



THE CITY OF SAN DIEGO

DATE: June 29, 2009

TO: William Anderson, Director of City Planning & Community Investment

FROM: Eduardo Luna, City Auditor

SUBJECT: **Hotline Investigation of Promote La Jolla, Inc.**

The Office of the City Auditor conducted an investigation of Promote La Jolla, Inc. (PLJ) in response to a complaint made to the City's Fraud Hotline. The complaint alleged accounting irregularities and possible misuse of City funds.

Our investigation concluded the allegations are substantiated. We found that PLJ submitted duplicate and prohibited expenditures for reimbursement to the City and used City funds for purposes outside the scope of its agreements. We found duplicate billings and misuse of City funds totaling **\$112,070**, which should be recouped by the City.

Background

PLJ is a 501(c)(6) non-profit organization formed in 1992 to improve business conditions in the Village area of La Jolla. The City collects an assessment from the business owners inside the Business Improvement District (BID) geographic area and pursuant to annual agreements entered into with PLJ through June 2008, has remitted the money to PLJ through monthly reimbursement requests. In addition to the BID contract with the City, PLJ receives Transient Occupancy Tax (TOT), Small Business Enhancement Program (SBEP) and Parking and Transportation funds from the City under various contracts and Memorandums of Understanding administered by the City Planning & Community Investment Department (Department). PLJ's Parking and Transportation funds are managed by a related entity named La Jolla Coastal Access & Parking Board (Coastal Access). Coastal Access is not a separate legal entity; therefore, its financial activity is consolidated with PLJ for tax and accounting purposes.

A separate organization, originally named Promote La Jolla Foundation (Foundation) and now called La Jolla Destination Marketing Alliance, was formed in 2003 by PLJ board members and a PLJ staff member. The Foundation is a separate legal entity, and has no contractual relationship with the City and does not receive City funds.



Line of Credit - \$65,323 Misuse of City funds

In March 2005 the same PLJ board members who formed the Foundation took out a line of credit with a bank in the amount of \$150,000 naming PLJ as Borrower and the Foundation as Debtor (or Guarantor). The same board members signed on behalf of both organizations. During 2005 and 2006 line of credit funds were borrowed and paid back by PLJ, Coastal Access and the Foundation; however, by mid-2007 the principal balance was over \$60,000, primarily from a large draw made by the Foundation for an advertising campaign. By March 2009 the loan was in default and in May 2009 the bank seized **\$65,323** in Coastal Access funds contained in a Certificate of Deposit (CD) to pay off the line of credit. The CD monies were City Parking & Transportation funds specifically earmarked for parking and traffic related uses and cannot be used to pay a debt incurred by the Foundation.

Prohibited and Duplicate Expenditures - \$46,747

An analysis of PLJ reimbursement requests submitted to the City during the period January 2007 to February 2009 for BID, SBEP and TOT funds revealed a total of **\$46,747** of prohibited and duplicate expenditures. The prohibited expenditures include Foundation expenditures and interest expense paid for the line of credit. The duplicate expenditures include duplicates submitted to multiple City offices as well as duplicates submitted to the City and to the County of San Diego.

We found inappropriate Foundation expenditures total \$3,764, inappropriate interest expense total \$5,413, County duplicates total \$17,099 and duplicates within the City total \$20,471 for a grand total of \$46,747. In addition, the investigation revealed another \$5,000 of Foundation expenditures submitted for reimbursement to the City, but not paid by the City (the Department adjusted the invoice) as well as a recent \$2,415 City duplicate caught and adjusted (and not paid) by the Department. A confidential report with the details of the inappropriate expenditures found was provided to the Department.

Based on our investigation, we have made the following recommendations:

Consult with the City Attorney's Office to take appropriate action based on the information contained in this report and to recoup the \$112,070 in inappropriate and misused City funds.

Establish an internal review procedure designed to prevent duplicate City payments to organizations receiving City funds from multiple sources.

Consult with the City Attorney's Office to add language in BID and other appropriate contracts to modify the existing audit provisions to include a test for duplicate reimbursements between funding sources.

Conduct on site visits and other additional oversight of BID and other entities receiving City funds.

We appreciate the assistance we received from the City Planning & Community Investment Department during our investigation. Below is the written response the Department provided. Thank you for taking action on this issue. Please contact me with any questions.



Eduardo Luna
City Auditor

City Planning & Community Investment Department's Response to Recommendations

Consult with the City Attorney's Office to take appropriate action based on the information contained in this report and to recoup the \$112,070 in inappropriate and misused City funds.

Economic Development staff has already spoken with the assigned advisory City Attorney and will follow up on this matter. Additionally, staff continues to monitor the efforts of PLJ to recoup the seized funds from the bank. Staff suggests working with PLJ to identify eligible expenses not previously reimbursed by the City or other entity, to offset those duplicate expenses submitted. Adjustments have already been made to reimbursement requests from January through March of 2009 to offset previous reimbursement of interest expenses and staff will explore other opportunities to offset payments against other ineligible expenses in order to recoup funds.

Establish an internal review procedure designed to prevent duplicate City payments to organizations receiving City funds from multiple sources.

Internally, the administration of the Maintenance Assessment District (MAD) and Economic Development Tourism Support (EDTS) programs have been placed in the same work unit as BID administration but this was not the case prior to FY2008. Beginning in FY2009, an additional administrative staff person was assigned to the review of reimbursement requests and was directed to cross check reimbursement requests to ensure that duplicates are not submitted. One of the administrative positions has been vacant for some months however, when it is filled the staff will be directed, as part of the review procedures, to continue cross-checking these reimbursements.

Additionally, our work unit partnered with the Business Improvement District Council (BIDC) in 2004/05 to get all of the BID management organizations using QuickBooks. Since then we have focused on those organizations managing both BIDs and Maintenance Assessment Districts (MADs) to use the "class" feature within QuickBooks to account for City funds and to submit a master monthly reimbursement request. This enables staff to readily check a month's worth of expenditures to make sure that expenses are not submitted twice.

Going forward, we have already proposed to the BIDC to conduct training in early FY2010 for the other BID organizations on using the "class" feature within QuickBooks to align each funding source with a unique class. This, along with requiring that the BID organizations submit a master reimbursement request for each month will facilitate review by staff to verify the appropriate allocation of expenses between various City funding sources.

Consult with the City Attorney's Office to add language in BID and other contracts to modify the existing audit provisions to include a test for duplicates between funding sources.

The agreements for most organizations have already been approved for FY2010 however, we will request that this language be added to future agreements. We will also ask to include language to the annual BID agreements clearly prohibiting Contractors from submitting the same expense for reimbursement to City if it is properly chargeable to another funding source.

Conduct on site visits and other additional oversight of BID and other entities receiving City funds.

Staff already attends board and committee meetings on an ad hoc basis but will add at least one site visit annually to check organization records. We would appreciate any guidance the Office of the Auditor might provide on recommendations for additional procedures to be conducted during such site visits.

cc: Honorable Mayor Jerry Sanders
Honorable City Council Members
Honorable Audit Committee Members
Jay M. Goldstone, Chief Operating Officer
Mary Lewis, Chief Financial Officer
Jan Goldsmith, City Attorney
Andrea Tevlin, Independent Budget Analyst
Stanley Keller, Independent Oversight Monitor