

CITY OF LOMPOC AND VISIT LOMPOC, LLC

Lompoc Tourism Improvement District Management Agreement 2019-2028

SUMMARY

Annual reporting by Visit Lompoc LLC shows hundreds of thousands of dollars in unaccounted-for funds. Over the first five years of the current agreement between Visit Lompoc LLC and the City of Lompoc, the cumulative amount of those under-reported funds is more than \$500,000. This amount has been verified by the Santa Barbara County Grand Jury, Lompoc, and Visit Lompoc LLC's financial services firm. There has been a consistent lack of oversight by Lompoc. Additionally, Visit Lompoc LLC has failed to follow through on a commitment to submit to an independent financial audit. Currently, there is \$800,000 that was previously transferred to Money Market accounts that, while earning a higher level of interest, are not accounted for in the required annual reports submitted to and approved by the Lompoc City Council. Per California's Property and Business Improvement District Law of 1994, this money can only be spent on tourism enhancement projects and cannot be used for general purposes. Additional oversight by Lompoc, in conjunction with Visit Lompoc LLC, is needed to optimize the intent of the Management Agreement between these entities.

INTRODUCTION

In 2018, the City of Lompoc (Lompoc) and Visit Lompoc LLC (VLI) established the Lompoc Tourism Improvement District (LTID) Management Agreement 2019-2028 (Agreement). This Agreement continues the intent of the original LTID agreement executed in 2013. The primary purpose of the Agreement is to promote tourism and business opportunities for Lompoc.

In addition to various responsibilities outlined for both parties, the Agreement documents the process wherein each of the hotels located in Lompoc will collect a fee equal to 3% of its revenue. That revenue is then passed on to Lompoc who, in turn, claims a 1% administrative fee of the total revenue and submits the balance of the funds to VLI. Per the Agreement, these fees shall only be used for purposes set forth in the Resolution and District Management Plan for the LTID.

The Jury also discovered prior Grand Jury reports outlining the failure of Lompoc to enact an auditing policy for non-profit organizations to which it provides funds:

"A Failure of Oversight"

The Grand Jury of 2011-12 issued a report that identified Lompoc's failure to monitor control of funds provided to the non-profit Lompoc Housing and Community Development Corporation.

That oversight led to an estimated loss of \$1.8 million of taxpayer funds. The Jury's report recommended Lompoc formally adopt a non-profit audit policy. In their response to the report, the City Council of Lompoc expressed regret about their inaction and agreed to implement the recommendation. The recommendation was to establish a policy requiring annual audits prepared by an independent auditor.

"Lompoc's Failure to Adopt an Audit Policy for Non-Profit Organizations"

The Grand Jury of 2013-2014 followed up on the 2011-2012 report and determined that Lompoc had taken no steps to implement this policy. Multiple follow-ups were conducted over a year and various reasons were provided every time. During the 2013-2014 investigation, that Jury received no evidence that Lompoc had implemented or was even considering establishing such a policy.

METHODOLOGY

A Request for Investigation (RFI) received by the Grand Jury (Jury) highlighted potential financial irregularities and other possible violations of the contract between Lompoc and Visit Lompoc LLC (VLI). It should be noted that the Jury's investigation discovered a similar RFI had been submitted to the 2022-2023 Jury, but that group was not able to address it before completing their term. The Jury used the current RFI as the initial document associated with its investigation.

The Jury interviewed the complainant from the RFI which had been submitted to last year's Jury, members of the Lompoc City Council and Staff, representatives from VLI's Board, VLI's technical consultant, and some of VLI's affiliates. The Jury also reviewed multiple financial records, both in the public domain and those acquired directly from VLI.

