

**OFFICE OF THE CITY AUDITOR**

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GARY L. BURROUGHS, CPA
City Auditor

December 13, 2005

Phil T. Hester, Director
Parks, Recreation and Marine

At your request, we have performed a review of the two Leases (#20048 & 28350) between the City of Long Beach (City) and The Bolder Group, Inc., (Bolder). This agreement governs the lease of a fueling dock in the Alamitos Bay Marina. The purpose of our review was to determine whether payments to the City from Bolder were in conformity with the terms of the Lease.

Our review procedures included:

- Obtaining an understanding of the Lease and its provisions.
- Discussions with Parks, Recreation and Marine, and other City personnel and Bolder management.
- Review of Bolder's general ledgers, sales reports, and other supporting documentation to verify reported Gross Receipts.
- Review of Bolder's payments to the City as recorded in the City's accounting system, FAMIS.
- Review of Bolder's bank statements for the years 2002, 2003 and 2004.
- Review of Bolder's Federal Income Tax returns for 2002, 2003 and 2004.


Based on the results of the audit procedures performed, we have determined that The Bolder Group, Inc. owes the City approximately \$1,874 in late payment fees and rent. The attached report presents background information on the lease, in addition to our detailed audit issues.

Boulder Group Lease
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We noted that due to the non-integration of Bolder's detailed accounting and operational reporting systems, this audit required more time to complete than anticipated. We would like to thank Parks, Recreation and Marine Department and The Bolder Group, Inc. for their assistance during this review.

Sincerely,

Gary Burroughs, CPA
City Auditor

By: 
Sam A. Joublat, CIA
Deputy City Auditor

JCC:ms

cc: Michael A. Killabrew, Director of Financial Management
Janet Day, Manger, Business Operations Bureau, Parks, Recreation, and Marine
Mark Sandoval, Manager, Marine Bureau, Parks, Recreation, and Marine
Gwendolyn Parker, Superintendent, Contract Management and Revenue Dev, Parks, Recreation, and Marine

Background

On December 30, 1987, the City leased Bolder a fueling dock in Alamos Bay Marina. On July 1, 2003, the lease with Bolder was renewed with different terms. The term of this lease is from July 1, 2003, through September 30, 2009. The dock is used for public sale of standard fuels for boats including: gasoline, white gasoline, diesel fuel, and lubricating oil. In addition, miscellaneous items are sold including: spark plugs, storage batteries, boat parts, water and convenience food and snack items. Minor repairs can also be performed providing no vessel under repair or service is berthed at the facility for a period in excess of five days.

The previous lease, which covered part of the audit period, September 2001 to June 2003, had a minimum rent payment of \$1,187.50 due on the first of every month. No late payment penalties were assessed for not paying on a timely basis. The current lease, which began on July 1, 2003, requires a minimum monthly rent payment of \$1,556.42 in advance, due on the first of every month. If the minimum monthly rent payment is not received within ten days of the due date, a late fee will be assessed at 5% of the rent due or \$50, whichever is greater. In addition to the minimum monthly rent, the tenant will pay a percentage rent, but only if the total amount of the percentage rent is greater than the minimum rent. In that case, the minimum monthly rent payment will be deducted from the percentage rent due and only the excess will be paid to the City in arrears by the end of the following month. The percentage rent is calculated on the monthly gross receipts as follows:

- a. Three cents per gallon of gasoline sold or dispensed from the premises.
- b. \$0.015 per gallon of diesel fuel sold or dispensed from the premises.
- c. Seven and one-half percent of gross receipts of all other products or services furnished or performed on the premises or in connection with the operation of the premises including parts, materials, supplies, services, etc.

