

DEKALB COUNTY, GEORGIA



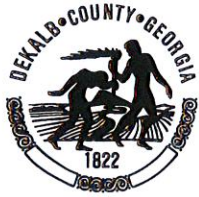
**BOARD OF COMMISSIONERS
DISTRICT 6**

AUDIT REPORT

FORK CREEK MOUNTAIN PARK PROJECT

**PREPARED BY
FINANCE- INTERNAL AUDIT DIVISION**

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Finance Department
Internal Audit

TRANSMITTAL MEMORANDUM

DATE: September 10, 2015
TO: Commissioner Kathy Gannon, District 6
FROM: Cornelia Louis, Deputy Director of Finance – Internal Audit
SUBJECT: Fork Creek Mountain Park
Re: Review of Park Development Process

**Interim Chief
Executive Officer**

Lee May

**Board of
Commissioners**

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Attached is the report of the Fork Creek Mountain Park, which you requested. The issues raised in the report were discussed with you and Davis Fox, at the September 10, 2015 Exit Conference and Marvin Billups, Vineet Nagarkar, and Yolanda Broome, during the Exit Conference on August 25, 2015.

As is customary with our audit work, we do not include the auditee's comments in our report. However, you may consider sending your comments or response directly to Gwen Brown-Patterson, Interim Chief Financial Officer/Finance Director.

We appreciate the cooperation and assistance we received from Recreation, Parks and Cultural Affairs, Purchasing & Contracting, and Planning & Sustainability staff during the course of this review. If you have any questions about the review or this report, please feel free to contact me at extension 404-371-2639.

Sincerely,


Cornelia Louis

cc: Board of Commissioners (BOC)
Zachary Williams, Chief Operating Officer/Executive Assistant
Gwen Brown-Patterson, Interim Chief Financial Officer/Finance Director
Scott Callan, Chief Procurement Officer, Purchasing & Contracting
Roy Wilson, Director, Recreation, Parks and Cultural Affairs
Claudette Leak, Administrative Project Manager

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GENERAL INFORMATION

Fork Creek Mountain Park (FC), which consists of 55 acres, currently resides within Commission District 3 and Super District 6 of unincorporated DeKalb, near the intersection of River and Panthersville Roads in Ellenwood, Georgia. It is within the Soapstone Ridge Historic (Ridge) District. The Ridge consists of soft rock rather than granite, which are found in the surrounding areas. Many archeological sites, including archaic quarries dated between 600 BCE and 1500 BCE can be found on Soapstone Ridge. Native Americans quarried the stone from this ridge, carving it into bowls, pipes, and other items.

Land and Water Conservation and Greenspace Bond Funding were used to acquire the 55-acre property. Thirty-five (35) acres were purchased with Land and Water Conservation Funds, while Commission District 6 and 3 contributed \$611,568.22 and \$612,256.30, respectively, of Green Space Bond Funds for an additional 20 acres of agricultural property, which includes Caskey and Black Farms.

Design

From January 2010 through May 2010, suggestions and input for the development of the site were obtained from the general public and County staff. In July 2010, a master plan, which outlined significant improvements and amenities for the area, was completed. Due to budget constraints, it was decided that the project be completed in phases. The master plan consists of three phases. Below are recommendations for phase I implementation:

- Playground area
- Refurbish existing parking area
- Park signage
- Replace existing equipment
- Picnic Shelter
- Community Garden
- Demolition of Caskey house and garage
- Renovate/refurbish existing barn

Phase II was designed to focus on the Day Use Recreation Area and the Agricultural Interpretive Area, while Phase III ensures completion of the Education Activity, and the Natural/Cultural Resource Areas.

Improvements to the historical Fork Creek Mountain Park (project); was designed to be an educational benefit to the Ellenwood, Georgia community and DeKalb County in general.