OBSERVATIONS

Discrepancies in VLI's Annual Report

VLI is required to submit annual reports to Lompoc per the Property and Business Improvement District (PBID) Law of 1994. However, while the Agreement mandates the reports shall be provided to Lompoc within two months after the end of a calendar year, VLI has never been able to achieve that goal. The PBID law does not require such reports to be submitted in that time frame. The Jury acquired the annual reports from Lompoc for the calendar years (CY) 2018 through 2023 as submitted by VLI to Lompoc. An analysis of the financial data from those reports yielded the following information:

Annual Report Analysis

| | Est. Budget | Carryover | Total Budget | Collections | Actual Spent | Balance | Carryover | Discrepancy |
|-------------------|---------------|---------------|-----------------|---------------|---------------|---------------|---------------|---------------|
| 2018 | \$ 365,000.00 | \$ 152,012.60 | \$ 517,012.60 | \$ 424,986.60 | \$ 461,132.01 | \$ 115,867.19 | \$ 115,867.19 | \$ (0.00) |
| 2019 | \$ 440,000.00 | \$ 115,867.19 | \$ 555,867.19 | \$ 296,449.32 | \$ 393,325.19 | \$ 18,991.32 | \$ 18,991.32 | \$ 0.00 |
| 2020 | \$ 136,426.85 | \$ 18,991.32 | \$ 155,418.17 | \$ 435,153.53 | \$ 170,562.04 | \$ 283,582.81 | \$ 264,591.49 | \$ 18,991.32 |
| 2021 | \$ 360,000.00 | \$ 264,591.49 | \$ 624,591.49 | \$ 526,509.12 | \$ 272,926.84 | \$ 518,173.77 | \$ 253,582.28 | \$ 264,591.49 |
| 2022 | \$ 480,972.00 | \$ 253,582.28 | \$ 734,554.28 | \$ 782,526.00 | \$ 479,898.00 | \$ 556,210.28 | \$ 302,628.00 | \$ 253,582.28 |
| 2023 | \$ 740,000.00 | \$ 302,628.00 | \$ 1,042,628.00 | | | \$ 302,628.00 | | |
| Total Discrepancy | | | | | | | | \$ 537,165.09 |

The analysis took information directly from the reports and compared the calculated balance versus the carryover values. The balance for each year was determined by adding the prior year's carryover to the current collections and subtracting the actual expenses. The carryover value is the amount reported by VLI in their annual report. The discrepancy value results from the calculated balance less the carryover numbers published by VLI.

Starting in CY2020 there is a difference in the balance of funds as compared to the reported value of carryover. The rolling cumulative value of those annual discrepancies exceeds \$500,000. There is no mention of these potential accounting discrepancies in the annual report for CY2020 or any subsequent reports.

At a meeting of the Lompoc City Council, a representative of the VLI Board volunteered to have an independent audit conducted of their financial records. The Jury was not able to find any evidence that such an audit had been requested or completed.

Review of VLI Financial Records

The Jury requested and received financial statements directly from VLI. Discrepancies similar to those indicated above were discovered in the Jury's analysis of these records. There are differences in some of these numbers when compared to those reflected in the annual reports. Most of those differences are relatively small in value and could potentially be related to earned interest.

The Jury’s analysis of the financial data from those reports yielded the following information:

Grand Jury Financial Statement Analysis

| | Carryover* | Income** | Expenses | Savings/Loss | P&L Savings/Loss | Reported Savings/Loss* | Discrepancy | Annual City Fee*** |
|---------|--|----------------|--|--------------|------------------|------------------------|-------------|--------------------|
| 2019 | \$ 115,867 | \$ 296,664 | \$ 384,125 | \$ 28,406 | \$ (87,461) | \$ 18,991 | \$ 9,415 | \$ 2,965 |
| 2020 | \$ 18,991 | \$ 435,728 | \$ 170,562 | \$ 284,157 | \$ 265,165 | \$ 264,591 | \$ 19,566 | \$ 4,352 |
| 2021 | \$ 264,591 | \$ 527,647 | \$ 252,219 | \$ 540,019 | \$ 275,428 | \$ 253,582 | \$ 286,437 | \$ 5,265 |
| 2022 | \$ 253,582 | \$ 782,527 | \$ 479,899 | \$ 556,210 | \$ 302,628 | \$ 302,628 | \$ 253,582 | \$ 13,265 |
| 2023YTD | \$ 302,628 | \$ 462,191 | \$ 383,323 | \$ 381,496 | \$ 78,868 | | \$ 381,496 | \$ 6,601 |
| | | \$ 2,504,757 | | | | | | \$ 32,448 |
| | * As reported in VLI Annual report | | | | | | | |
| | ** Includes interest earned | | | | | | | |
| | *** 1% applied from 2019-2021, Increased to 1.5% in 2022 | | | | | | | |
| | Starting Balance | Ending Balance | | | | | | |
| 2019 | \$ 73,230 | \$ (23,683) | | | | | | |
| 2020 | \$ (23,683) | \$ 241,482 | | | | | | |
| 2021 | \$ 241,482 | \$ 516,909 | | | | | | |
| 2022 | \$ 516,909 | \$ 118,811 | \$700,000 transferred to Money Market account in Nov/Dec 2022 | | | | | |
| 2023YTD | \$ 118,811 | \$ 133,161 | \$100,000 transferred to Money Market account in May/June 2023 | | | | | |