For calendar years 2002, 2003 and 2004, Bolder made payments to the City as follows:

2002	\$ 27,453.77
2003	30,950.36
2004	<u>32,278.03</u>
	<u>\$ 90,682.16</u>

ISSUES, PROCESS IMPROVEMENTS AND RECOMMENDATIONS

Issue No. 1 – Minimum Monthly Rent Payments have been Routinely Paid Late to the City

Bolder's minimum monthly rent payments to the City, for September 2001 to February 2005 were received after the due date (See Exhibit – 1). The average number of days late was twenty-nine. During the period covered by the first lease (#20048), the terms of that lease did not include a late payment penalty clause. However, with the renewal of the lease (#28350) a late payment penalty of \$50 or 5% (whichever is greater) was introduced. Therefore, as a result of Bolder's late payments during a 20 month period of the second lease, they owe the City \$1,556.42 in late fees. In February 2005, Bolder made a catch-up payment, which brought the lease current.

Bolder Group's Comments

The owner of Bolder informed us that because of the changed lease terms, a clerical error was made in the early period of the new lease, which began July 2003. This caused the continuing of late payments. As noted above, the average payment was late 29 days. Bolder also informed us that they were not notified of late payments until February 2005. Parks, Recreation and Marine Department informed us that it is their policy not to follow-up on late payments until after 30 days have elapsed. During February 2005, Bolder made two minimum rent payments resulting in no additional late payments to the City.

Recommendation

Parks, Recreation and Marine should monitor Bolder's monthly payments to ensure they are received on time per the lease terms. Additionally, Bolder should be invoiced \$1,556.42 in late fees. Bolder has agreed to pay the City this amount.

Issue No. 2 – Underpayment of Monthly Minimum Rent Payment

During February 2002, we noted that Bolder only paid the City \$924.55 resulting in an underpayment of the monthly minimum rent payment due the City of \$262.95. Bolder has agreed to pay the City this amount.

Recommendation

Parks, Recreation and Marine should invoice Bolder \$262.95 for the February 2002 underpayment.

Issue No. 3 – Monthly Sales Tax Adjustment of Miscellaneous Sales Computed Incorrectly

Bolder uses a very detailed spreadsheet to calculate their monthly sales. This monthly sales report captures all fuel sales in gallons and all miscellaneous sales in dollars including any sales tax charged. Monthly, Bolder must divide the various dollar sales categories by 1.0825 to determine their sales net of sales tax. We noted that during 2003 and 2004, the monthly detailed sales reports contained an error in their formula to calculate the miscellaneous sales and resulted in a small underpayment to the City as follows:

2003	\$24.86
2004	<u>29.70</u>
Total	<u>\$54.56</u>

Recommendation:

Parks, Recreation and Marine should invoice the above underpayment to Bolder. We notified Bolder about this minor calculation error during December 2004 and we noted that Bolder had corrected the calculation error on their January 2005 and later monthly sales reports. Bolder has agreed to pay the City this amount.

