



PROJECT BELLA

SUMMARY

Project Bella is the name given to the plan to develop a luxury hotel at the privately owned site of the American Tin Cannery building at 125 Ocean View Boulevard in the City of Pacific Grove. This location is adjacent to the Monterey Bay Aquarium and Cannery Row, which are major tourist attractions on the Monterey Peninsula. The project was announced to the public by representatives of the City and the developer, Domaine Pacific Grove in a press release on August 24, 2015.¹ Inspired by the prospect of significant revenue for the City, Project Bella was pursued without due diligence.

A citizen complaint was filed with the Monterey County Civil Grand Jury (Jury). City administration came under sharp public criticism for its handling of this project including allegations that the City Manager had accepted gifts and cash from the developer.

Despite the optimism expressed in the initial press release, work on the project ceased by the end of September 2016.

¹ Appendix A: "Publicity Release", Armanasco Public Relations Inc., 8/24/15

The focus of this investigation was to learn why a project launched with such high hopes in 2015 became dormant a year later, and what part the City played in the process.

Some key findings from the Jury investigation are the determination that the City Manager did not accept gifts from the developer, that alleged missing funds were ultimately accounted for, and that the City spent over \$100,000 which was never reimbursed.

BACKGROUND

The City of Pacific Grove is a built-out city; available building space, particularly in the downtown core, is practically non-existent. For that reason, demolition and reconstruction play a much greater role than might be found in other cities that have more available vacant land. Project Bella was such a project; it would remove an under-used structure and replace it with one that would be attractive to tourists and businesses, as well as serving as a showcase for quality environmental design. For this reason, the City and its Development Director welcomed ideas that might improve the City's revenue and profile.

Discussions regarding such a project began as early as 2011. By 2015, a developer had been located and preliminary planning and contract writing were well underway. The course of this planning and the perfection of the contracts proved to be far from smooth. The City started preliminary work without collecting adequate deposits from the developer. The contracts were written and re-written many times, with different terms being added and deleted. Some were signed, some were unsigned.

As a result, there never was a legal "Project Bella". In spite of this, the work continued. Unfortunately, the lack of careful preparation proved fatal, and the project stalled and failed, resulting in a loss of more than \$100,000 to the City.

APPROACH

The Monterey County Civil Grand Jury (Jury) initiated this investigation in response to a citizen complaint it received. Part of the Jury's duty is to:

*"...examine the books and records of any incorporated city ...located in the county. ...the Grand Jury may investigate and report on the operations, accounts and records of the officers, departments and functions and the method or system of performing the duties of any such city ...and make such recommendations as it may deem proper and fit."*²

² California Penal Code ss 925a

It is important to note that the Civil Grand Jury does not investigate criminal charges. Criminal investigations are undertaken by the Criminal Grand Jury. The Civil Grand Jury is neither empowered to investigate private entities nor individuals. Because of the nature of some accusations that had been made against the city and its administration in the media and elsewhere, the Jury obtained the advice of County Counsel before proceeding with this investigation. Since Domaine Pacific Grove (Domaine)³ and the ownership of the American Tin Cannery (ATC) are non-governmental entities, the Jury did not investigate their actions.

The jurors were aware of reports in the media, but the facts and conclusions presented in this report are based on interviews with:

- Past and present City staff and Council
- Other willing individuals associated with the project

The Jury also reviewed several hundred pages of documents furnished by the City and others, including:

- Email
- City council agendas
- City Council minutes
- Financial documents
- City employment contracts

DISCUSSION

The Jury found that the information received during the investigation addressed two distinct areas:

- Administration and oversight of the project
- The City Manager

³ All references to “Domaine”, Domaine Hospitality” and “Domaine Pacific Grove” are understood to be the same entity for purposes of this report.

The Administration and Oversight discussion deals with the contracts, finances, and communication issues. The City Manager section addresses the hiring, the terms of the hire, and the questions of financial improprieties.

Administration and Oversight

Communication Failures

One of the factors that contributed to citizen concerns about this project was the lack of transparency shown by City officials. The Jury found that the City was often slow to respond and sometimes gave incomplete answers. Had the City been open to questions, and ready to look into and correct problems that were revealed, they might have avoided many of the mistakes that were subsequently made, and have established a working partnership with the citizenry. This lack of transparency resulted in the need for private citizens and the press to obtain documentation from the City under the California Public Records Act.⁴ Public outcry led to allegations that a misappropriation of funds had occurred. In order to investigate these allegations, the City hired the Jackson Lewis law firm. The Jackson Lewis investigation found that all Project Bella expenses that had been agreed to by the developer had been reimbursed to the City, and that Ben Harvey, the City Manager, was free of any wrong-doing.

The City Was Not Prepared

The scope and complexity of Project Bella was beyond that of any project that the relatively small city had attempted previously. It became clear over the course of the Jury's investigation that the tracking and accounting required by a project of this size was more than the City was accustomed to managing. There was no system in place to keep track of various versions of contracts as they went through the negotiating process between the City and Domaine. In addition, it was impossible to determine the cost of staff time, as there was no system in place to account for employees' time by project.

The City did not conduct a background investigation of Domaine or its principals to determine financial strength or previous experience in completing a comparable project. When the Jury asked Mr. Harvey about this, his response was that it was not necessary because, "it was not a city project or partnership."⁵ While this is true, without any knowledge of the developer or a planned operator of the hotel, it was imperative that the City obtain deposits from the developer that were adequate to cover all expenses well in advance of the start of the project. On the contrary, not only did the City fail to secure adequate deposits, it never even had a valid building application from the developer, nor had it received an application fee.

⁴ http://ag.ca.gov/publications/summary_public_records_act.pdf

⁵ Ben Harvey Interview September 27, 2017

An election was necessary to approve a zoning change that would allow hotel use at the ATC location. Domaine requested that a special election be held. The City agreed to pay for this special election (that would cost more than a regularly scheduled election), with the understanding that reimbursement would be made by Domaine. Despite having received no deposit from Domaine to cover expenses, the City proceeded.

Reimbursement Agreements

Documents reviewed by the Jury during its investigation of Project Bella disclosed shortcomings in the financial record keeping and document controls of the City. Central to understanding the financial costs to the City are the Reimbursement Agreements. Public allegations of a loss to the City of Pacific Grove of over \$100,000⁶ claimed that the majority of this loss arose from mishandling Reimbursement Agreements, which allowed Domaine to avoid paying agreed upon costs for work on the Local Coastal Plan (LCP).⁷

On January 20, 2016, the City Council approved a Reimbursement Agreement that called for Domaine Hospitality to reimburse the City for the costs incurred for the special election needed to change the City's zoning laws to permit hotel usage at the American Tin Cannery site. The approval for this election was given in spite of the fact that a notice of incomplete application for Project Bella had been issued on November 9, 2015. It should also be noted that on March 26, 2016 the City Council had approved \$433,613⁸ for environmental impact work for Domaine, a full month before the re-zoning occurred, and without a Reimbursement Agreement that was signed by Domaine.

The February 17, 2016 City Council agenda included the authorization to negotiate a master Reimbursement Agreement with Domaine. The agreement included a requirement that Domaine must:

“...reimburse the City for the following: (1) Costs of the Consultant-Prepared Environmental Impact Report (EIR) and supplemental staff/consultant resources to manage the EIR; and (2) additional costs incurred by the City regarding the acceleration of Pacific Grove's Local Coastal Program Land Use plan and Implementing Actions Program.”

The Reimbursement Agreement submitted to, and approved by, the City Council at that February 17, 2016 meeting was signed by the City, but not by Domaine. As indicated below, a rewritten Reimbursement Agreement signed by all parties, was not completed until June 14, 2016.

⁶ <http://www.montereybaypartisan.com/tag/project-bella/>

⁷ <https://www.coastal.ca.gov/lcps.html>

⁸ Council Minutes 3/26/16

Through its interviews, the Jury did not discover anything to indicate that the City Council was aware that the approved Reimbursement Agreement had been re-written.

The rewritten Agreement was signed by both the City and Domaine on June 14, 2016. This agreement did not include the clause for reimbursement of costs incurred by accelerating work on the LCP. The agreement did include a provision for reimbursement for the costs of City staff time. Despite that, in its review of the documents furnished by the City, the Jury found that there was no system in place to collect and record the cost of staff time spent on Project Bella. This version of the agreement was signed by all parties, but was never presented to the City Council.

The major difference between the two Reimbursement Agreements is that the February agreement included an understanding that Domaine Hospitality would pay "...additional costs associated with the acceleration of City's Local Coastal Program...". The June agreement did not include this clause.

The February 2016 Reimbursement Agreement was approved by the City Council and signed only by the Mayor and City Attorney. The June 2016 Reimbursement Agreement was signed by all parties, but was not presented to the City Council for approval. To be valid, the Reimbursement Agreement would have to have been approved by the City Council **and** be signed by all parties.

As noted above, the City Council was not aware that the February Reimbursement Agreement was replaced with the one signed in June. According to emails⁹ obtained by the Jury, this substitution was necessary because the Reimbursement Agreement submitted to the City Council was not what had been verbally agreed to by all parties.

