

City of



CITY MANAGER'S OFFICE – INTERNAL AUDIT

DATE: April 16, 2013

TO: BRUCE RUDD, Assistant City Manager/Interim PARCS Director
KAREN NORRIS, Administrative Manager, PARCS

THROUGH: RENENA SMITH, Assistant City Manager *Renena Smith*

FROM: BOB KOURY, Principal Internal Auditor *Bob Koury*
Budget and Management Studies Division - Internal Audit

SUBJECT: FINAL AUDIT REPORT - CITYWIDE LIMITED SCOPE AUDIT OF CITY-OWNED
PROPERTY REVENUE LEASES - COMPLIANCE & INTERNAL CONTROLS

Attached is the Final Audit Report – Citywide Limited Scope Audit of City-Owned Property Revenue Leases specific to PARCS. This audit was performed in accordance with AO 1-12 and Government Auditing Standards. The primary purpose of this limited scope audit was to determine and provide assurances that:

1. The Contractor (Lessee) and City (Lessor) have established and maintained an adequate system of internal controls to assure that all property rental/lease monies due to the City have, in fact, been received, documented, and accurately reported in accordance with the Property Lease Agreements;
2. Both Lessee and Lessor responsibilities, as stipulated and required by the property leases, have been adequately complied with by both parties to the Lease; and
3. All applicable laws, regulations, policies and procedures have been adequately complied with by the Lessee and Lessor in the performance of these Property Lease Agreements.

The Department's formalized "Management Responses" to each internal audit recommendation have been incorporated into this final report "as is", and the April 11, 2013 Memorandum is attached to this report in its entirety for reference purposes.

We want to thank you and your staff for your assistance and cooperation in conjunction with this citywide limited scope audit. If you have any questions, please do not hesitate to contact Bob Koury, Principal Internal Auditor, at 621-7072.

Attachments

cc: Ashley Swearingin, Mayor
City Council
Mark Scott, City Manager
Georgianne White, Chief of Staff, Mayor's Office
Douglas Sloan, City Attorney
Karen Bradley, Assistant Controller, Finance Department
T.J. Miller, Assistant Director of Personnel/Risk Management
Diane Printz-White, Executive Assistant to the PARCS Director

Audit Findings and Recommendations – PARCS Department

A sample of six (6) property revenue leases were selected for audit purposes. The specific audit findings related to each property lease, along with internal audit's recommendations for strengthened internal controls, enhanced property lease revenues for the City, and improved administration and monitoring for compliance by the Lessees/Tenants occupying city-owned properties, are as follows:

Central California Events, Inc. – 665 Fulton Street:

- The initial Security Deposit of \$4,000 received from this Tenant was deposited by PARCS staff into Fund 63605 "Recreation Club Funds" in January 2009. This security deposit should have more appropriately been deposited into Fund 24063 "665 Fulton Street Reserve", Account 22220 Deposits from Others.
- As of March 19, 2013, February and March 2013 monthly rent of \$1,020 per month had not been received by PARCS from this Tenant. Per the Lease, rent is due by the 1st of each month, and if not received by the 10th day of each respective month, a 10% late charge is to be assessed the Tenant and collected as additional rent.
- Both the General Liability and Workers Compensation Insurance for this Tenant have expired.

AT&T Cell Tower – Romain Playground:

- The 2012 annual rent payment of \$8,355.05 received from this Licensee was deposited by PARCS staff into Fund 24017 "Parks Special Projects", Account 39015 Miscellaneous – Other Revenue. This Fund does not appear to be the appropriate Fund for deposits of property lease payments, and the Account should have been 36304 Leases.
- No supporting documentation was provided to Internal Audit to show how the 4th, 3 year "extension term" rental amount was calculated in accordance with the License Agreement.

Golden State Towers (Crown Castle) Cell Tower – Woodward Park:

- As per the First Amendment to the License Agreement with Golden State Towers, the Licensee paid the City a \$4,000 "one-time" bonus payment on November 5, 2010; however, the check was not deposited by PARCS until May 18, 2011, six months later, i.e. very untimely deposit.
- No supporting documentation was provided to Internal Audit to show how the most current annual rental amount was calculated in accordance with the License Agreement.