Exhibit - 1

Bolder Group, Inc.
 Analysis of Payments
 September 2001 through September 2005

Minimum Rent Due	% Rent Due	Total Rent Due	Min. Rent Due by	% Rent Due by	Date Rent Paid	# of Days Rent Late	Min. Rent Late Fee(*)
\$1,187.50	\$1,625.73	\$2,813.23	09/10/01	10/31/01	10/10/01	30	
1,187.50	674.26	1,861.76	10/10/01	11/30/01	11/12/01	33	
1,187.50	187.03	1,374.53	11/10/01	12/31/01	12/10/01	30	
1,187.50	167.10	1,354.60	12/10/01	01/31/02	01/08/02	29	
1,187.50	305.88	1,493.38	01/10/02	02/28/02	02/06/02	27	
1,187.50	(262.95)	924.55	02/10/02	03/31/02	03/06/02	24	
1,187.50	295.80	1,483.30	03/10/02	04/30/02	04/09/02	30	
1,187.50	255.75	1,443.25	04/10/02	05/31/02	05/07/02	27	
1,187.50	1,351.92	2,539.42	05/10/02	06/30/02	06/05/02	26	
1,187.50	1,425.63	2,613.13	06/10/02	07/31/02	07/08/02	28	
1,187.50	2,478.74	3,666.24	07/10/02	08/31/02	08/12/02	33	
1,187.50	3,340.47	4,527.97	08/10/02	09/30/02	09/05/02	26	
1,187.50	2,411.29	3,598.79	09/10/02	10/31/02	10/10/02	30	
1,187.50	1,310.94	2,498.44	10/10/02	11/30/02	11/15/02	36	
1,187.50	290.30	1,477.80	11/10/02	12/31/02	12/09/02	29	
1,187.50	0.00	1,187.50	12/10/02	01/31/03	01/09/03	30	
1,187.50	703.30	1,890.80	01/10/03	02/28/03	02/07/03	28	
1,187.50	52.89	1,240.39	02/10/03	03/31/03	03/10/03	28	
1,187.50	237.30	1,424.80	03/10/03	04/30/03	04/08/03	29	
1,187.50	979.35	2,166.85	04/10/03	05/31/03	05/06/03	26	
1,187.50	1,190.66	2,378.16	05/10/03	06/30/03	06/06/03	27	
1,187.50	1,939.48	3,126.98	06/10/03	07/31/03	07/08/03	28	
1,556.42	3,405.12	4,961.54	07/10/03	08/31/03	08/12/03	33	\$77.82
1,556.42	2,818.44	4,374.86	08/10/03	09/30/03	09/10/03	31	77.82
1,556.42	1,768.29	3,324.71	09/10/03	10/31/03	10/09/03	29	77.82
1,556.42	1,392.01	2,948.43	10/10/03	11/30/03	11/06/03	27	77.82
1,556.42	0.00	1,556.42	11/10/03	12/31/03	12/10/03	30	77.82
1,556.42	0.00	1,556.42	12/10/03	01/31/04	01/06/04	27	77.82
1,556.42	616.82	2,173.24	01/10/04	02/29/04	02/05/04	26	77.82
1,556.42	127.44	1,683.86	02/10/04	03/31/04	03/08/04	27	77.82
1,556.42	793.27	2,349.69	03/10/04	04/30/04	04/09/04	30	77.82
1,556.42	569.25	2,125.67	04/10/04	05/31/04	05/13/04	33	77.82
1,556.42	1,832.17	3,388.59	05/10/04	06/30/04	06/07/04	28	77.82
1,556.42	1,476.15	3,032.57	06/10/04	07/31/04	07/08/04	28	77.82
1,556.42	2,438.84	3,995.26	07/10/04	08/31/04	08/10/04	31	77.82
1,556.42	2,949.91	4,506.33	08/10/04	09/30/04	09/07/04	28	77.82
1,556.42	2,332.43	3,888.85	09/10/04	10/31/04	10/06/04	26	77.82
1,556.42	464.71	2,021.13	10/10/04	11/30/04	11/09/04	30	77.82
1,556.42	0.00	1,556.42	11/10/04	12/31/04	12/09/04	29	77.82
1,556.42	0.00	1,556.42	12/10/04	01/31/05	01/11/05	32	77.82
1,556.42	202.16	1,758.58	01/10/05	02/28/05	02/10/05	31	77.82
1,556.42	0.00	1,556.42	02/10/05	N/A	02/24/05	14	77.82
1,556.42	0.00	1,556.42	03/10/05	03/31/05	03/08/05		
1,556.42	0.00	1,556.42	04/10/05	04/30/05	04/08/05		
1,556.42	1,262.75	2,819.17	05/10/05	05/31/05	05/11/05		
1,556.42	1,129.15	2,685.57	06/10/05	06/30/05	06/06/05		
1,556.42	1,638.42	3,194.84	07/10/05	07/31/05	07/11/05		
1,556.42	2,570.52	4,126.94	08/10/05	08/31/05	08/08/05		
1,556.42	2,371.02	3,927.44	09/10/05	09/30/05	09/09/05		
<u>\$68,148.34</u>	<u>\$53,119.74</u>	<u>\$121,268.08</u>		Average Days Late ==>		<u>29</u>	<u>\$1,556.42</u>
					Rent Due from above		<u>\$262.95</u>
							<u>\$1,819.37</u>
					Underpaid Rent		<u>54.56</u>
							<u>\$1,873.93</u>

(*) From September 2001 through June 2003, the lease did not include penalties for late rent payments. However, when the lease was renewed on July 1, 2003, a late payment fee of \$50 or 5%, whichever is greater now applies.