In commenting on the propriety of this action, the Jackson Lewis PowerPoint presentation to the City Council states:

*"...Council did not approve a specific agreement"*¹⁰

However, the Mayor and the City Clerk signed the "specific" agreement at the meeting, which shows that the Agreement was indeed present at the meeting, and was the intended Agreement.¹¹

In spite of the effort expended in crafting the various Reimbursement Agreements, none of them were valid:

⁹ Appendix B: email: Jason Retterer, L&G Attorneys to Heidi Quinn, Assistant City Attorney

¹⁰ Jackson Lewis PowerPoint <https://www.cityofpacificgrove.org/sites/default/files/city-council/2017/7-19-2017/city-council-7-19-2017-2a-pacific-grove-presentation-meeting.pdf>

¹¹ Council Minutes 2/17/16, Reimbursement Agreement 2/17/16

- The February 2016 Reimbursement Agreement was invalid because it had not been signed by all parties
- The June 2016 Reimbursement Agreement was invalid because it had not been submitted to the City Council for approval

At the same February 17, 2016 meeting, the City's Economic Development Director reported that an estimated \$35,000 of staff labor had been devoted to Project Bella to date,¹² which under the terms of the Reimbursement Agreement, would be covered by Domaine. From this date forward there was no further accounting or estimate of the amount of staff time the City spent on this project, due to the absence of any appropriate time accounting method.

The special election to re-zone the ATC parcel was held on April 19, 2016 and approved by the voters. The City paid \$79,987.97 for this special election without having secured any deposit from Domaine. On August 10, almost four months after the special election was held, the City received a full reimbursement of \$79,987.97.

The first of the two \$50,000 deposits which had been agreed on was received on June 8, 2016. This date was three months after the authorization of the \$433,613 approved by the City Council for preliminary environmental work.

There is no doubt that the City staff, Council and Domaine intended to sign an agreement. However, there was no fully executed Reimbursement Agreement, and the lack of such an agreement left the City potentially liable for hundreds of thousands of dollars.

The City received three reimbursements from, or on behalf of, Domaine:

- June 8, 2016 a check for \$50,000.00
- August 10, 2016 a check for \$79, 987.97
- Early August, a check for \$50,000.00

In early August, 2016 the City received the second of two \$50,000 reimbursements. This check was paid on behalf of Domaine by David Armanasco. This payment was handed to the City Manager, who in turn gave it to the Finance Department. The City Finance Department credited Mr. Armanasco, himself, for the check, rather than Project Bella. Over a month of searching followed trying to locate the check. The delay of over one month in recording this check correctly, resulted in an erroneous allegation that the City Manager had misappropriated \$50,000 of City funds.

¹² Council minutes 2/17/16

This second reimbursement brought the total amount received from Domaine to \$179,987.97.

On August 11, 2016, Domaine's attorneys wrote to City Manager Ben Harvey saying, "...Domaine will commit to reimbursing the City for a portion of LCP costs..."¹³

At the September 21, 2016 City Council meeting the City Manager stated:

*"...an additional payment of \$50,000 will be delivered to the City on September 30. Upon receipt of that payment the City will have received total reimbursement for all project costs incurred to date."*¹⁴

This statement was repeated to the Jury by the City Manager in an interview, but is not consistent with documents the Jury received from the City. As noted above, the reimbursement had already been received by the City Manager himself, and had not been correctly recorded.

On February 1, 2017 The City Manager recommended that the City Council:

*"Direct staff not to pursue reimbursement from Domaine Hospitality for costs associated with the Local Coastal Plan"*¹⁵

The City Council approved this recommendation by a unanimous vote. This decision to abandon attempts to obtain reimbursement for LCP costs was criticized. The explanation given for the decision was that the LCP involved much more than the ATC site and the "optics" of the City accepting money from the developer for this project could create appearance of a conflict of interest.

Funds spent and received

On July 5, 2017, a confidential draft of the Jackson Lewis report was received by the City. A PowerPoint presentation was made at the City Council meeting on July 19, 2017.¹⁶ The full report has not been made public. This report, which cost the City \$31,574.99, was narrowly focused on responding to public criticisms of decisions made by the City and allegations of malfeasance by the City Manager. The conclusion of the report was that there had been no major errors or improprieties on the part of the City administration.

What was not addressed in the Jackson Lewis report were the causes that gave rise to the allegations, such as the sloppiness in the City's systems and procedures, its mishandling of

¹³ See Appendix H

¹⁴ Council Minutes 9/21/16

¹⁵ Council Minutes 2/1/2017

¹⁶ <https://www.cityofpacificgrove.org/sites/default/files/city-council/2017/7-19-2017/city-council-7-19-2017-2a-pacific-grove-presentation-meeting.pdf>

documents and checks, the lack of transparency on the part of City staff, and the cost that resulted from those shortcomings.

By September 30, 2017, when work on Project Bella by Domaine had ceased, City records inspected by the Jury show that the total cost of Project Bella was \$249,815.45. To this cost, should be added the \$31,574.99 for the Jackson Lewis report.

As of December 31, 2017, the total costs billed to Project Bella:^{17 18} and receipts from Domaine were

Date(s)	Purpose	Project related Expenditures	Receipts	Unreimbursed balance
11/9/2015	Application Fee	\$ 11,044.20		\$ 11,044.20
2/17/2016	Staff Labor	\$ 35,000.00		\$ 46,044.20
4/9/2016	Special Election	\$ 79,987.97		\$ 126,032.17
6/8/2016			\$ 50,000.00	\$ 76,032.17
6/10/2016			\$ 79,987.97	\$ (3,955.80)
9/10/2016			\$ 50,000.00	\$ (53,955.80)
9/30/2016	EMC Invoices	\$ 65,488.86		\$ 11,533.06
9/30/2016	Kimley-Horn Invoices	\$ 47,719.42		\$ 59,252.48
9/30/2016	Curtis Williams Invoices	\$ 10,575.00		\$ 69,827.48
	Total	\$ 249,815.45	\$ 179,987.97	

Mr. Harvey stated at the September 21, 2016 City Council meeting that the receipt of the final \$50,000 reimbursement would pay Domain's obligation in full. However, this statement may have failed to take into consideration two invoices from EMC.¹⁹ Of the expenses shown above, two of the EMC invoices which totaled \$20,173.15 were identified by subcontractor EMC as "LCP" work, but were reclassified by the City's Economic Development Director and the Finance Director as Project Bella work. Mr. Harvey's statement may have also failed to consider the \$35,000 in staff time referred to by Mr. Brodeur at the February 17, 2016 City Council meeting and the \$11,044.20 application fee.

The cost of the Jackson Lewis report was an indirect cost of Project Bella. It became necessary in order to answer public allegations of wrong-doing by the City and staff which resulted from the shortcomings in the City's systems, procedures and decision making. When the Jackson Lewis expense is included, the final unreimbursed cost of Project Bella to the city was at least \$101,402.47.

¹⁷ EMC and Kimley-Horn were subcontractors for the City for the preparation of the Environmental Impact Report

¹⁸ Curtis Williams was a Contracted Project Manager for the City

¹⁹ See Appendix I

	Unreimbursed Expenses	\$ 69,827.48
7/15/2017	Jackson Lewis Report	\$ 31,574.99
	Total Unreimbursed Cost of Project Bella	\$ 101,402.47

City Manager

Toward the end of 2015, the former City Manager who had initiated interest in Project Bella announced that he had accepted a new position, and the City began a search for a successor. During this period, Jared Ficker, subcontractor of Domaine, expressed strong support for Ben Harvey, a personal friend of his, to fill the position.²⁰ On January 4, 2016, the City contracted with Mr. Harvey to “shadow” the incumbent city manager for one week before he left the position. Mr. Harvey began work on January 20, 2016 as the Interim City Manager. Concurrently, a professional search firm was engaged to conduct a search for a permanent City Manager. A number of potential candidates were identified and were interviewed for the position. On April 20, 2016, after reviewing the final candidates, the City Council selected Mr. Harvey to fill the position on a permanent basis. It should be noted this was one day after the April 19, 2016 special election approving the zoning change.

Mr. Ficker had a membership in a private air travel organization, Surf Air. In January 2016, he invited Mr. Harvey to participate in his group membership. Mr. Harvey joined Mr. Ficker’s Surf Air membership seven days after accepting the position of Interim City Manager.²¹ The City reimbursed Mr. Harvey for the \$1,000.00 initiation fee. Although it is not part of the written Employment Agreement, Mr. Harvey told the Jury²² the City also agreed to a unique employment benefit that allowed Mr. Harvey to travel to Southern California on Fridays and return on Sundays in order to see his school-age children, who remained in Southern California. They also agreed to reimburse him for his personal travel expenses associated with these trips.

In the Agreement for his employment as the permanent City Manager, the terms included:

“City agrees to pay Employee a housing/transportation reimbursement in the sum not to exceed three thousand (\$3,000) per month”²³

The monthly membership fee for Surf Air was \$1,425.00. Mr. Harvey was able to recoup most of this membership expense from the City under this agreement.

²⁰ Jury interview with T. Frutchey 11/19/17

²¹ Appendix C: email “Welcome To Surf Air!” Cathleen Tobin to Ben Harvey, 1/27/16

²² Jury interview with Ben Harvey 1/16/18

²³ Appendix D: City Manager Employment Agreement, Pg. 4

In 2016, members of the public began looking into Project Bella. By April of 2016, allegations of financial improprieties were made public.²⁴ One of the allegations claims that City Manager Ben Harvey accepted cash and a gift membership in Surf Air.²⁵

Surf Air membership is open to the public. However, Mr. Harvey joined as part of an exclusive and discounted group membership comprised of four people, about which Surf Air administration said in an email:

*“Our Memberships, depending on tier, includes access to different locations. Ben was part of a group membership which had a slightly different structure than currently available to new members or what is currently advertised.”*²⁶

The owner of the membership was Jared Ficker. As previously mentioned, Mr. Ficker was a friend of Mr. Harvey’s²⁷ and an associate of Domaine Hospitality. Domaine retained Mr. Ficker as a liaison to the California Coastal Commission, publicist, and subsequently Project Director. Mr. Harvey made all of his Surf Air membership payments to Mr. Ficker’s company, Consilience Partners LLC.²⁸

Another member of this group was Ronald Meer, the President and CEO of Domaine. As a result of Mr. Harvey’s participation in this membership, he shared flights with Mr. Ficker and Mr. Meer. While there is nothing illegal about this, the appearance of a conflict of interest was inescapable.