Funding

In 2004, District 6 allocated \$200,000 of 2001 Park Bond Funds for development of FC. In November 2010, an additional \$300,000 was allocated to the project from the Department of Housing and Urban Development (HUD), Economic Development Initiative (EDI) Fund. On May 26, 2015, the Board of Commissioners (BOC) approved an agenda item to reallocate \$87,686 from the \$200,000 for construction of the playground at FC. In addition, District 3 transferred 15,000 of their 2001 Park Bond Funds for development of the playground. On June 23, 2015, the BOC approved the transfer of \$100,000 from the 2001 Park Bond Interest Account for development activity at FC. The total funding committed to FC was \$615,000.

PURPOSE AND SCOPE

The purpose of our review was to assess and provide feedback regarding the delay in the completion of Fork Creek Mountain Park project.

The review was conducted in accordance with Generally Accepted Auditing Standards (GAAS). We reviewed the process for developing the Fork Creek Mountain Park, for the years 2001 through 2015. We obtained e-mails, construction documents, along with relevant state and local government codes. We interviewed Planning & Sustainability, Purchasing & Contracting, and Recreation, Parks and Cultural Affairs personnel. Additionally, we conducted such audit tests and procedures as deemed necessary.

TIME LINE OF SIGNIFICANT EVENTS

2001

- Allocation of 2001 Park Bond Fund to District 6 (Then Commissioner – Judy Yates).

2002

- On November 22, 2002 – Approval by the BOC to purchase land (Black and Caskey farms tracks of land).
- On December 18, 2002 – District 6 and District 3 closed on the purchase of the Black Farm tract of land.

2003

- On February 13, 2003 – District 6 and 3 closed on the purchase of Caskey Farm tract of land.

2004

- In May 2004 - FC project was created in Oracle's Project and Grants (P&G) module; \$200,000 was allocated to the project.

2008

- Recreation, Parks and Cultural Affairs (RPCA) staff was assigned to the project.

2009

- Super District 6 Commissioner initiated the commencement of the project.
- A Request for Proposal (RFP) was awarded to the vendor MACTEC (Amec) to design and develop a master plan at a cost of \$49,999.

2010

- In January, March, and May informational and public meetings for the FC project were held.
- In July, a draft of the master plan was completed. An Opinion of Probable Construction Cost (draft) was included in the master plan.
- In November, a \$300,000 Congressional Grant was awarded to DeKalb County's Community Development for the FC project. The funds were obtained from the Fiscal Year (FY) 2010 Economic Development Initiative Fund (EDI) provided by the Department of Housing and Urban Development (HUD).

2011

- In February, the Congressional Grant was placed on the BOC Agenda. It was accepted and appropriated.

2012

- In February, the Opinion of Probable Construction Cost document was revised and reflected the additional HUD Funds and unbudgeted infrastructure cost. Three pricing options were presented.
- In April, RPCA reviewed the revised Opinion of Probable Construction Cost documents, and determined the initial playground design was not appropriate. Discussions regarding the playground location, picnic area, pond, and community garden occurred, lasting through September 2013.
- The master plan design noted the retention of the Historic Red Barn located on the Caskey Farm property. However, in October, it was lost in a fire.
- In October, the Fire Site plans failed.
- In November, the Environmental Control plans failed.
- In December, there were additional revisions to the Opinion of Probable Construction Cost document.

2013

- On January 12, the Fire Site plans were approved.
- In January, the Environmental Control and Civil Engineering plans failed.
- In March, the Environmental Control and Civil Engineering plans failed.
- In April, the Environmental Control and Civil Engineering plans failed.
- On April 30, the Environmental Control and Civil Engineering plans were approved.
- The demolition of the Caskey and Black structures took place in April (\$2,265 hazmat study and \$25,050 abatement & demolition).
- P&C drafted the Invitation to Bid (ITB) in July; and in October, forwarded the ITB to RPCA for justification of the General Contractors License requirement
- On October 9, P&C staff requested that the ITB be reviewed by RPCA, and a justification for the General Contractors (GC) license be provided by October 14.
- Purchasing & Contracting cancelled advertising for the FC project and communicated in November that the mandatory pre-bid and site visit was cancelled until further notice.

