

Why We Did This Audit

We conducted a review of the three agreements executed between the County and the Rock in late 2017 and early 2018 at the former landfill located at South 76th Street and West Loomis Road to assess the compliance of the developer with the conditions contained in the agreements.

What We Recommend

ASD made 11 recommendations that, if implemented, will address the issues raised in the audit. Key items include:

- *DAS-ED should develop written policies and procedures to retain a complete set of all documents related to the closing of any County land sale.*
- *DAS-ED should work with CBDP and report back to the County Board within three months on the compliance of the Rock with the TBE goals within the Development Agreement.*
- *DAS-ED should request missing data regarding the apprenticeship program and evaluate the Rock's compliance with the goals in the Development Agreement.*
- *DAS-ED should confirm with the Rock the status of, and if necessary, the anticipated date the east monitor will return to functionality and work to establish a system to be alerted to any non-functioning monitor.*
- *DAS-ED should establish a scheduled check in for material noise violations by the Rock and provide an annual report to the County Board.*
- *DAS-ED should develop a system to log and track complaints about the Rock and report annually to the County Board.*
- *DAS-ED should work with the Comptroller to seek any outstanding funds to the LIC Fund or clarify schedule of payment.*
- *DAS-ED should work with the Comptroller to provide an annual report to the County Board on the status of financial items contained within the Contribution and Participation Agreement.*
- *Parks should execute a formal amendment to the lease agreement to clarify the allowable start time for events located at the ski hill.*
- *Parks should explore the creation of a centralized complaint system.*
- *The Department of Administrative Services:*
 - ❖ *When developing an updated AMOP for contracts ensure responsibility for monitoring of the contract is clear.*
 - ❖ *Clarify the role of service departments such as Risk Management, Office of Corporation Counsel, Office of the Comptroller and CBDP as providing assistance rather than direct contract monitoring.*
 - ❖ *Create a training program for contract monitoring.*
 - ❖ *Explore the establishment of a countywide software system to assist departments in their contract monitoring responsibilities.*



August 2021

Between The Rock and a Hard Place: Former Landfill Becomes Entertainment Center with Unresolved Community Concerns Beyond the County's Ability to Solve.



BACKGROUND

In late 2017 and early 2018 the County entered into three agreements with the Rock to allow for the development of an entertainment center on parkland and land that was formerly a County landfill. The County Board requested an audit to review the performance as it relates to its agreements with Milwaukee County including noise and lights issues and financial requirements.

OVERALL OBJECTIVE

Our overall objective was to review the three main agreements between the County and the Rock. Any agreement between the Rock and a municipality was not included.

WHAT WE FOUND

- The County entered into an Option to Purchase agreement that established a purchase price of \$840,000 less the annual cost to operate the methane collection system. Payment of no less than \$1 is deferred until 2039. Completed and projected amenities include a baseball stadium, retail/offices, apartments, an indoor sports training center, a medical service office, a hotel and restaurants with projected annual attendance of 1.3 million. A new methane control system was installed with an estimated cost of \$3.7 million.
- We requested from County parties but were not provided a number of documents required of both the Rock and Milwaukee County in the Option to Purchase Agreement.
- In 2018 a development agreement was executed which included a community benefits compliance plan and a noise and light addendum. TBE participation in professional service contracts is currently exceeding the goal of 17%, while participation on construction projects is at less than 5% versus the goal of 25%. Total construction costs of \$42.3 million have been expended with less than \$2 million being paid to TBE firms. The goal of 25% participation was projected to be almost \$11.0 million.
- According to records submitted, the Rock was on pace as of 2019 to exceed its 10% goal of hours on construction projects to be dedicated to apprenticeship and training hours. However, records provided to us in April of 2021 had no payroll data from 2020 or 2021 and the projects were still listed as open.
- The Development Agreement contains a Noise and Light Addendum. The installation of noise monitors were completed by the Rock. A tiered system of enforcement established the City of Franklin as the primary enforcer of adherence to the agreement by the Developer. The City of Franklin informed us the last date they had data from the east monitor was November 2020. According to the Rock, the monitor is functional.
- The County's role is limited to action if the City declines to take action after four material violations in a calendar year. To date, per the City of Franklin, only one material violation has occurred which contractually prohibits the County from acting. Continued calls for a comprehensive sound study of the Rock culminated in a provision in the 2021 Adopted Budget for the issuance of a Request for Proposals (RFP) for a sound study in 2021.
- On February 19, 2018 the County entered into a Contribution and Participation Agreement with the Rock. The agreement establishes clear obligations on behalf of the Rock and our review of annual reports by Sigma, the environmental consultant, did not find evidence of noncompliance on behalf of the Rock in terms of its obligations in the operation and management of the methane system. The agreement establishes the Rock is responsible for the ongoing day to day costs associated with the landfill but the County remains financially and administratively linked based upon the agreement.
- The agreement established a Landfill Infrastructure Capital Fund to be used to maintain, improve and periodically replace the methane mitigation system with estimated annual contributions of \$20,000 from the County and \$127,000 from the Rock. The agreement calls for an annual payment by February 1 from both entities. We found the payments were not made by February 1 in 2019, 2020 and 2021 except for the County's 2021 payment. At the time of our review there had been no withdrawals of funds.
- In 2018 the Rock and the County entered into a new lease for the operation of the Ski Hill.
- Throughout our review of recent audits we have reported on a continuing trend of a lack of monitoring and overall assignment of responsibility. We believe a cultural change is needed at the County to eliminate the lack of ownership of contract monitoring.



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