Public suspicion was generated because of the apparent conflict of interest and allegations were made public.

The investigation carried out by the Jackson Lewis law firm, which was hired by the City, found that there was “no evidence of receipt of gifts by City personnel”, and that Ben Harvey had paid his share of the membership with personal funds.²⁹ In support of this, some of Mr. Harvey’s bank statements were provided showing that he had paid Surf Air for the months of:

- January through May 2016
- August 2016
- December 2016 through May of 2017

²⁴ Monterey County Herald 4/6/2017

²⁵ Jackson Lewis PowerPoint: <https://www.cityofpacificgrove.org/sites/default/files/city-council/2017/7-19-2017/city-council-7-19-2017-2a-pacific-grove-presentation-meeting.pdf>

²⁶ Email Surf Air-Grand Jury, April 26, 2018

²⁷ Ben Harvey interviews 9/29/17, 1/16/18

²⁸ Appendix E

²⁹ Ibid: Jackson Lewis PowerPoint

All of the membership payments were reimbursed by the City with the exception of August, 2016.³⁰

As these statements did not cover the entire period of the Project Bella involvement with the City, the Jury asked Mr. Harvey for further documentation. This was provided in the form of additional bank statements and travel reimbursement requests Mr. Harvey had submitted to the City.

The Jury examined travel reimbursements to Mr. Harvey from January 2016 to December 2017. These records show that Mr. Harvey did not pay Surf Air for the months of June, July, September, October and November 2016.³¹ When asked by the Jury why these payments were not made Mr. Harvey responded:

“Surf Air’s flight schedule was dramatically decreased during the specified periods, making it extremely difficult to fly in and out of MRY. Surf Air advised that membership was not going to be collected during those months as a result, but no written record exists.”³²

Surf Air and Mr. Harvey were unable to provide any verification of this statement.

After intermittent payments in 2016, Mr. Harvey resumed his payments in 2017. He cancelled his membership in November 2017, shortly after his first interview with the Jury on September 29, 2017. In a subsequent interview he stated that he cancelled his membership because the expense had become “financially impossible” and that the fees were “two to three times” greater than they had been originally.³³ In fact, Mr. Harvey’s Surf Air membership fees were reduced in May 2016 from \$1,425.00 per month to \$1,375.00, and remained at that rate until he discontinued his membership.

Throughout the period during which Mr. Harvey did **not** pay for membership in Surf Air his Uber receipts indicate that he flew Surf Air to southern California on at least five occasions.

“In recognition that I was largely unable to use their service due to their reduced offerings to MRY, and to allow them the opportunity to keep me as a member while they were trying to make changes, they did not charge me for service for two separate 3 month periods. During these two separate 3 month periods, I remained a member. I did so because I did not wish to quit membership, only having to pay an initiation fee (again) if they were able to fix the situation, and

³⁰ Appendix G: City of Pacific Grove, Request For Reimbursement for Ben Harvey, August 2016. This appendix is for illustrative purposes. Reimbursement requests for other months referred to in this report may be obtained from the City of Pacific Grove.

³¹ Ibid, June, July, September, October, November 2016

³² Appendix F: Email Ben Harvey to Grand Jury 3/27/18 1:54PM

³³ Interview 1/16/18

I signed up again. Occassionally (sic), when it worked, I did use the Surf Air service during these two separate 3 month periods.”³⁴

Investigation by the Jury found that the Surf Air schedule into Monterey was on Friday only. The departures from Monterey were on Sunday only. It is clear that the membership in Surf Air would not have been convenient for Mr. Harvey because he had to depart from Monterey on Fridays.

Examination of Mr. Harvey’s reimbursements shows that in addition to flying on Surf Air, he also flew, and was reimbursed for, personal flights on commercial airlines. He often flew on both Surf Air and commercial airlines within the same month. The Jury’s investigation revealed that commercial travel would have been much less expensive, and a great deal more convenient. Flying commercial airlines from Monterey meant that Mr. Harvey could drive to the Monterey airport, and upon arrival in Southern California take Uber to his home. Flying on Surf Air meant that he used Uber to go from Pacific Grove to San Carlos or Santa Clara, (two of the Surf Air jet centers). These Uber trips cost as much as \$98.00 one way.

As an example, for the period of 1/3/16 through 4/18/16 Mr. Harvey was reimbursed by the City for travel expenses in the amount of \$7,939.64. Had he used only commercial flights, travel for that same period would have totaled approximately \$4,277.00, if he flew every weekend round trip from Monterey to Los Angeles; a savings to the City of \$3,662.64.

Mr. Harvey’s membership in Surf Air was not contrary to City policy. Although he was allowed to fly for several months without paying, it is clear that he did not receive this membership from Domaine. However, in the Jury’s opinion, the decision to join this air service showed a remarkable lack of sensitivity to ethical standards expected of all members of public employment. The code of ethics of the International City Managers Association states:

“Gifts.

Members shall not directly or indirectly solicit, accept or receive any gift if it could reasonably be perceived or inferred that the gift was intended to influence them in the performance of their official duties; or if the gift was intended to serve as a reward for any official action on their part.”

“Personal Relationships.

In any instance where there is a conflict of interest, appearance of a conflict of interest, or personal financial gain of a member by virtue of a relationship with any individual,

³⁴ Appendix F

spouse/partner, group, agency, vendor or other entity, the member shall disclose the relationship to the organization.”³⁵

In the Jury’s opinion, Mr. Harvey’s acceptance of several months of free flights could “reasonably be perceived” as an effort to indirectly influence his treatment of Domaine and its project. Further, in the Jury’s opinion, the appearance of a conflict of interest because of his friendship with Jared Ficker and his shared flights with Ronald Meer would have prevented a prudent man from joining this travel group.

Conclusion

The Jury does not doubt that the City entered into Project Bella with the best of motivations. However, inspired by the prospect of significant revenue for the City, the project was pursued without due diligence.

Ultimately, the only positive result of this project was a zoning change at the ATC site which significantly increased the value of the location. This was at a cost to the city of a minimum of \$101,402.47. A new project for a luxury hotel at the ATC site in the future is still a possibility. If the City is able to identify and incorporate the lessons learned from Project Bella, such a project has every possibility of succeeding.



Proposed Site of Project Bella

³⁵ “ ICMA Code of Ethics with Guidelines “The ICMA Code of Ethics was adopted by the ICMA membership in 1924, and most recently amended by the membership in June 2017.

FACTS

- (1) November 9, 2015: Notice of an incomplete application to develop the American Tin Cannery site at 125 Ocean View Blvd, Pacific Grove was provided by the Community Economic Development Department to Domaine Pacific Grove LLC.
- (2) Domaine had 180 days from November 9, 2015 to submit revised plans or the project would be considered withdrawn.
- (3) Domaine never submitted a complete application which was required for construction of Project Bella.
- (4) The application fee of \$11,044.20 due from Domaine was never received by the City of Pacific Grove.
- (5) At the commencement of the project, the City failed to follow standard procedure by not requiring a substantial deposit from the developer to cover the City's project expenses.
- (6) After the City Manager announced his resignation, Mr. Ficker recommended Mr. Harvey to fill the position of City Manager.
- (7) January 4, 2016: Ben Harvey began work as an independent contractor.
- (8) January 20, 2016: Ben Harvey began work as Interim City Manager.
- (9) January 20, 2016: The City Council approved an agreement for Domaine to reimburse the City for the cost of the special election for a zoning change necessary for Project Bella.
- (10) January 27, 2016: Mr. Harvey joined a membership group in Surf Air's private air travel organization.
- (11) The group membership was owned by Jared Ficker, a friend of Mr. Harvey.
- (12) Mr. Ficker was also an associate of Ronald Meer who was the president and CEO of Domaine and a member of the Surf Air group.
- (13) February 17, 2016: The City Council authorized the interim City Manager to enter into a master reimbursement agreement with Domaine which included reimbursing for City staff time.
- (14) February 17, 2016: In the same City Council meeting the Economic Development Director reported that an estimated \$35,000 of City staff time had been devoted to Project Bella.
- (15) The Jury found no evidence in the City's documents of a tracking system for staff time.

- (16) The jury found no evidence that the City had billed Domaine for staff time devoted to Project Bella.
- (17) April 19, 2016: City of Pacific Grove Special Election approved rezoning the ATC parcel for hotel use.
- (18) April 20, 2016: Ben Harvey hired as permanent City Manager.
- (19) June 4, 2016: The City and Domaine signed a second reimbursement agreement that was not presented to the City Council for approval.
- (20) August 11, 2016: A letter from Jason Letterer, attorney for Domaine, contained Domaine's offer to reimburse the City for a portion of its Local Coastal Plan costs.
- (21) Early August, 2016: A \$50,000 check from David Armanasco was not properly recorded as a payment for Domaine for more than a month.
- (22) February 1, 2017: meeting the City Council voted unanimously to no longer seek additional Reimbursement from Domaine for Local Coastal Plan costs.
- (23) The Jackson Lewis law firm was hired by the City in response to public allegations and criticisms of its decisions and performance.
- (24) In a City Council meeting, the Jackson Lewis investigator gave a PowerPoint presentation with the conclusion that no evidence of malfeasance had been found.
- (25) The City of Pacific Grove now has the zoning change that will be necessary for the development of a hotel at the ATC site.
- (26) The unreimbursed cost of Project Bella to the City has been \$101,402.47.