Moose Lodge #445 – 5005 East Dakota Avenue:

- A \$12,000 payment was made to the City on December 30, 2011 for the period "January through December 2012"; however, the check was not deposited by PARCS until March 7, 2012, over two months later, i.e. very untimely deposit.
- Internal Audit was informed by PARCS that this particular city-owned property was sold to the RDA, and no rent payments made to the City subsequent to December 2012. However, no formalized and fully executed "Purchase and Sale Agreement" between the City and the RDA related to this property sale could be provided to Internal Audit upon request. In other words, as of the audit date, it is unclear as to whether an official and appropriate sale of this

city-owned property actually occurred.

- If it is determined that this property is still legally owned by the City and that the Moose Lodge #445 organization has continued to occupy and use this property subsequent to its prior rent payment of \$12,000 in December 2011, a) appropriate rent payments in arrears may be due to the City, and b) verification of current and appropriate General Liability, Automobile and Workers Compensation Insurance coverage by this Tenant should be verified by the City immediately.

Fresno County EOC Head Start – Various Locations:

Monthly rent payments made by all EOC Tenants at the City locations (Mary Ella Brown - \$1,000; Ted C. Wills - \$500; Romain - \$1,000; Willow/Balch - \$250; and Mosqueda - \$500) for the audit period July through December 2012 were noted as accurate and timely. However, as per Article 5 of the City/EOC Lease Agreement:

“Rent amounts shall be adjusted every other year throughout the life of this lease, effective January of each year, starting with January 2013, based on the greater of either 1) the Cost of Living Adjustment from the Federal Office of Head Start or 2) the 12 month percentage change in the U.S. Bureau of Labor Statistics Consumer Price Index (Urban Wage Earners and Clerical Workers for the Los Angeles-Anaheim-Riverside area)....”

No rent adjustments occurred for any of the EOC Tenants occupying city-owned property effective January 2013 as stipulated in the City/EOC Lease Agreement.

EBIT Golf Inc. – Riverside Golf Course:

There were no audit findings or exceptions of any significance related to the internal controls and overall administration and recordkeeping of this particular Lease Agreement.

Additional Audit Exceptions Noted for Revenue Property Lease Tenants

Storyland/Playland (Roeding Park) – Property Lease **Expired**.

Valley Arts & Science Academy (Ted C. Wills Community Center) – Property Lease and General Liability and Automobile Insurance **Expired**.

The Discovery Center (Reedy Park) – Insurance **Expired**.

Dinkey Creek/Camp Fresno – Insurance **Expired**.

Audit Recommendations Related To All Above Revenue Property Leases:

1. PARCS staff should ensure that all property lease payments (security deposits and regular monthly rent) are deposited timely and into the appropriate Department Fund, Org and Account for proper accounting and reporting purposes.

Management Response to Recommendation 1

The PARCS Department agrees with the recommendation and will implement and ensure full compliance with PARCS policy P.M. Number 31 regarding Collecting and Safeguarding of Revenue.

2. PARCS should immediately pursue the delinquent rent payments from Central California Events, Inc. for February and March 2013 and also assess and collect the 10% late charge on these late rental payments as stipulated in the Lease.

Management Response to Recommendation 2

Central California Events has paid all past due and currently due rent payments.

3. PARCS should immediately request all above applicable Tenants occupying city-owned property to acquire and maintain the required General Liability, Automobile and Workers Compensation Insurance in compliance with their respective Property Lease to minimize any risk and/or exposure to the City.

Management Response to Recommendation 3

The PARCS Department agrees with this recommendation and is reviewing the specified property leases for insurance compliance.

4. PARCS should document and maintain all applicable Property Lease rental adjustment calculations for future reference and audit trail purposes.

Management Response to Recommendation 4

The PARCS Department agrees with this recommendation and will ensure that all future adjustment calculations are documented and kept for reference.

5. PARCS should immediately research and resolve the sale of the city-owned property at 5005 East Dakota Avenue (location of Moose Lodge #445 organization) to the RDA. All supporting documentation related to either the sale of this property to the RDA or non-sale of the property must be obtained and provided to Internal Audit in order to resolve this audit finding.

Management Response to Recommendation 5

The PARCS Department agrees with this recommendation and is researching the status of the sale of the property located at 5005 East Dakota.

6. PARCS should immediately recalculate and adjust all EOC Tenant's monthly rental amounts effective for January 2013, as stipulated in the City/EOC Lease Agreement. Based on the adjusted monthly rental amounts for January 2013 and subsequent months, any additional rental amounts due to the City should be assessed and collected from these Tenants by PARCS as soon as possible.