The analysis shown in the above table reflects the differences in the calculated savings/loss amount as opposed to the reported values. **The Jury calculated savings/loss as the sum of the carryover and income, less expenses.** There are minor accounting differences between the profit and loss (P&L) savings from the financial records and the VLI annual reported savings. **There is a significant difference between the Jury’s calculated savings and the reported savings.** This discrepancy appears to be directly related to the annual carryover values not being included in VLI’s profit and loss record keeping. The starting and ending balances shown above reflect the beginning and ending cash balances for VLI’s checking account. **The Jury also discovered a total of \$800,000 that VLI transferred out of their checking account and into a separate Money Market account. The Money Market account funds are not reported in the annual reports submitted to Lompoc.**

Analysis of VLI Financial Records by Lompoc

The Jury provided Lompoc with the financial records submitted by VLI and the Jury’s analysis of those financial statements. The Jury also provided the Lompoc administration with its analysis of the Annual Reports submitted to Lompoc for the years 2018-2022. Lompoc agreed to conduct a review of those financial records and provide the Jury with a summary of the results. Lompoc discovered an accounting anomaly due to the different accounting methods used (accrual vs. cash). That difference amounted to \$9,450. Additionally, as a result of its analysis, Lompoc also discovered the >\$500,000 cumulative difference in savings/loss versus reported carryover but only stated that VLI accounts for that value differently.

Summary of Lompoc’s Financial Statement Analysis

Calendar Year 2021

| | |
|-----------------------|-----------------|
| Carryover Reported | \$ 253,582.28 |
| Carryover by Our Calc | \$ 528,618.92 |
| Difference | \$ (275,036.64) |

Calendar Year 2022

| | |
|-----------------------|-----------------|
| Carryover Reported | \$ 302,628.00 |
| Carryover by Our Calc | \$ 831,246.98 |
| Difference | \$ (528,618.98) |

Analysis of Records by VLI’s Financial Services Firm

When members of VLI’s board were interviewed by the Jury, they neither concurred nor disagreed with the Jury’s findings of Lompoc’s analysis. VLI did agree to have the firm that manages their accounts review the data reflecting the discrepancies. After conducting such a review, the analysis performed by VLI’s financial services firm yielded similar numbers as those calculated by the Jury (see below). The primary difference is that the financial services firm did not include in its analysis the annual reports submitted to Lompoc, since the firm is not responsible for preparing them. The carryover from 2022 calculated by the firm is \$555,575 higher than the estimated carryover reflected in VLI’s 2023 annual report. While the calculations from the Jury, Lompoc, and VLI’s financial services firm vary, the difference between the carryover value reported annually and the actual savings/loss amounts are all more than \$500,000.