2014

- In January, P&C rescheduled and re-advertised the FC project (ITB).
- On February 5, the Pre-Bid Conference and Site Visit was held. The bid due date was noted as February 20.
- On February 6, Addendum No. 1 was prepared to include the Pre-Bid Conference Agenda and Sign-in sheets of the prospective bidders.
- On February 7, questions from prospective bidders were due and submitted to RPCA.
- On February 19, Addendum No. 2 was prepared to extend the Bid Submission Deadline Date to Wednesday February 26.
- On February 21, Addendum No. 3 was prepared to extend the Bid Submission Deadline Date to Wednesday March 5.
- On February 28, Addendum No. 4 was prepared to extend the Bid Submission Deadline Date to Friday March 14. MACTEC (Amec) refused to answer the questions because of an outstanding invoice. Director of P&C formally approved extension.
- On March 6, Addendum No. 5 was prepared to extend the Bid Submission Deadline Date to Wednesday March 26.
- On March 18, MACTEC (Amec) provided P&C with a response to the questions. Addendum No. 6 was prepared to amend the ITB.

- On March 20, responses were forwarded by P&C to the prospective bidders.
- On March 26, bids were due and opened.
- On May 22, the County requested an extension of Kissberg's bid validity period until August 31. Kissberg agreed.
- On June 18, the ITB package and the selected bidder were forwarded to RPCA for approval.
- On June 20, the ITB package was confirmed by RPCA Deputy Director.
- In July, Kissberg Construction, Inc. (Kissberg) was recommended as the contractor.
- The recommended contractor was presented for approval on the BOC July 8 agenda. The BOC approved and awarded the contract to the lowest bidder (Kissberg), on July 8.
- On July 10, the Notice of Award was sent to Kissberg, and Kissberg acknowledged it on July 15.
- On July 17, the Notice of Award meeting was held.
- On August 1, Kissberg communicated, via telephone, their inability to obtain a Performance and Payment Bond. Kissberg was requested to formally reject the award in writing.
- On August 5, Kissberg submitted a rejection letter via email, which stated that they were unable to obtain the required Performance and Payment Bonds.
- On August 27, a rescission agenda item was routed for September 23 BOC meeting.
- On September 23, the agenda item to rescind ITB # 13-100377 was approved by the BOC. The project was rebid because the second bidder exceeded the budgeted amount and the remaining two bidders did not submit required documentation (Section 3 Plan).
- In November, a new ITB, 14-100429, was created, but placed on hold pending clarification by the MACTEC's engineer who had issues with the ITB. The architect needed to revise the outdated construction documents, which excluded the playground and community garden from the design.

2015

- Bids were due in January. The lowest bidder was Autaco Development; but they did not meet the good faith effort. Good faith effort requires a bidder to take a reasonable course of action to get a Local Small Business Enterprise (LSBE) to perform at least 20% of the work. Autaco Development only provided a 15% LBSE participation. The second lowest bidder, Willow Construction, Inc. (Willow Construction), met the minimum 20% LSBE criteria. Willow Construction's bid was \$412,500. The scope included driveways, parking lots, sidewalks, drainage system, and grading.
- In February, RPCA sent a letter to P&C approving Willow Construction.
- In March, ITB # 14-100429 was submitted to the board for approval, it was deferred due to District 6 Commission's concern with the scope of work submitted for approval, which excluded the playground requested by the community.
- On May 26, 2015, the BOC transferred \$87,686 from District 6, 2001 Fork Creek Park Bond Account and \$15,000 From District 3, 2001 Park Bond Account to create a new account for the construction of a Playground at FC.
- On June 23, the BOC approved ITB # 14-100429. With the approval of the ITB, the BOC approved the transfer of \$100,000 from 2001 Parks Bond Interest Account for the development of FC (Infrastructure cost).

Below is a breakdown of the funding (\$615,000) for FC and expenses (\$77,314) incurred as of August 2015. In addition, \$9,000 was committed for updating construction documents and project oversight. Approximately **\$528,686** is available to complete FC project.