FINDINGS

- F1. Inspired by the prospect of significant revenue for the City, the project was pursued without due diligence.
- F2. Committing City funds without having done an investigation of the developer, without adequate deposits and without a firm contract for reimbursement, exposed the City to a potential liability of several hundred thousand dollars.
- F3. A lack of transparency contributed to the public criticisms and allegations of financial malfeasance.

- F4. The lack of clearly defined systems and procedures that were consistently followed contributed to public criticism of the City administration.
- F5. The allegation that \$50,000 of City funds had been misappropriated resulted from the City's failure to correctly record a check for that amount that was paid for Project Bella by David Armanasco. This allegation was shown to be incorrect.
- F6. The City lacked adequate procedures to account for employee time by project.
- F7. The City lacked adequate procedures to track documents.
- F8. A lack of appropriate controls on the part of the City administration contributed to unreimbursed costs of more than \$101,402.47 to the City.
- F9. In the Jury's opinion, it appears that Mr. Harvey had an advantage in competing for the position of City Manager.
- F10. In the Jury's opinion, the City Manager, Mr. Harvey, displayed a lack of sensitivity to the appearance of a conflict of interest created by joining Jared Ficker's group membership in Surf Air.
- F11. Mr. Harvey's relationship with members of the Domaine organization resulted in an allegation that he was receiving gifts from Domaine.
- F12. Mr. Harvey did not receive the membership in Surf Air from Domaine, as was alleged in a citizen complaint.
- F13. Mr. Harvey did not pay for Surf Air for two separate three-month periods.
- F14. The cost of Mr. Harvey's flights to Southern California on Surf Air was substantially greater than the average cost would have been for commercial flights.
- F15. The April 19, 2016 re-zoning allows for hotel use at the American Tin Cannery site in the future.

RECOMMENDATIONS

- R1. The City of Pacific Grove should hold "lessons learned" sessions with a facilitator skilled in municipal operations, to critique the Project Bella experience in order to avoid making the same mistakes in future developments.
- R2. The City Council should review and revise Mr. Harvey's employment contract to clearly spell out the limits of his travel allowance.

- R3. There should be a sunset date for the reimbursement for Mr. Harvey's personal travel to Southern California.
- R4. Travel of City of Pacific Grove employees should be reimbursed at the lowest practical cost.
- R5. The City of Pacific Grove should develop procedures that would enable document tracking.
- R6. The City of Pacific Grove should develop procedures that would track employee time by project.
- R7. The City of Pacific Grove should develop a comprehensive policies and procedures manual that clearly describes the duties of all employees.
- R8. The City of Pacific Grove should develop a policy to improve the transparency of its communication with its citizens.

REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the Monterey County Civil Grand Jury requests a response to Findings and Recommendations as follows:

- Pacific Grove City Council - (F1 thru F15, R1-R8)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

INVITED RESPONSES

Pacific Grove City Manager Ben Harvey - (F1 thru F15, R1-R8)

INDEX TO APPENDICES

A – Publicity Release

B – Email Retterer to Quinn

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G – Request for Reimbursement

- G-1 City Of Pacific Grove Request for Reimbursement from Ben Harvey dated 9/14/16
- G-2 Uber receipt \$80.32: travel by Ben Harvey on 9/1/16 Monterey to Santa Clara
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- G-5 Uber receipt \$44.57: travel by Ben Harvey on 9/2/16 Long Beach to Los Angeles
- G-6 Uber receipt \$21.71: travel by Ben Harvey on 9/4/16 Long Beach to Hawthorne
- G-7 Uber receipt \$28.74: travel by Ben Harvey on 9/8/16 Long Beach to Hawthorne
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- G-9 Alaska Airline receipt \$221.10: travel by Ben Harvey on 9/12/16 Los Angeles to Monterey
- G-10 Uber receipt \$86.45: travel by Ben Harvey on 9/12/16 Long Beach to Los Angeles

H – Letter LG Attorneys to City of Pacific Grove

I – EMC Invoice

APPENDIX A



MEDIA ALERT

FOR IMMEDIATE RELEASE

PR CONTACT: David Armanasco
Armanasco Public Relations, Inc.
Tel: 831.372.2259 or Email: darmanasco@armanasco.com

LUXURY HOTEL TO REPLACE AMERICAN TIN CANNERY IN PACIFIC GROVE
Press Conference will introduce the LEED Platinum "Project Bella"

PACIFIC GROVE, Calif.-August 24, 2015: Domaine Hospitality Partners, LLC and representatives from the City of Pacific Grove, Monterey Bay Aquarium, and Foursome Development Co. will announce the launch of Project Bella at a press conference Wednesday. Project Bella emphasizes sustainability and support of the Monterey Bay Aquarium, Stanford's Hopkins Marine Station and the Monterey Bay National Marine Sanctuary.

WHO: Ronald Meer, CEO, Domaine Hospitality Partners, LLC
Julie Packard, Executive Director, Monterey Bay Aquarium
Ted Balestreri, Managing Partner, Foursome Development Co.
Mayor Bill Kampe, City of Pacific Grove

WHAT: **Project Bella**
Project Bella, developed by Domaine Hospitality, is a luxury LEED Platinum hotel to be located across the street from the Monterey Bay Aquarium and Stanford's Hopkins Marine Station. Now in planning with world renowned architect Mark Hornberger, Project Bella aims to be the leading luxury hotel in United States.

WHERE: **The American Tin Cannery**, 125 Ocean View Boulevard, Suite 308,
(2nd floor) Pacific Grove, CA

WHEN: Wednesday, August 26, 11:00 AM

MEDIA CONTACT: David Armanasco
Armanasco Public Relations, Inc.
Tel: 831.372.2259 or Email: darmanasco@armanasco.com

About Project Bella

The mission of Domaine Hospitality's Project Bella is to acknowledge and support the sustainability programs and initiatives of the Monterey Bay National Marine Sanctuary by providing unparalleled hospitality services to visitors to the Monterey Peninsula and to promote environmental awareness through carefully curated partnerships of business, academia, and the public. For more information, visit www.domainehotels.com.

APPENDIX B

Yes, I'll be around tomorrow and I have no idea how this happened. ---

Sent from my iPhone

On May 26, 2016, at 3:42 PM, Jason Retterer <Jason@lg-attorneys.com> wrote:

Heidi:

Someone at the City provided Ron with a City-signed Reimbursement Agreement (attached) that is not the final Reimbursement Agreement that we negotiated in January. Attached is a PDF of the Agreement. Not sure where this version came from, but in addition to changing the name of the Domaine entity (which is incorrect), it includes additional changes to the recitals and many other sections of the Agreement that I have never reviewed.

Attached is Word document, which was the last version of the Reimbursement Agreement, dated 1/11/16 that I emailed you with a copy to Frutchev and Brodeur at 6:05 on January 11. I thought this version was the final version.

Do you know what happened? If the City wants Domain to sign the attached PDF version, I would like to see a redline comparison of this document with the 1/11/16 version. If you email me the word file of the attached PDF, I'm happy to run the comparison.

Thanks.