Financial Services Firm Financial Statement Analysis

| | Est. Budget | Carryover | Total Budget | Collections | Actual Spent | Balance | Carryover | Discrepancy |
|-------------------|----------------------------|---------------|----------------------------|----------------------------|---------------|----------------------------|---------------|-------------|
| 2018 | \$ 365,000.00 | \$ 152,012.60 | \$ 517,012.60 | \$ 424,986.60 | \$ 461,132.01 | \$ 115,867.19 | \$ 115,867.19 | \$ (0.00) |
| 2019 | \$ 440,000.00 | \$ 115,867.19 | \$ 555,867.19 | \$ 296,449.32 | \$ 393,325.19 | \$ 18,991.32 | \$ 18,991.32 | \$ 0.00 |
| 2020 | \$ 136,426.85 ¹ | \$ 18,991.32 | \$ 155,419.17 ² | \$ 435,153.53 | \$ 170,562.04 | \$ 283,582.81 ³ | \$ 283,582.81 | \$ 0.00 |
| 2021 | \$ 360,000.00 | \$ 283,582.81 | \$ 643,582.81 | \$ 526,509.12 | \$ 252,218.90 | \$ 557,873.03 ⁴ | \$ 557,873.03 | \$ (0.00) |
| 2022 | \$ 480,972.00 | \$ 557,873.03 | \$ 1,038,845.03 | \$ 780,255.00 ⁵ | \$ 479,898.00 | \$ 858,230.03 ⁶ | \$ 858,230.03 | \$ - |
| 2023 | \$ 740,000.00 | \$ 302,628.00 | \$ 1,042,628.00 | | | \$ 302,628.00 | | |
| Total Discrepancy | | | | | | | | \$ (0.00) |

Annual Reporting

VLI utilizes local financial services and accounting firms to manage its bookkeeping and tax reporting requirements. Additionally, VLI contracts with a third-party firm to prepare and submit the mandatory annual reports required for a Tourism Business Improvement District and by the Agreement. The financial services company provides its bookkeeping data to the accounting firm and they, in turn, provide data to the consulting firm for the annual report.

VLI works with Civitas Advisors, a consulting firm offering legal and technical assistance to non-profits, as that third link in the reporting chain. Civitas aided VLI in establishing its non-profit organization and has worked with them in preparing and submitting the required annual reports. VLI does not have a multi-year contract with Civitas to perform this service and has been contracting with them on an annual basis. Even though VLI’s agreement with Lompoc requires the submittal of the annual report within 60 days after calendar year-end, VLI typically does not reach

out to Civitas for assistance until after that deadline has passed. Each year VLI contacts Civitas to request their services helping prepare an annual report. Civitas standardly commits to providing this report within 30 days of receiving all the required information from VLI. Specifically, in 2023 the financial information provided by VLI to Civitas had several issues that prevented Civitas from completing the financial section of the report. Due to those issues, Civitas did not complete the financial section of the report and told VLI they could not do so without that information. The Jury was unable to determine what the specific issues were. Each year Civitas submits the annual report directly to Lompoc, as requested by VLI. The Jury was not able to determine if anyone from VLI reviews or approves the report before that submittal.

\$800,000 in Money Market Funds

As indicated in the financial analysis data above, VLI has recently transferred \$800,000 out of its regular checking account into a Money Market account. At the end of 2022, \$700,000 was transferred (VLI's total budget for 2022 was \$734,000) and an additional \$100,000 was transferred in May/June of 2023. The transfer of funds at the end of 2022 is not reflected in the annual report submitted by VLI in 2023. The 2023 contingency budget reported by VLI for unexpected expenses is only \$54,000 and that amount currently resides in a Money Market account. Approximately \$712,000 resides in a separate Certificate Account with no indication of any interest income. VLI is not required to provide Lompoc with its financial statements but Lompoc is allowed access to that information per the Agreement.

When a member of VLI's board was questioned by the Jury regarding the \$800,000, the individual confirmed the transfer of funds and the value in the Money Market account. The same individual had no explanation as to why those funds were not declared in the annual reports submitted to Lompoc.

Potential conflict of interest

The Jury investigated whether there was any potential conflict of interest between member(s) of the Lompoc City Council and VLI. Based on the evidence presented to the Jury and the subsequent investigation, the Jury could not confirm whether a specific conflict exists. While it was evident that a perceived conflict may exist, Lompoc does account for this possibility by adjusting its consent calendar when necessary and ensuring applicable recusals are effected when appropriate.

