



# Performance Audit: Management of Live Nation Lease Agreements

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# Audit Objectives

- Is the city managing contracts to ensure that Live Nation is paying all base and percentage rents due according to the terms outlined in their contracts?
- Is the city managing contracts to ensure that Live Nation is complying with all provisions of their contract as required?

# Scope and Methodology

- Focused on Lakewood Amphitheater and Chastain Park Amphitheater
- Reviewed city code, state and federal laws and regulations related to venue management
- Reviewed all contracts, amendments, authorizing legislation, and supplemental documents for the amphitheaters
- Interviewed staff from Finance, Parks and Recreation and Enterprise Asset Management and the Office of Contract Compliance, as well as subject matter experts from Live Nation
- Reviewed Live Nation's annual summary reports
- Conducted a review of sound reading reports from Chastain Park Amphitheater events from concert seasons 2016-2019 to confirm whether fines were issued
- Analyzed financial reports from Oracle and supporting documentation reflecting revenue deposits and fund allocation
- Consulted with the Department of Law to confirm our understanding of contract provisions
- Reviewed all name-in-title agreements and payments to ensure compliance with contract clauses

# Background

## Lakewood Amphitheater

- Seating capacity - 19,000
- Base rent is \$15,000 per month with a maintenance credit up to \$4,000
- Percentage rents are calculated based on 3% of ticket sales and 4% of gross receipts from concession sales
- Sponsorship agreement revenue based on 10% of net proceeds

## Chastain Park Amphitheater

- Seating capacity – 6,900
- Base rent is \$300,000 per year
- Seat surcharge is calculated based \$8 per seat sold
- Sponsorship agreement revenue based on 50% of net proceeds
- Parking Fees are calculated based on 33.3% of gross receipts



# Findings

- Contract language for both venues need to be strengthened to facilitate revenue verification
- Lakewood contract incentives were ineffective
- Department of Enterprise Asset Management did not inspect maintenance at Lakewood Amphitheater to confirm whether Live Nation earned maintenance credits claimed
- Reliable sound monitoring equipment was not installed at both amphitheaters to better enforce noise ordinance
- Lack of clarity with the Lakewood Amphitheater Sponsorship Agreement made it difficult to determine whether the city received all revenue owed
- Oversight was not adequate to ensure Live Nation complied with contract requirements
- Revenue earned at the Chastain Park Amphitheater was not recorded correctly



## Both Venue Contracts Need Strengthening to Facilitate Revenue Verification

Venue	Revenue Paid to City			
	FY2016	FY2017	FY2018	Total
Lakewood Amphitheater	\$628,943	\$526,828	\$647,284	\$1,803,055
Chastain Park Amphitheater	\$705,064	\$831,593	\$896,518	\$2,433,175
<b>Total</b>	<b>\$1,334,007</b>	<b>\$1,358,421</b>	<b>\$1,543,802</b>	<b>\$4,236,230</b>

**Source:** Oracle records provided by Department of Finance for Lakewood and Chastain Park Amphitheaters.

Live Nation provided revenue summaries or invoices annually for revenue paid to the city. Only one of the six summaries or invoices included documentation to support revenue paid to the city (FY 2018 for Chastain Park).

# Lakewood Contract Incentives Were Ineffective

Period	Capital Improvements					
	>= \$4M		>= \$3M < \$4M		< \$3M	
	% Gross Ticket Sales	% Other Revenue	% Ticket Sales	% Other Revenue	% Ticket Sales	% Other Revenue
Years 1-3	2.25%	3.25%	Contract allowed three years to meet capital investment.			
Years 4-6	2.5%	3.5%	2.75%	3.75%	3%	4%
Years 7-9	2.75%	3.75%	3%	4%		
Year 10 Forward	3%	4%				

- By not meeting the capital investment within three years, Live Nation has paid the top percentages since 2013.

# DEAM Did Not Inspect Maintenance to Confirm Live Nation Earned Credits



We found kudzu overgrowth during a site visit to the Lakewood Amphitheater in January 2019.