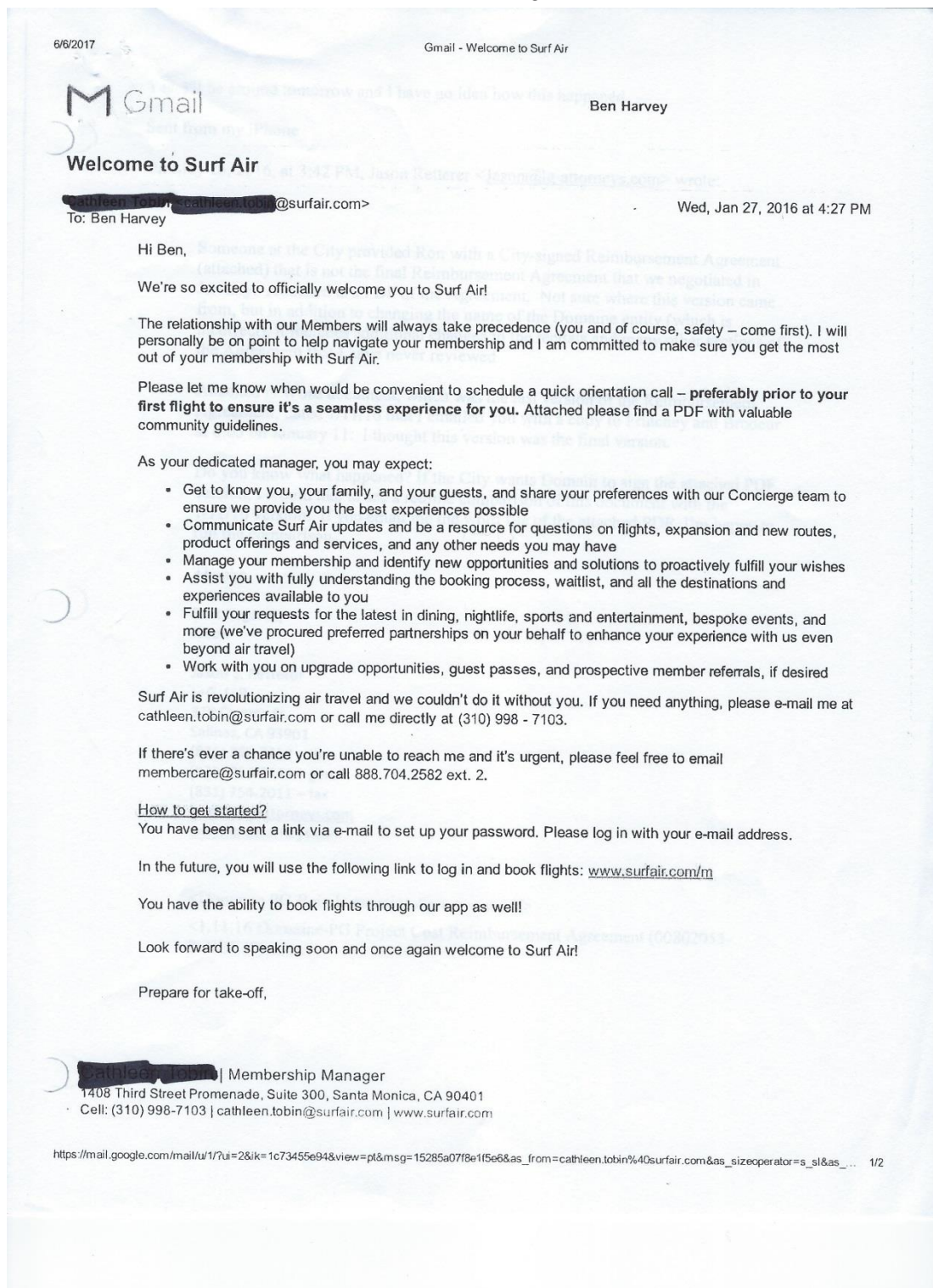
Best Regards,
Jason

Jason S. Retterer
L+G, LLP
318 Cayuga St.
Salinas, CA 93901
(831) 269-7127 – dir.
(831) 754-2444 – gen.
(831) 754-2011 – fax
jason@lg-attorneys.com
www.lg-attorneys.com

<Domaine PG Reimbursement Agreement.pdf>

<1.11.16 Domaine-PG Project Cost Reimbursement Agreement (00802055-2xBBE29).docx>

APPENDIX C



APPENDIX D

CITY MANAGER EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PACIFIC GROVE AND BENJAMIN HARVEY

This Employment Agreement (Agreement) replaces any prior Employment Agreement between the City of Pacific Grove and Benjamin Harvey (City Manager or Employee). This Agreement is entered into on April 20, 2016.

FINDINGS

1. City desires to employ Benjamin Harvey as City Manager of the City of Pacific Grove, as provided for in the Pacific Grove Charter and Municipal Code.
2. The City Council (Council), desires to provide certain benefits, to establish certain terms and conditions of employment, and to set working conditions of said Employee.
3. The City desires to (1) secure and retain the services of Employee, and to provide inducement for him to remain in such employment; (2) to make possible full work productivity and independence by assuring Employee's morale and peace of mind with respect to future security; and (3) to provide a just means for terminating Employee's services at such time that City may desire to terminate his employment.
4. The City Council enters into this Agreement to set the terms and conditions of employment of Benjamin Harvey as City Manager. A prior interim employment agreement was entered into between the City of Pacific Grove and Employee. This Agreement supersedes that document.
5. The functions, duties and prerogatives of the City Manager are specified in Article 19 of the Pacific Grove City Charter and in Chapter 2.06 of the Pacific Grove Municipal Code. The provisions of the City Charter and Chapter 2.06 of the Municipal Code control should any conflict exist pertaining to this Agreement.
6. Benjamin Harvey intends and is required by this Agreement to well and faithfully perform the duties of City Manager of the City of Pacific Grove in accord with the Pacific Grove City Charter, the Pacific Grove Municipal Code, and Council policy, and to perform other legally permissible and proper duties and functions as the Council shall from time to time assign.

AGREEMENT

Section 1. Effective Date This Agreement shall be take full force and effect as of April 20, 2016.

Section 2. Modification of Earlier Agreement This Agreement shall supersede and replace any earlier Agreement between the City and Employee, the provisions of which shall not apply after the effective date of this Agreement.

Section 7. Benefits

City shall provide benefits to Employee as specified for City management employees by the Municipal Code, ordinance, resolution, or Memo of Understanding (MOU) except as otherwise provided below.

- A. Employee shall accrue PTO at the rate of 10 hours per month (one hundred twenty (120) hours annually). Upon employment, Employee's initial PTO balance, however, shall begin at one hundred (100) hours. A PTO accrual cap of four hundred and eighty (480) hours shall apply, and the Employee shall not accrue PTO when the Employee's unused accrual balance reaches that limit. Any accrued but unused balance at or below the accrual cap shall be paid upon separation or retirement.
- B. All tenure related benefits shall be calculated using a January 1, 2016 date of hire.
- C. City shall pay to Employee an automobile allowance of five hundred dollars (\$500) per month. This automobile allowance is intended to reimburse Employee for local travel, defined as travel within Monterey County or within fifty (50) miles of the City. All travel outside of local travel shall be paid at the same rate as to other City employees.
- D. City agrees to pay Employee a housing/transportation reimbursement in the sum not to exceed three thousand dollars (\$3,000) per month.
- E. Employee shall observe the following six holidays: Memorial Day, Labor Day, Thanksgiving, Day After Thanksgiving, Christmas Day, New Year's Day. These six holidays shall be taken in the same manner as the City management employees. In addition, on July 1 each year Employee shall accrue five (5) floating personal days off to be used at his option. Any floating personal day off that is not used on or before June 30 shall be forfeited.
- F. Employee will be a PEPRA employee and shall receive and make contributions to CalPERS retirement as specified for PEPRA non-safety City Management employees and in compliance with PEPRA requirements.
- G. City shall pay Employee a one-time relocation benefit of five thousand (\$5,000) dollars to defray a portion of Employee's expenses. Should Employee voluntarily resign within twenty-four months of his initial date of hire, he shall rebate one-half of this sum to the City.
- H. City shall provide Employee with the following benefits:
 - i. Health, dental and vision benefits shall be provided in the same manner as the City provides for non-safety management employees. The City will pay one thousand dollars (\$1,000) per month for this benefit.
 - ii. City shall provide term life insurance for the benefit of Employee, with a payable death benefit of fifty thousand (\$50,000).

[REDACTED]@calstrat.com>

5/5/2017 12:37 PM

Fw: Surf Air

To: rmeer@domainehotels.com <rmeer@domainehotels.com>

Hi Ron,

I realize I just sent an incorrect invoice for Surf Air. I was wondering if the below email Jared proposed for the change in price for you was suppose to go into effect in April? If you happen to know, then I will send a new invoice. I emailed Jared and am awaiting a response.

Thank you!

[REDACTED]
~Assistant to Jared Ficker~
[REDACTED]@calstrat.com

From: Jared Ficker
Sent: Monday, April 3, 2017 10:33 PM
To: Ben Harvey; [REDACTED], [REDACTED]
Cc: Ronald L. Meer; [REDACTED]
Subject: Re: Surf Air

Thanks Ben!

Jared Ficker
California Strategies
Cell: 916-997-2082

From: Ben Harvey <onebenharvey@gmail.com>
Sent: Monday, April 3, 2017 11:32 PM
Subject: Re: Surf Air
To: [REDACTED], [REDACTED], Jared Ficker <jficker@calstrat.com>, [REDACTED]
[REDACTED]
Cc: [REDACTED], Ronald L. Meer <rmeer@domainepg.com>

Jared - thank you for your email, and thank you for your efforts to keep this group whole. Welcome aboard, M! Jared, I am current on my account, with April payment scheduled to get to M by 4/6. I rec'd the new group text from you as well. If there's anything else, please let me know.

Thanks again!

Ben Harvey
213.364.2699 213.364.2699 onebenharvey@gmail.com

On Apr 3, 2017, at 10:21 PM, Jared Ficker <jficker@calstrat.com> wrote:

Guys,

As mentioned, I was able to get M to come in for Ken's departure. M will also pay a higher amount than evenly splitting as he will likely be using it the most and needs some preference and has a couple employees too. I continue to use the corporate membership very little as I still have a good grandfathered personal membership, but occasionally need flights for employees/family.

Here is the proposed breakdown on Surf Air Costs

Corporate account (7 slots) \$7,125 (beauty of this grandfathered account is lower cost and we can add more people than slots at \$1k initiation; new corporate accounts are limited to only have 1 slot per person)

Jared Personal account (4 slots + free guests (against the 4 slots) if booked a week in advance) \$1,650

Proposed division of costs:

[REDACTED]	\$3000
Jared Employees/Family	\$1375
Ron Meer	\$1375
Ben Harvey	\$1375
Jared Personal	\$1650

So, this is a significant reduction for Ron to more adequately reflect his use and M is picking up that slack with K's departure as well. These typically hit my credit card a few days before the end of the month, so I would appreciate receiving payments before the end of each month for the upcoming month. M will invoice ahead of time.

Ron and Ben, if you are not already current, please take care of payments right away. M and I can work out later as we capitalize [REDACTED]

We should still send a group txt when booking as courtesy so we can work out any potential conflicts or address needs someone might have. I will setup up a new group txt adding M and deleting K. I am also adding Kevin from my team to this txt as well.

/Jared

CC: [REDACTED]
TO: pascini@cityofpacificgrove.org
FROM: [REDACTED] <[REDACTED]@cityofpacificgrove.org>

Thu May 23 3:40 PM

[Quoted text hidden]

3. Reason you did not pay Surf Air during the following months:

5/16, 6/16, 7/16, 9/16, 10/16, 11/16.

And do you have confirmation from Surf Air for the reason no payments were required during those months.

