain information from MarineMax to reconcile sales figures to State Sales Tax returns or any financial information that would support reported gross sales. To date, MarineMax has not provided any new information to help with these reconciliations.

According to Parks and Recreation management, periodic inspections of the property are being performed and any issues found have been reported to management.

The MarineMax contract was renewed by Resolution #26536 December 14, 2010. This renewal was completed without receiving reconciliation information from MarineMax as recommended by our audit.

We recommended (**Recommendation 3**) the City/CDRC should cease paying the utilities that are connected with the transient boats slips at the marina. The City/CDRC should determine the amount spent on the utilities for the transient boat slips since the contract inception date and recover these funds from MarineMax.

The new contract with MarineMax contains additional terms which clarify the issue we addressed with the City paying utilities for the transient boat slips. The terms state the City will be responsible for all electrical utilities transient slips as described in Exhibit's E & F of the contract. Another new provision was added to allow MarineMax to collect additional fees for power usage on the transient docks as described in Exhibit F, which will be submitted to the City.

Regarding the recommendation to recover funds from MarineMax for the transient boat slips, Administrator Zehnder stated his department had inquired into the number of electrical meters at the marina. They determined there was only one meter servicing the entire area. The costs associated with installing new meters, and trying to recover the amount for past utilities associated with the transient boat slips was not cost beneficial. This led to the language being changed in the contract to clarify these terms.

#### **Recommendations Not Implemented (4)**

We recommended (**Recommendation 4**) that the City/CDRC keep accurate and complete records of all their transactions. We recommended that the City/CDRC request a complete set of records from RiverCity for any and all City/CDRC transactions or activity that may be in their possession. Neither the CDRC nor the City should entrust the retention of public records to a third party.

The City has not received a complete set of their records from RiverCity according to the City Attorney.

We thank the personnel in Parks and Recreation and Finance for their assistance in conducting this review. We will consider this report to be final unless directed to continue our review.

Sincerely,



Stan Sewell, CPA, CGFM  
Director of Internal Audit

cc: Dan Johnson, Chief of Staff  
Daisy Madison, City Finance Officer  
Larry Zehnder, Administrator of Parks and Recreation  
Audit Committee