# Reliable Sound Monitoring Equipment Would Better Enforce Noise Ordinance

Contracts for both venues require sound monitoring:

## Chastain Park – Grozier System

- Only 67% of events had sound readings
- Sound readings from three events violated the sound ordinance; Parks issued one fine
- Old and unreliable and results in inaccurate readings

## Lakewood – No sound monitoring equipment

- Uncertainty over who responsible for installation
- APD received 27 noise complaints during events held from 2016-2018

## City May be Owed Additional Revenue for the Lakewood Sponsorship

- Department of Enterprise Asset Management did not collect sponsorship revenue in 2017 and did not verify the payment from the 2018 concert season.
- Live Nation provide two separate sponsorship agreements that contained conflicting revenue amounts due to the city.
- City staff did not resolve the discrepancy with Live Nation.
- Lakewood's contract was unclear as to the specific percentage of the name in title sponsorship agreement Live Nation should pay the city.

## Oversight is Needed to Ensure Live Nation Complies with Contract Requirements

- Contract compliance staff found Live Nation has not submitted minority participation reports for the Lakewood or Chastain Park concert venues.
- Department of Parks and Recreation has not submitted mandated reports to the City Council committee (CDHS) with oversight authority.

## Chastain Revenue Applied Incorrectly

- Department of Parks and Recreation applied \$24,944 of 2016 ancillary income to the Centers of Hope account instead of the Chastain Trust Fund. Department of Finance worked with Department of Parks and Recreation to transfer the misallocated funds to the correct account.

# Recommendations

To clarify requirements and ensure compliance with the Lakewood lease agreement, the Department of Enterprise Assets Management commissioner should work with the city attorney to develop the following contract amendments for City Council consideration:

1. Add specific language to require Live Nation to provide box office statements, ticket manifests, and reports so that revenue can be independently verified by the city.
2. Add specific language to the audit clause in the Lakewood contract to ensure that the city has unrestricted access to audit all documentation associated with the contract terms.
3. Add a provision requiring penalties for late payments.



## Recommendations (cont.)

To clarify requirements and ensure compliance with the Lakewood lease agreement, the Department of Enterprise Assets Management commissioner should work with the city attorney to develop the following contract amendments for City Council consideration:

4. Add language to ensure the installation of the sound monitoring equipment and to outline responsibilities associated with monitoring roles and compliance.
5. Amend the name-in-title sponsorship clause to ensure that name-in-title revenue payments are set and specify documentation that should be included with the payment for the city's verification.
6. Require Live Nation to pay rents electronically to expedite the payment process and increase transparency.

## Recommendations (cont.)

To clarify requirements and ensure compliance with the Chastain lease agreement, the Department of Parks and Recreation commissioner should work with the city attorney to develop the following contract amendments for City Council consideration:

7. Add specific language to the audit clause to ensure that the city has unrestricted access to audit all documentation associated with the contract terms.
8. Amend the name-in-title sponsorship clause to ensure the city's review of the contract prior to execution and receipt of the final contract are mandated and documented.

## Recommendations (cont.)

To ensure adequate oversight of the Chastain venue contract and ensure that the city is receiving revenue owed from Live Nation, the commissioner of the Department of Parks and Recreation should:

9. Require staff to request and review supporting documents along with the annual summaries to verify that rental payments to the city are correct.
10. Provide mandated revenue reports to the City Council's Community Development Human Services Committee to ensure that revenue at the Chastain Amphitheater is monitored.
11. Work with the chief financial officer to ensure that \$24,944 is moved to the Chastain Trust Fund from the Centers of Hope Fund.

## Recommendations (cont.)

To ensure adequate oversight of the Lakewood venue contract and ensure that the city is receiving revenue owed from Live Nation, the commissioner of the Department of Enterprise Assets Management should:

12. Require staff to request and review supporting documents along with the annual summaries to verify that rental payments to the city are correct.

To ensure compliance with the maintenance terms in the Lakewood lease agreement, the Department of Enterprise Assets Management commissioner should:

13. Conduct routine inspections of the Lakewood facility to confirm whether Live Nation is performing maintenance as required.

## Recommendations (cont.)

To ensure compliance with the sound violation provisions in the Chastain lease agreement, the Department of Parks and Recreation commissioner should:

14. Work with Live Nation to evaluate the sound monitoring system for replacement and/or repair prior to the 2020 concert season at Chastain Park Amphitheater.
15. Request that Live Nation provide records of replacements, repairs, and calibrations of the sound monitoring system at the Chastain venue.



# Questions?

Full Report:

<http://www.atlaudit.org/audit-reports.html>