Surf Air's flight schedule was dramatically decreased during the specified time periods, making it extremely difficult to fly in and out of MRY. Surf Air advised that membership was not going to be collected during those months as a result, but no written record exists.

4. Since we are wrapping up we will need need this information no later than 3/30/18.

Considering my response to #1, this request is not possible.

Thank you.

[Quoted text hidden]

--

Ben Harvey
City Manager
City of Pacific Grove
bharvey@cityofpacificgrove.org

Ben Harvey <citymanager@cityofpacificgrove.org>

Wed, Mar 28, 2018 at 10:26 AM

To: [REDACTED]

Cc: Mary Lou McKenney, [REDACTED]

[REDACTED]

My responses to your questions are below are in red font:

x x x x

Correction I will pick up the reimbursement receipts today 3/28 @ 12:15pm.

OK. We are normally closed between 12:00 and 1:00 PM for lunch, but I will see to it that you are able to access our office to pick up the requested material.

Regarding the need for council approval to release the contract between the City and Jackson Lewis it is my understanding this request does not need Council approval.

You are incorrect. The City Council has to authorize releasing the contract.

Regarding your Surf Air membership please confirm you did not use Surf Air services during the months payments were not debited from your bank account (the dates were outlined in my the original email to you on 3/26).

Surf Air reduced their flight offerings dramatically from the time that I signed up for the service, severely impacting my ability to get to MRY. I complained to them about this multiple times (as did many other Surf Air members), as their flight reductions greatly diminished my ability to avail myself of their service. They agreed to try and remedy the impact by hiring additional pilots and adding new routes. In recognition that I was largely unable to use their service due to their reduced offerings to MRY, and to allow them the opportunity to keep me as a member while they were trying to make changes, they did not charge me for service for two separate 3 month periods. During these two separate 3 month periods, I remained a member. I did so because I did not wish to quit membership, only having to pay an initiation fee (again) if they were able to fix the situation, and I signed up again. Occassionally, when it worked, I did use the Surf Air service during these two separate 3 month periods.

<https://mail.google.com/mail/u/2/?ui=2&ik=375200b4af&jsver=37e3C...lml=162bb54974e7c668&siml=162bbb153bde379e&siml=162bbdaec77160f5>

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APPENDIX G

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- G-1 City Of Pacific Grove Request for Reimbursement from Ben Harvey dated
9/14/16
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- G-3 Travelocity receipt \$221.10: travel by Ben Harvey on 9/1/16 Pacific Grove to Los
Angeles
- G-4 Alaska Airline receipt \$251.10: travel by Ben Harvey on 9/2/16 Los Angeles to
Monterey
- G-5 Uber receipt \$44.57: travel by Ben Harvey on 9/2/16 Long Beach to Los Angeles
- G-6 Uber receipt \$21.71: travel by Ben Harvey on 9/4/16 Long Beach to Hawthorne
- G-7 Uber receipt \$28.74: travel by Ben Harvey on 9/8/16 Long Beach to Hawthorne
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- G-9 Alaska Airline receipt \$221.10: travel by Ben Harvey on 9/12/16 Los Angeles to
Monterey
- G-10 Uber receipt \$86.45: travel by Ben Harvey on 9/12/16 Long Beach to Los
Angeles



CITY OF PACIFIC GROVE
300 Forest Avenue
Pacific Grove, CA 93950
(831) 648-3100 phone (831) 375-9863 fax

Request for Reimbursement

Request Date: 9/14/16

Payable to: Ben Harvey

Address: 224 16th Street
Pacific Grove, CA 93950

Department: City Manager

Reason for Expense: September travel reimbursement.

Travel	\$1,040.09	(01-121-5215)
--------	------------	---------------

Total Amount: \$1,040.09

7708
PAID SEP 23 2016

Approved:

P.A. Mittleand

Date:

9-19-16

9/13/2016

City of Pacific Grove Mail - Your Thursday morning trip with Uber

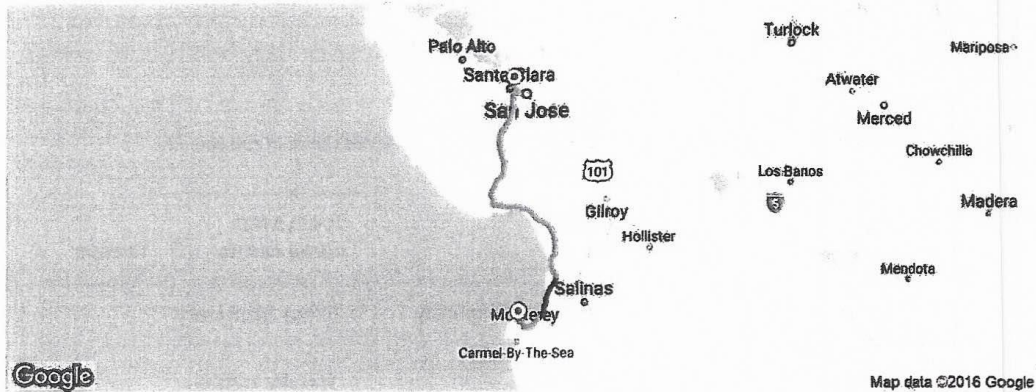


City Manager <citymanager@cityofpacificgrove.org>

Your Thursday morning trip with Uber

Uber Receipts <uber.us@uber.com>
To: bharvey@cityofpacificgrove.org

Thu, Sep 1, 2016 at 9:28 AM



UBER

\$80.32

Thanks for choosing Uber, Ben

September 1, 2016 | uberX

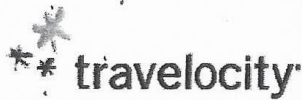
● 07:54am | 310-312 Martin Ave, Santa Clara, CA

● 09:27am | 613 Lighthouse Ave, Pacific Grove, CA

You rode with George

74.61 01:32:20 uberX

https://mail.google.com/mail/u/0/?ui=2&ik=0e771f5cb9&view=pt&as_from=uber&as_sizeoperator=s_sl&as_sizeunit=s_smb&as_subset=all&as_within=1d&sea... 1/3



Flight to Los Angeles

Sep 1, 2016 - Sep 1, 2016 | Itinerary # 7206703341507

Important Information

- Remember to bring your Itinerary and government-issued photo ID for airport check-in and security.

Monterey (MRY) → Los Angeles (LAX)

Sep 1, 2016 - Sep 1, 2016, 1 one way ticket

COMPLETED

Alaska Airlines

TSRQDS

We hope you had a great trip. Thank you for choosing Travelocity for your travel reservations.

Traveler Information

Benjamin Jennings
Harvey
Adult

No frequent flyer
details provided

Ticket #
0277857419541

* Seat assignments, special meals, frequent flyer point awards and special assistance requests should be confirmed directly with the airline.

Sep 1, 2016 - Departure Nonstop

Total travel time: 1 h 13 m

Monterey Los Angeles

1 h 13 m

MRY 5:55pm

LAX 7:08pm

267 mi



Terminal 6

Alaska Airlines 2603 Operated by HORIZON AIR AS
ALASKAHORIZON

Economy / Coach (B) | Confirm seats with the airline *

Airline Rules & Regulations

- We understand that sometimes plans change. We do not charge a cancel or change fee. When the airline charges such fees in accordance with its own policies, the cost will be passed on to you.
- Tickets are nonrefundable, nontransferable and name changes are not allowed.
- Please read the complete penalty rules for changes and cancellations applicable to this fare.
- Please read important information regarding airline liability limitations.

Price Summary

Traveler 1: Adult	\$221.10
Flight	\$192.56
Taxes & Fees	\$28.54

Total: **\$221.10**

All prices quoted in US dollars.

Additional Flight Services

- The airline may charge additional fees for checked baggage or other optional services.

9/13/2016

City of Pacific Grove Mail - Your Friday morning trip with Uber



City Manager <citymanager@cityofpacificgrove.org>

Your Friday morning trip with Uber

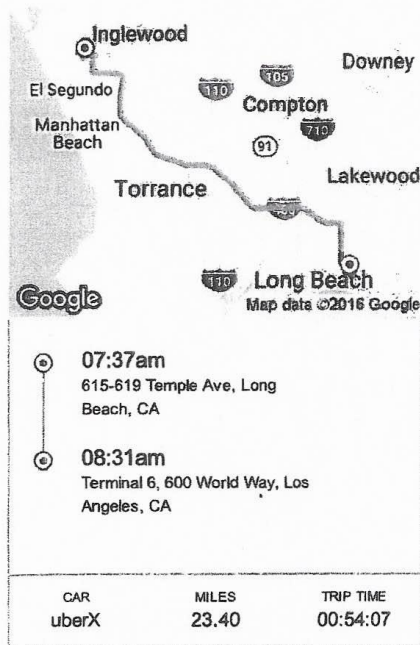
Uber Receipts <uber.us@uber.com>
To: bharvey@cityofpacificgrove.org

Fri, Sep 2, 2016 at 8:33 AM

SEPTEMBER 2, 2016

\$44.57

Thanks for choosing Uber, Ben



FARE BREAKDOWN

Trip fare	44.57
Subtotal	\$44.57
CHARGED	
Personal **** 7111	\$44.57



You rode with Stephanie
Transportation Network Company: Rasier-CA, LLC.

RATE YOUR DRIVER

9/13/2016

Gmail - Your Thursday morning trip with Uber



Your Thursday morning trip with Uber

Uber Receipts <uber.us@uber.com>
To: onebenharvey@gmail.com

\$21.71



05:30am	604 Temple Ave, Long Beach, CA
06:03am	12101 Crenshaw Blvd, Hawthorne, CA
CAR	uberX
MILES	18.92
TRIP TIME	00:32:33

Trip fee

Subtotal

CHARGED

Personal **** 1038

Ben
1.71
\$21.71
\$21.71



You rode with Andre
Transportation Network Company: Rasier-CA, LLC.