Fork Creek Mountain Park – DeKalb County, Georgia					
Revenues & Expenses					
Exhibit A					
Supplier	Date	Revenue	Expense	Difference	Comment
2001 Park Bond Fund	5/30/2004	\$200,000	-	-	Fall Creek Mountain Park
Department of Housing & Urban Development –EDI Fund	2/22/2011	\$300,000	-	-	Fall Creek Mountain Park
Mactec Engineering	12/12/2009	-	\$49,999.00	-	Master Plan
Matrix Engineering Group Inc.	1/ 7/2013	-	\$ 2,265.00	-	Hazmat Study for Demolition
Abatech Services Inc.	6/ 6/2013	-	\$25,050.00	-	Abatement & Demolition
2001 Park Bond Interest Acct.	6/23/2015	\$100,000	-	-	Infrastructural Requirements
Commission District 3 Budget	6/23/2015	\$15,000	-	-	Commitment to playground
TOTAL		\$615,000	\$77,314.00	\$537,686.00⁽¹⁾	

⁽¹⁾ \$9,000 for construction documents and project oversight expenses not yet incurred.

FINDINGS

No Initial Plan

- Since the acquisition of the land and allocation of \$200,000 for FC property development in 2004, Internal Audit (IA) found minimal activity regarding FC development between 2004 and 2008. RPCA personnel noted there was no master plan for the development of the FC property.

The first documents we found pertaining to the development of FC project were dated August 2009. In August 2009, Contractor MACTEC received a contract to create and design the master plan.

Increase Cost and Playground Design Delay

- After completion of the draft master plan, in February 2012, a copy of the revised Opinion of Probable Construction Cost document was presented to RPCA. The architect's project cost included unbudgeted infrastructural (Utilities, Paving, Grading and Site Work) expenses. As a result, it was recommended that the square footage and amount allocated for the playground be adjusted (from \$104,500 to \$51,700). The time required to adjust the projected cost to include unbudgeted infrastructural cost and reduce the playground cost, delayed the final copy of the Opinion of Probable Construction Cost document for approximately 9 months (March 2012 – December 2012). Afterwards, discussions about the playground continued through September 2013 because of concerns with the playground's layout and design. The initial design was created mainly for toddlers. RPCA wanted a playground that would accommodate different adolescent age groups.

Site Plan Review Delay

- After completion of the master plan and the Opinion of Probable Construction Cost documents, the plans were submitted to appropriate County department(s) for review. Some Environmental Control Plans (ECP) and Civil Engineering Plans (CEP) were submitted several times before being approved (ECP: 11/6/2012, 1/9/2013, 3/25/2013, 4/25/2013 and 4/30/2013(approved) and CPE: 1/9/2013, 3/25/2013, 4/25/2013 and 4/30/2013(approved)). Multiple revisions, which included the architect's resubmittals and the County department's re-evaluation of site plans, contributed to the project delay.

General Contractor License Requirement Delay

- In October 2013, RPCA requested a general contractor to perform the scope of work (driveways, parking lots, sidewalks, a playground, drainage system and grading), noted in the ITB # 13-100377. RPCA informed IA that a general contractor is required for most projects because they are able to oversee and manage large jobs with multiple functions, ensuring satisfactory work. P&C determined that a general contractor was not required to perform the scope of work outlined in ITB # 13-100377. Hence, justification was requested from RPCA. P&C and RPCA were unable to agree on the general contractor's requirements. Discussion over the issue continued throughout the month of October 2013. In November 2013, P&C Contract Administrator stated that RPCA did not provide timely justification; therefore, this resulted in the cancellation of the advertisement for ITB # 13-100377. The Deputy Director of P&C noted that the request for a general contractor was not compliant with state law. Georgia Law, 43-41-2 (5), notes that a general contractor undertakes "the construction of all private, commercial, institutional, industrial, public and other buildings and structures under contract with or engagement directly by an owner." P&C noted it was not necessary to cancel ITB # 13-100377. Therefore, P&C should have proceeded with the bid advertisement without the general contractor's license requirement. In January 2014, the ITB was re-advertised. This delayed the project for approximately 2 months.