CONCLUSION

The City of Lompoc does not have an adequate system of checks and balances to administer its Agreement with VLI. Transparency in the reporting of funds collected from Lompoc businesses for tourism enhancement should clearly show how these funds are being used to promote Lompoc. Accounting is not a disappearing act and neither cash nor accrual methods cause year-over-year

carryover discrepancies of this magnitude. The Jury advocates for a mutual agreement between the City of Lompoc and VLI that results in ongoing third-party audits of the 2018-2029 agreement. These recommendations will enable a transparent relationship benefitting all parties including the businesses, residents, and tourists of Lompoc.

FINDINGS AND RECOMMENDATIONS

Finding 1: Lompoc City Council has not directed Visit Lompoc to request, conduct, or complete an independent audit of its Annual Reports.

Recommendation 1a: Lompoc City Council shall instruct Visit Lompoc to have an independent audit performed of their Annual Reports and present the findings to the Council no later than mid-2024.

Recommendation 1b: Visit Lompoc shall use excess funds under its control to fund this audit.

Finding 2: Lompoc City Council has not directed Visit Lompoc to request, conduct, or complete an independent audit of its Financial Statements.

Recommendation 2a: Lompoc City Council shall instruct Visit Lompoc to have an independent audit performed of their financial records and present the findings to the Council no later than mid-2024.

Recommendation 2b: Visit Lompoc shall use excess funds under its control to fund this audit.

Finding 3: For the time period 2018 through 2022 the analysis conducted by Lompoc and Visit Lompoc's accountants of the Visit Lompoc's financial records confirmed the >\$500,000 discrepancy in unspent funds versus reported carryover values.

Recommendation 3: Lompoc City Council shall address the accounting discrepancies by amending the Agreement and holding Visit Lompoc accountable for reporting all funds (including any excess) or mandating that all excess funds (less an approved contingency amount) be utilized for purposes related to enhancing tourism.

Finding 4: Lompoc does not have an adequate system of checks and balances to confirm that Visit Lompoc’s accounting methods are accurate and complete.

Recommendation 4: Lompoc City Council shall formally establish a review process to ensure there is no inaccurate or incomplete reporting on behalf of Visit Lompoc before the submittal of the 2024 annual report.

Finding 5: Other than the reference in the Agreement to the Resolution and District Management Plan there are no specific guidelines concerning how Visit Lompoc LLC shall expend its funds.

Recommendation 5a: By the end of 2024, Lompoc City Council shall re-evaluate the terms of the Agreement to ascertain whether the 3% fee assessed on hotel customers is achieving its intended objectives.

Recommendation 5b: By the end of 2024, Lompoc City Council shall determine whether it should have a greater ability to direct unused funds for tourism enhancement projects.

Recommendation 5c: By the end of 2024, Lompoc City Council and Visit Lompoc shall create a joint ad hoc committee potentially including private citizens and other business owners within Lompoc to develop and implement projects utilizing excess funds to further enhance tourism in Lompoc.

Finding 6: The Annual Reports submitted by Visit Lompoc to the City of Lompoc did not include all amounts that should be publicly disclosed.

Recommendation 6: Lompoc City Council shall mandate Visit Lompoc to account for all Lompoc-provided funds under its control via its required annual reports beginning with the submittal of the 2024 annual report (i.e.; zero-based budgeting methodology).

REQUIREMENTS FOR RESPONSES

Pursuant to California Penal Code §933 and §933.05, the Grand Jury requests each entity or individual named below to respond to the Findings and Recommendations within the specified statutory time limit.

Responses to Findings shall be either:

- Agree
- Disagree with an explanation
- Disagree partially with an explanation

Responses to Recommendations shall be one of the following:

- Has been implemented, with a summary of the implementation actions taken
- Will be implemented, with an implementation schedule
- Requires further analysis, with an analysis completion date of fewer than 6 months after the issuance of the report
- It will not be implemented with an explanation of why

Lompoc City Council: 90 Days

Finding(s): All

Recommendation(s): All