RATE YOUR DRIVER

https://mail.google.com/mail/u/1/?ui=2&ik=1c73455e94&view=pt&as_from=uber&as_sizeoperator=s_sl&as_sizeunit=s_smb&as_subset=all&as_within=1d&se... 1/2

9/13/2016

City of Pacific Grove Mail - Your Thursday afternoon trip with Uber



City Manager <citymanager@cityofpacificgrove.org>

Your Thursday afternoon trip with Uber

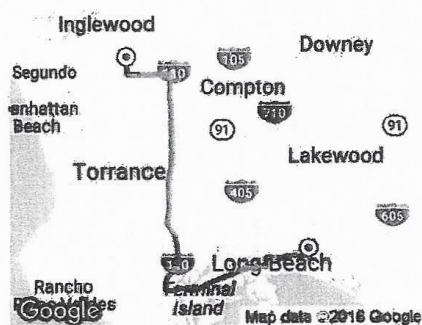
Uber Receipts <uber.us@uber.com>
To: bharvey@cityofpacificgrove.org

Thu, Sep 8, 2016 at 4:22 PM

SEPTEMBER 8, 2016

\$28.74

Thanks for choosing Uber, Ben



FARE BREAKDOWN

Trip fare	28.74
Subtotal	\$28.74
CHARGED	
Personal **** 7111	\$28.74

03:33pm
3101 Jack Northrop Ave,
Hawthorne, CA

04:21pm
615 Temple Ave, Long Beach,
CA

CAR	MILES	TRIP TIME
uberX	23.44	00:47:52



You rode with YAMEESE
Transportation Network Company: Rasier-CA, LLC.

RATE YOUR DRIVER

Ste 105
Lakewood, California 90712-4102



Date: 09/09/2010 @ 01:43 PM
Customer: BENJAMIN J. HARVEY
KTN: UNASSIGNED
UE ID: UZZY1Q2F64

Services

TSA FIVE ✓ @ - Enroll \$35.00

SubTotal: \$85.00

Total: \$85.00

ment
it Card ending in (1038) \$8/

unt Paid: \$8/

Credit Card Authorization

signing, I authorize MorphoTrust US
for their agents to charge my credit c
r service(s) performed and/or produc
rchased. I agree that I will pay for th
urchase in accordance with the issuir
bank cardholder agreement.

A handwritten signature in black ink, appearing to read 'Benito'.

Signature

IMPORTANT NOTE:

Service status is available at:
<http://universalenroll.dhs.gov>

If you have not been contacted by TSA
within 30 days after enrollment, please
contact Customer Support by calling:
1-855-DHS-UES1
(1-855-347-8371)

If you do not contact customer support,
you may be required to re-enroll and
pay the enrollment fee again. Please
that no refunds are given

9/13/2016

City of Pacific Grove Mail - Confirmation Letter - CPUUTW 09/02/16 - from Alaska Airlines



City Manager <citymanager@cityofpacificgrove.org>

Confirmation Letter - CPUUTW 09/02/16 - from Alaska Airlines

1 message

Alaska Airlines <Alaska.IT@alaskaair.com>
Reply-To: Alaska Airlines <Alaska.ConfirmationLetter@alaskaair.com>
To: BHARVEY@cityofpacificgrove.org

Thu, Sep 1, 2016 at 9:15 AM

Confirmation code: CPUUTW

You're all set. Thank you for booking with Alaska and we look forward to seeing you on board.

Need to change your flight? Visit us in advance, online at https://www.alaskaair.com/booking/reservation-lookup?eml=WHA_TR_CL_MANAGERRESERVATION||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional or through reservations at http://www.alaskaair.com/content/about-us/online-help.aspx?eml=WHA_TR_CL_RESERVATIONS||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

Travelers

Benjamin Harvey

Flight information

Flight: Alaska 2604
Operated By Horizon Air as Alaska Airlines. Check in with Alaska Airlines.
Equipment: Bombardier Q400
Departs: Los Angeles, CA (LAX) on Fri, Sep 2 at 9:45 am
Arrives: Monterey (MRY) on Fri, Sep 2 at 11:00 am
Class: S(Coach)
Seats: 13D

Prohibited hazardous materials

The Federal Government has specific restrictions about hazardous materials in carry-on and checked baggage. Failure to declare hazardous materials may result in civil and criminal penalties, for more information, visit: http://www.faa.gov/about/initiatives/hazmat_safety

Summary of airfare charges

Traveler: Benjamin Harvey
Enter your mileage plan number at https://www.alaskaair.com/booking/reservation-lookup?LNAME=HARVEY&RECLOC=CPUUTW&Source=ConfirmationLetter&eml=WHA_TR_CL_ENTERMILEAGEPLANNUMBER||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional
Ticket: 0272122425061

<https://mail.google.com/mail/u/0/?ui=2&ik=0ef71f5cb9&view=pt&q=alaska%20airlines&qs=true&search=query&th=156e688b1434a677&siml=156e688b1434a677> 1/4

City of Pacific Grove Mail - Confirmation Letter - CPUUTW 09/02/16 - from Alaska Airlines

Taxes and Other Fees: \$30.63

Traveler total:

Total fare: USD \$251.10

LNAME=HARVEY&RECLOC=CPUUTW&Action=PriceDetails&Source=ConfirmationLetter&eml=WHA_TR_CL_VIEWTAX||Eg|&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

Total charges and credits

Visa card with number*****7111 held by Benjamin J Harvey on 09/01/2016.

Trip protection by allianz global assistance

Purchase trip protection benefits and travel assistance services for your trip from Allianz Global Assistance at <http://www.etravelprotection.com/alaska/CoverageOptions/>. Learn more by visiting http://www.alaskaair.com/content/gifts-and-products/trip-protection.aspx?lid=nav:gifts:products-tripProtection&eml=WHA_TR_CL_TRAVEL_INSURANCE|EG|&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

Check in information

Web check-In: <https://webselfservice.alaskaair.com/checkinweb/Default.aspx>

You can also check in at one of our airport kiosks or at the ticket counter.

For more information about minimum check-in times, required identification, international travel, and traveling with minors, please visit <http://www.alaskaair.com/content/travel-info.aspx>.

Manage your reservation

View full details about your flight reservation and fare. You can choose seats, make special service requests, and make changes online.

https://www.alaskaair.com/booking/reservation-lookup?eml=WHA_TR_CL_MANAGERESERVATION||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

Alaska Airlines reservations 1-800-ALASKAAIR (1-800-252-7522)

Flight status alerts

When you create a flight status alert, we notify you in the event of delays, early arrivals, and cancellations of Alaska Airlines flights (email or text message).

Create Alert: <http://www.alaskaair.com/dayofflight/alerts.aspx>

Special service requests

Alaska Airlines provides a meet and assist service for travelers who need assistance through the airport. Request this service online at <https://www.alaskaair.com/booking/reservation-lookup>, or over the phone.

INFLIGHT SERVICE

Many Alaska Airlines flights offer the option to purchase a meal (visit http://www.alaskaair.com/content/travel-info/food-beverage/food-first-class.aspx?eml=WHA_TR_CL_MEAL_SERVICE|EG|&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional) or rent an inflight entertainment player for your

<https://mail.google.com/mail/u/0/?ui=2&ik=0ef71f5cb9&view=pt&q=alaska%20airlines&qs=true&search=query&th=156e688b1434a677&siml=156e688b1434a677> 2/4

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Baggage

<https://mail.google.com/mail/u/0/?ui=2&ik=0ef71f5cb9&view=pt&q=alaska%20airlines&qs=true&search=query&th=156e688b1434a677&siml=156e688b1434a677> 3/4

9/13/2016

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policy.aspx?lid=footer:privacyPolicy#contact&eml=WHA_TR_CL_CONTACTUS||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional

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[eml=WHA_TR_CL_PRIVACY_POLICY||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional](http://www.alaskaair.com/content/legal/privacy-policy.aspx?lid=footer:privacyPolicy&eml=WHA_TR_CL_PRIVACY_POLICY||EG||&TR_20160901&utm_campaign=20160901&utm_medium=Email&utm_source=Transactional)

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This email was sent to bharvey@cityofpacificgrove.org.

Reference Number PL60213393. Requested at 09/01/2016 09:03 AM.

9/13/2016

Gmail - Confirmation Letter - CZXKUJ 09/12/16 - from Alaska Airlines



Ben Harvey <onebenharvey@gmail.com>

Confirmation Letter - CZXKUJ 09/12/16 - from Alaska Airlines

Alaska Airlines <Alaska.IT@alaskaair.com>

Tue, Sep 6, 2016 at 9:46 PM

Reply-To: Alaska Airlines <Alaska.ConfirmationLetter@alaskaair.com>

To: ONEBENHARVEY@gmail.com

If you have trouble viewing this message, click here to request a plain text-only version of this email.



Confirmation code:

CZXKUJ

You're all set. Thank you for booking with Alaska and we look forward to seeing you on board.
Need to change your flight? Visit us, online or through reservations.

Flight	Departs	Arrives	Class	Traveler(s)	Seat(s)
Alaska 2604 Bombardier Q400	Los Angeles, CA (LAX) Mon, Sep 12 9:45 am	Monterey (MRJ) Mon, Sep 12 11:00 am	B (Coach)	Benjamin Harvey	16E

Operated By Horizon Air as Alaska Airlines. Check in with Alaska Airlines.