Performance and Payment Bonds Delay

- In July 2014, Kissberg was awarded a contract for \$214,500. Due to the great disparity between Kissberg's bid and the other three (3) bidders, P&C staff contacted Kissberg's representative. Kissberg's representative verbally confirmed their ability to perform the work at the bid price. P&C staff performed no further cost analysis. Currently, some P&C staff requires additional information, such as a schedule of values or a breakdown of cost.

Kissberg was unable to obtain the necessary Performance and Payment Surety Bonds because of the unreasonableness of Kissberg's bid and "the large bid spread" (*Purchasing and Contracting notes to CPO*) among other bids. In August 2014, Kissberg rejected the award. The project was rebid, which resulted in the extension of the FC project's timeline.

In an effort to enforce a requirement of the bid process and compensate the County due to abandonment and noncompliance of the contract, P&C Deputy Director submitted communication to DeKalb County Law Department to pursue liquidated damages for 10% of the entire bid from the surety because the County accepted the bid.

Upon further examination, the County decided not to seek restitution from the surety because the bid bond was incomplete and invalid.

Playground Specification Delay

- In November 2014, a new Invitation to Bid (ITB # 14-100429) was created for FC due to cancellation of the prior ITB # 13-100377. Construction documents were updated and revised to reflect the new requirements for ITB # 14-100429. In addition, the cost of products, and to do business with prospective bidders had significantly increased. The architect (MACTEC) explored opportunities to stay within budget. It was decided that the playground be removed entirely from the project. As a result of the changes, RPCA sought alternate means to secure a playground through the national non-profit organization, KaBOOM. Their efforts were unsuccessful because the community did not have an organization with nonprofit status and volunteer support. The time required to pursue additional solutions to secure a playground contributed to the project extension.

The table below outlines an increase in FC development cost. It shows cost projections presented by architect Amec (MACTEC) and bid price of Willow Construction Inc.

COMPARISON OPINION OF PROBABLE CONSTRUCTION COST FORK CREEK MOUNTAIN PARK – DEKALB COUNTY, GEORGIA PHASE 1 IMPLEMENTATION PLAN EXHIBIT B			
	2012 Projected Cost	2015 Actual Cost	
Item Description	Amec Environmental	Willow Construction	Difference
GRADING & SITE WORK	\$ 50,000	\$141,800	\$ 91,800
PAVING	\$149,900	\$153,295	\$ 3,395
SITE AMENITIES	\$ 58,400	\$ 780 ⁽¹⁾	\$(57,620)
UTILITIES	\$ 17,705	\$ 61,720	\$ 44,015
LANDSCAPING	\$ 25,962	\$ 17,405	\$(8,557)
SUB TOTAL	\$301,967	\$375,000	\$ 73,033
10% CONTINGENCY FACTOR	\$ 30,196	\$ 37,500	\$ 7,304
TOTAL	\$332,163	\$412,500	\$80,337

⁽¹⁾Excludes cost for benches, bicycle racks (4 loops), waste receptacles, and playground surface & equipment.

BOC Approval Delay

- In March 2015, ITB # 14-100429 was listed on the BOC agenda for approval. It was deferred (3/24/15, 4/14/15, 4/28/15, 5/26/15, 6/9/15) due to concerns with the project’s scope of work which excluded the playground. On June 23, 2015, ITB # 14-100429 was approved.

CONCLUSION

The following factors have contributed to the delay of the FC project:

- 1) No FC project activity during 2004 through 2008. A master plan design was not created.
- 2) Infrastructural requirements which resulted in unbudgeted cost.
- 3) Revisions of construction documents.
- 4) Cancellation of the project pertaining to differences over General Contractor’s License.

- 5) Kissberg's inability to obtain the Performance & Payment Bonds, requiring a rebid of the Project.
- 6) Playground specification delay.
- 7) BOC deferrals (3/24/15, 4/14/15, 4/28/15, 5/26/15, 6/9/15) of ITB # 14-100429.

Internal audit expresses appreciation for the assistance provided by your staff, RPCA and P&C staff during our review. Please let us know if you have any questions or concerns.