Management Response to Recommendation 6

The PARCS Department agrees with the recommendation and had recalculated and adjusted EOC Tenant's monthly rental amounts effective for January 2013. Additional rental amounts due have been assessed.

City-Owned Property Leases – “No Rent Tenants”

As of March 15, 2013, the PARCS Department administered approximately 16 city-owned properties with Tenants who did not pay any rent to the City for occupying and using these facilities - See **Exhibit A** attached to this audit report).

Audit Findings and Recommendations Related to “No Rent Tenants”:

- 3 of the 16 Tenants occupying city-owned property have not provided any supporting documentation/current “Certificate of Insurance” showing they currently maintain adequate General Liability, Automobile, and Workers Compensation Insurance coverage.
- 10 of the 16 Tenants occupying city-owned property maintain General Liability Insurance but not Workers Compensation Insurance.

Insufficient or no General Liability or Workers Compensation Insurance coverage for city-owned properties, as well as for the Tenant’s employees or persons visiting these facilities, can result in significant risk of loss or exposure to the City if either the property was damaged or personal injuries occurred at these locations.

- PARCS staff could not provide Internal Audit with a reasonable estimate of City incurred annual costs for the maintenance, repairs, landscaping, etc. for these 16 city-owned properties; however, it must be several thousands of dollars a year. With no rent being paid by these Tenants to the City for occupying these properties, 100% of these costs are borne by the City.

Audit Recommendations:

7. PARCS should immediately request **all** “no rent” Tenants occupying city-owned property to acquire and maintain the required General Liability, Automobile and Workers Compensation Insurance to minimize any risk and/or exposure to the City. Supporting documentation/”Certificates of Insurance” should be obtained from these Tenants by PARCS for future reference and/or audit purposes. The City’s Risk Management Division should also be consulted regarding this issue.

Management Response to Recommendation 7

The PARCS Department agrees with this recommendation and is reviewing all “no rent” property leases for insurance requirements and proof of insurance coverage.

8. PARCS Management, in conjunction with the City Manager’s Office, should consider developing a reasonable amount of rent to be assessed to all “no rent” Tenants in order to help defray a portion of the City’s ongoing “maintenance costs” incurred related to these city-owned properties.

Management Response to Recommendation 8

The PARCS Department has recently implemented cost accounting by location to capture actual costs to maintain properties. These figures will be supplied to the City Manager’s Office for their review and consideration.

PARCS Department
City-Owned Properties - \$1 Per Year or No Rent

Occupant Name	Property Address	Property Description	Property Use	Lease Expiration Date	Annual Rental Amount	Current Insurance Yes or No?	Comments
Boys & Girls Club	930 Tulare Street		Bldg & Equip	1/1/2057	1.00	Yes	No Workers Comp.
Boys & Girls Club	1621 S. Cedar		Building	2/28/2033	1.00	Yes	No Workers Comp.
Boys & Girls Club	535 S. Trinity	Fink White	Neighborhood Center	12/31/2017	no rent	Yes	No Workers Comp.
Boys & Girls Club	1343 E. Barstow	El Dorado	Neighborhood Center	7/31/2015	no rent	Yes	No Workers Comp.
Chicano Youth Center	1515 E Divisadero		Building	9/2/2063	1.00	Yes	No Workers Comp.
Children's Musical Theatreworks (CMT)	2425 Fresno Street	Room #101	Office space	6/2/2013	1.00	Yes	No Workers Comp.
Fresno Art Museum	2233 N. First Street		Building	5/19/2055	1.00	No	
Legion of Valor	Memorial Auditorium		Office space	3/1/2022	no rent	No	
Meux Home	1007 R Street		Building	6/30/2021	no rent	Yes	No Workers Comp.
Reading & Beyond	3566 E. Dakota	Einstein	Neighborhood Center	7/31/2015	no rent	Yes	
Boys 2 Men, Girls 2 Women	7170 N. San Pablo	Pinedale	Community Center	7/31/2015	no rent	Yes	No Workers Comp.
Mountain View Church	5935 E. Shields	Melody	Neighborhood Center	7/31/2015	no rent	Yes	
United One Productions	1350 E. Annadale	Mary Ella Brown	Community Center	7/31/2015	no rent	No	
Reading & Beyond	4670 E. Butler	Mosqueda	Community Center	5/31/2018	no rent	Yes	
Fresno Street Saints	1345 W. Eden	Sunset	Neighborhood Center	7/31/2015	no rent	Yes	No Workers Comp.
Reading & Beyond	1515 E. Divisadero	Dickey Youth Center	Community Center	MTM	no rent	Yes	No Workers Comp.