Additional information

Prohibited hazardous materials

The Federal Government has specific restrictions about hazardous materials in carry-on and checked baggage. Failure to declare hazardous materials may result in civil and criminal penalties. For more information, visit: the FAA website.

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Summary of airfare charges

Benjamin Harvey
MP# Enter Mileage Program
Ticket 0272122793133
Base Fare and Surcharges
Taxes and Other Fees
per person total:

\$192.56
\$28.54
\$221.10

Total charges for air travel
View all taxes, fees and charges

USD \$221.10

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9/13/2016

City of Pacific Grove Mail - Your Monday morning trip with Uber



City Manager <citymanager@cityofpacificgrove.org>

Your Monday morning trip with Uber

Uber Receipts <uber.us@uber.com>
To: bharvey@cityofpacificgrove.org

Mon, Sep 12, 2016 at 8:46 AM

SEPTEMBER 12, 2016

\$86.45

Thanks for choosing Uber, Ben

07:35am 615 Temple Ave, Long Beach, CA 08:45am 687-699 World Way, Los Angeles, CA		
CAR uberX	MILES 28.18	TRIP TIME 01:09:16

FARE BREAKDOWN

Trip fare 86.45

Subtotal \$86.45

CHARGED

Personal **** 7111 **\$86.45**



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APPENDIX H



L+G LLP Attorneys at Law

Jeffery R. Gilles, *Partner*
Aaron Johnson, *Partner*
Jason Retterer, *Partner*
Robert E. Rosenthal, *Partner*
Paul A. Rovella, *Partner*
Bradley W. Sullivan, *Partner*
Patrick S. M. Casey
E. Soren Diaz
Jeffrey S. Lind
Sergio H. Parra
Ronald A. Parravano
Stephen L. Pessagno
Matthew R. Rankin
James W. Sullivan
David W. Balch, *Of Counsel*
Doug K. Dusenbury, *Of Counsel*

August 11, 2016

Sent via Email

Mr. Ben Harvey
City Manager
City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950

Re: Domaine Reimbursement Obligation

Dear Mr. Harvey:

On behalf of Domaine Pacific Grove LLC ("Domaine"), our office negotiated three reimbursement agreements that set forth Domaine's reimbursement obligation to the City relating to the processing of entitlements for Project Bella and the Local Coastal Program. Based on comments at last week's City Council meeting and the various negative media reports that claim that Domaine has not met its reimbursement obligation to the City, Domaine would like to meet with you when you return from vacation to discuss the following matters:

1. Correcting the quarterly deposit dates that were set forth in the Reimbursement Agreement that Domaine and the City signed on June 14, 2016. As you may know, Domaine made an initial \$50,000 deposit in early June before the Agreement was even signed. Domaine also agreed to make five additional \$50,000 deposits to cover consultant costs. However, the due dates for these deposits pre-date the Agreement and were included in a version of the Agreement that was negotiated with the City Attorney in January 2016. Unfortunately, these dates were inadvertently not changed when the Agreement was finalized and signed in June 2016. I informed Ms. Quinn the day the Agreement was signed that the dates were incorrect and needed to change so they logically post-date the Agreement. We understand that the City is now trying to enforce these deposit due dates even though the City knows that these dates are clearly a mistake and need to be corrected.
2. Clarifying Domaine's reimbursement obligation for the City's LCP costs. Last January, Domaine and the City negotiated an LCP Reimbursement Agreement that has not been signed by Domaine or the City. Accordingly, Domaine currently has no LCP cost reimbursement obligation despite what the City Staff represented to the Council in its staff report relating to

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Ben Harvey
August 11, 2016
Page 2

Amendment No. 5 to its LCP Contract that was presented to the Council at its May 18, 2016 meeting. Nonetheless, Domaine will commit to reimbursing the City for a portion of LCP costs pursuant to the terms of the LCP Reimbursement Agreement that was negotiated with the City last January.

3. Correcting the outstanding consultant invoices and reviewing the process set forth in the Reimbursement Agreement relating to Domaine's review and approval of future consultant invoices prior to drawdown of Domaine's deposits.

In the meantime and pursuant to your discussion with Mr. Meer, Bruce Haniford, who is handling all of the contracts for Domaine, talked to Curtis Williams today regarding the invoices and methodology of payment. In addition, yesterday, Domaine paid the City \$79,987.97 to reimburse the City for its special election costs and therefore met today's deadline for reimbursing the City for these costs.

Domaine values its relationship with the City and looks forward to working cooperatively with the Council, you and your staff to correct the quarterly deposit schedule, finalizing Domaine's agreement to reimburse the City for a portion of its LCP costs, clarifying the process for future review and payment of consultant invoices, and ensuring that all consultant invoices are paid.

Domaine further desires and requests your ongoing assistance to resolve the misperceptions and to avoid any further discourse in the press relating to Domaine's reimbursement obligation that is an unnecessary distraction for all. The Domaine team stands ready to assist you in briefing the Council, correcting these misperceptions, and providing the appropriate assurances moving forward.

Sincerely,



Jason Retterer

cc: David Laredo
Curtis Williams
Ron Meer
Bruce Haniford
Jared Ficker



EMC PLANNING GROUP INC.
A LAND USE PLANNING & DESIGN FIRM

801 Lighthouse Avenue Suite C Monterey CA 93940
Tel 831-649-1799 Fax 831-649-8399 www.emcplanning.com

City of Pacific Grove
Community & Economic Development Dept.
300 Forest Avenue
Pacific Grove CA 93950
Attn: Mark Brodeur

Invoice

DATE	INVOICE NO.
7/31/16	16-338
DUE DATE	TERMS
8/30/16	Net 30
BILLING PERIOD	
July 2016	
CLIENT PROJECT NO.	

PROJECT NO.	PROJECT NAME		PROJECT LOCATION	
PP-101	Project Bella Staff Support		Pacific Grove, California	
ITEM	DESCRIPTION	QTY	RATE	AMOUNT
TR/16	Tiffany Robinson, Administrative Assistant	1.78	95.00	169.10
CS/16	Cris Staedler, AICP, Senior Principal	2.5	210.00	525.00
BT/16	Bryce Ternet, Senior Planner	1	155.00	155.00
	Subtotal			849.10
Copying	Copying Expenses (Internal)		5.50	5.50
Postage	Postage Expenses (Internal)		0.47	0.47
	Subtotal			5.97
ExpenseAdmin.	Direct Expenses Administration (10%)		10.00%	0.60
				714.8
Project Bella Make sure this gets a description of Project Bella GOODS/SERVICES RECEIVED & APPROVED TO PAY Acct #: 01-201-5202 Amt: \$ 855.67 Acct #: Amt: \$ Description: Project Bella Reimbursement Approved By: [Signature] 8/22/16 For invoice questions, please contact Cris Staedler at staedler@emcplanning.com or (831) 649-1799 x202. For professional services rendered. TOTAL \$855.67				



EMC PLANNING GROUP INC.
A LAND USE PLANNING & DESIGN FIRM

301 Lighthouse Avenue Suite C Monterey CA 93940
Tel 831-649-1799 Fax 831-649-8899 www.emcplanning.com

City of Pacific Grove
Community & Economic Development Dept.
300 Forest Avenue
Pacific Grove CA 93950
Attn: Mark Brodeur

P.O. #:
VENDOR #: 7148
USE TAX:

Invoice

DATE	INVOICE NO.
4/30/16	16-190
DUE DATE	TERMS
5/30/16	Net 30
BILLING PERIOD	
March-April 2016	
CLIENT PROJECT NO.	

PROJECT NO.	PROJECT NAME	PROJECT LOCATION		
PP-101	Project Bella Staff Support	Pacific Grove, California		
ITEM	DESCRIPTION	QTY	RATE	AMOUNT
MG/16	Michael Groves, AICP, Senior Principal	10	210.00	2,100.00
SGA/16	Susan Groves-Amell, Administrative Assistant	0.27	95.00	25.65
CS/16	Cris Staedler, AICP, Senior Principal	2.25	210.00	472.50
BT/16	Bryce Ternet, Senior Planner	66.5	155.00	10,307.50
	Subtotal			12,905.65
Mileage	Mileage Expenses (Internal)		4.86	4.86
Copying	Copying Expenses (Internal)		11.00	11.00
	Subtotal			15.86
ExpenseAdmin.	Direct Expenses Administration (10%)		10.00%	1.59
Subs	ADE (See Attached)		16,541.61	16,541.61
	Subtotal			16,541.61
SubsAdmin.	Subconsultant Administration (10%)		10.00%	1,654.16
	Total Budget \$198,150.00			
	Prior Billing \$0.00			
	Current Billing \$31,118.87			
	Total Billing \$31,118.87			
	Remaining Budget \$167,031.13			
	Estimated Percent Complete: 16%			

PAID AUG 12 2016

FY 15/16

GOODS/SERVICES RECEIVED &
APPROVED TO PAY

Acct #: 0-201-5202 Amt: \$31,118.87

Acct #: Amt: \$

Description: Project Bella Reimburs

Approved By: [Signature]

For invoice questions, please contact Cris Staedler at
staedler@emcplanning.com or (831) 649-1799 x202.

PAID AUG 12 2016

FY 15/16

GOODS/SERVICES RECEIVED & APPROVED TO PAY

Acct #: 0-201-5202 Amt: \$31,118.87

Acct #: Amt: \$

Description: Project Bella Reimbursement

Approved By: [Signature] 7/25/16

Thank you for the opportunity to provide you with our services!

TOTAL \$31,118.87

3 Months Past Due

PAID 8.8.16