Prepared As of March 15, 2013 and Reviewed/Verified by PARCS Department.

Exhibit A

City of



PARKS, AFTER SCHOOL, RECREATION AND COMMUNITY SERVICES DEPARTMENT

DATE: April 11, 2013

TO: BOB KOURY, Principal Internal Auditor
Budget and Management Studies Division/Internal Audit

THROUGH: BRUCE RUDD, Interim PARCS Director

BY: KAREN NORRIS, Administrative Manager *KN*

SUBJECT: RESPONSE TO DRAFT AUDIT REPORT – CITYWIDE LIMITED SCOPE
AUDIT OF CITY-OWNED PROPERTY REVENUE LEASES- COMPLIANCE AND INTERNAL
CONTROLS

In response to your audit conducted in March 2013 of the PARCS Department Property Revenue Leases, the PARCS Department has implemented recommendations from the Office of Internal Audit. Our formal responses and actions to the audit recommendations are as follows:

1. PARCS staff should ensure that all property lease payments (security deposits and regular monthly rent) are deposited timely and into the appropriate Department fund, Org and Account for proper accounting and reporting purposes:

The PARCS Department agrees with the recommendation and will implement and ensure full compliance with PARCS policy P.M. Number 31 regarding Collecting and Safeguarding of Revenue.

2. PARCS should immediately pursue the delinquent rent payments from Central California Events, Inc. for February and March 2013 and also assess and collect the 10% late charge on these late rental payments as stipulated in the lease.

Central California Events has paid all past due and currently due rent payments.

3. PARCS should immediately request all above applicable Tenants occupying city-owned property to acquire and maintain the required General Liability, Automotive and Workers Compensation insurance in compliance with their respective Property Lease to minimize any risk and/or exposure to the City.

The PARCS Department agrees with this recommendation and is reviewing the specified property leases for insurance compliance.

4. PARCS should document and maintain all applicable Property Lease rental adjustment calculations for future reference and audit trail purposes.

The PARCS Department agrees with this recommendation and will ensure that all future adjustment calculations are documented and kept for reference.

5. PARCS should immediately research and resolve the sale of the city-owned property at 5005 East Dakota Avenue (location of Moose Lodge #445 organization) to the RDA. All supporting documentation related to either the sale of this property to the RDA or non-sale of the property must be obtained and provided to Internal Audit in order to resolve this audit finding.

The PARCS Department agrees with this recommendation and is researching the status of the sale of the property located at 5005 East Dakota.

6. PARCS should immediately recalculate and adjust all EOC Tenant's monthly rental amounts effective for January 2013, as stipulated in the City/EOC Lease Agreement. Based on the adjusted monthly rental amounts for January 2013 and subsequent months, any additional rental amounts due to the City should be assessed and collected from these Tenants by PARCS as soon as possible.

The PARCS Department agrees with the recommendation and had recalculated and adjusted EOC Tenant's monthly rental amounts effective for January 2013. Additional rental amounts due have been assessed.

7. PARCS should immediately request all "no rent" Tenants occupying city-owned property to acquire and maintain the required General Liability, Automotive and Workers Compensation insurance to minimize any risk and/or exposure to the City. Supporting documentation/"Certificates of Insurance" should be obtained from these Tenants by PARCS for future reference and/or audit purposes. The City's Risk Management Division should also be consulted regarding this issue.

The PARCS Department agrees with this recommendation and is reviewing all "no rent" property leases for insurance requirements and proof of insurance coverage.

8. PARCS Management in conjunction with the City Manager's Office, should consider developing a reasonable amount of rent to be assessed to all "no rent" Tenants in order to help defray a portion of the City's ongoing "maintenance costs" incurred related to these city-owned properties.

The PARCS Department has recently implemented cost accounting by location to capture actual costs to maintain properties. These figures will be supplied to the City Manager's Office for their review and consideration.