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Commission on  
State Mandates

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August 25, 2010

VIA E-Mail and FIRST-CLASS MAIL

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Re: Response to Comments on Revised Parameters and Guidelines; Municipal  
Storm Water and Urban Runoff Discharges  
Claim Nos. 03-TC-04, 03-TC-20, 03-TC-21  
Los Angeles Regional Water Quality Control Board Order No. 01-182;  
Permit CAS004001

Dear Ms. Higashi:

This letter is the response of Claimants the Cities of Artesia, Beverly Hills, Carson, Norwalk, Rancho Palos Verdes, Azusa, Commerce, Bellflower, Covina, Downey, Monterey Park and Signal Hill ("Cities") to comments dated July 23, 2010 filed by the State Controller's Office ("SCO") and the Department of Finance ("DOF") to the Revised Parameters and Guidelines ("Ps&Gs") filed by the Cities. The SCO and DOF comments also relate to Ps&Gs filed by the County of Los Angeles ("County").

This letter addresses the comments of both the SCO and the DOF. Attached please find proposed Ps&Gs revised to address certain comments by the SCO and DOF, as well as a Declaration of William Yan of the County of Los Angeles Department of Public Works (which also has been separately submitted by the County).

***Response to Comments of State Controller's Office***

**A. Response to Comments on Section III, Period of Reimbursement**

This comment primarily is directed to the proposed Ps&Gs submitted by the County. However, to the extent such comments are relevant to the Cities' proposed Ps&Gs, the Cities do not object. The attached Ps&Gs have been revised to reflect this comment.

**B. Response to Comments on Section IV, Reimbursable Activities**

1. Comment on Section IV: The Cities object to the proposed changes on paragraph 1, page 9 of the Ps&Gs. As discussed further below, reasonable reimbursement methodology (“RRM”) is appropriate for repetitive trash collection activities.

2. Comment on Section IV.A., Actual Costs: While the SCO’s comments appear to be directed to the County’s proposed Ps&Gs, the Cities’ proposed Ps&Gs employ similar language. The Cities do not agree with the comment by the SCO with regard to a “time study plan.” The attached Ps&Gs have, however, been revised to include a reference to the SCO website for instructions on a time study.

3. Comment on Section IV.B., Reasonable Reimbursement Methodology: Again, the SCO has made comments on the proposed County Ps&Gs. To the extent that the SCO intended its comments to apply also to the Cities’ Ps&Gs, the Cities object to the SCO’s proposed deletion of this section, which authorizes the use of RRM for repetitive trash collection activities. As set forth in the plain language on pages 6-7 of the proposed Ps&Gs, the Cities are not seeking RRM reimbursement for non-repetitive tasks. A RRM rate is being requested *only* for costs incurred under Section IV(C)(2)(a) of the Ps&Gs, for the “[c]ollection of trash on a routine basis, including trash collection and disposal at disposal/recycling facility.”

The SCO comments: “For uniformity and consistency, we recommend ‘Actual Costs’ method to claim costs for the Collection of trash, Section IV(C)(2)(a). Consequently, we propose to delete ‘Reasonable Reimbursement Methodology’ (RRM) method and RRM table as set forth in Section IV.B.”

This comment ignores the fact that a claim for a subvention of funds may be made on both a RRM and non-RRM basis. In fact, the SCO has so indicated in recent comments on proposed Ps&Gs for the County’s claim on the Interagency and Child Abuse and Neglect reimbursement program. In those comments, dated April 1, 2010, Ms. Jill Kanemasu, Chief of the SCO Bureau of Payments, stated: “To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed *except where reasonable reimbursement methodology rates are adopted as set forth in Section IVB.*” (emphasis added). Ms. Kanemasu’s letter is attached as Exhibit 4 to the County’s response to the SCO and DOF comments.

The RRM methodology is appropriate for repetitive tasks, which is why it has been proposed by the Cities. As noted below, the DOF agrees that “a fair and accurate RRM rate, if agreed upon by all relevant parties, would be an efficient way to streamline the reimbursement process.” Moreover, both the League of California Cities and the California State Association of Counties have endorsed the RRM methodology and rate in

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a joint letter to the Commission dated May 24, 2010, which was attached as Exhibit B to the Cities' June 2, 2010 submittal of the proposed Ps&Gs.

The SCO's only justification for its comment, that deletion is recommended "for uniformity and consistency," provides no basis for the deletion of the RRM methodology. The Cities request that the Commission reject this comment in its entirety.

4. Comment on Section IV.C, Scope of Reimbursable Activities: The SCO comments appear again to be directed to the County's proposed Ps&Gs. However, the Cities wish to respond.

The SCO comments that the Scope of Reimbursable Activities should not include the installation of trash receptacles. This comment should be rejected in its entirety. The mandate in question specifically required the Cities to "place trash receptacles." See Statement of Decision adopted July 31, 2009 at 70. Obviously, trash receptacles must be purchased, locations surveyed and the receptacles installed. Moreover, in an urban environment such as exists in the Cities, receptacles must be adequately secured.

Evidence regarding the scope of receptacle placement is before the Commission in the Declaration of William Yan of the County of Los Angeles Department of Public Works, which was attached as Exhibit B to the Cities' proposed Ps&Gs submitted on June 2, 2010. The SCO provides no evidence to support its comment, which also is contradicted by the plain language of the Statement of Decision. The Cities request that the Commission reject this comment in its entirety.

5. Comment on Section IV.D. Methods for Claiming Costs: The SCO's comment on this section appears to be directed toward the County's proposed Ps&Gs. However, as it refers to the deletion of the RRM section of the Ps&Gs, the Cities object to such comment and request that it be rejected by the Commission.

**C. Response to Comments on Section V, Claim Preparation and Submission**

The SCO's comment on Section V.A.4 is that the term "Capital" should be changed to "Fixed." The Cities do not object to this comment, and the attached Ps&Gs reflect this change.

***Response to Comments of Department of Finance***

**A. Response to Comment on "Cleaning"**

The DOF comments focus on the surveys prepared to support the RRM. While the bulk of the first numbered comment in the DOF letter refers only to the County's survey results, and thus is beyond the scope of this response, the DOF also commented

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that "cleaning costs" not be included in the RRM rate and "suggest that they may not be reasonably necessary to carry out the mandate." The DOF noted in particular the task of replacing trash receptacle liners.

The Cities disagree with DOF's comment. Obviously, maintenance of the trash receptacles, which is part of the mandated activity (*see* Statement of Decision adopted on July 31, 2009 at 70: "All trash receptacles shall be maintained as necessary"), may include replacement of plastic liners, since such liners facilitate quick removal of trash. *See also* the attached Declaration of William Yan of the County of Los Angeles Department of Public Works, which sets forth further evidence regarding the need for "cleaning" as part of the mandate found by the Commission.

**B. Response to Comment on "Other" Costs**

The second numbered comment in the DOF letter states in part that "[s]ome survey responses do not clearly identify the activities associated with 'other' costs." Specific reference is made to two entries, for a total of \$1,080, by the City of Signal Hill relating to time spent by the City Attorney in reviewing contracts for transit stop receptacle collection services. Such expenditures are an administrative cost arising naturally from the requirement to arrange for and facilitate the collection of trash from the receptacles. As such, they are appropriately included within the mandate.

**C. Response to Comment on COLA Issue**

The DOF comment letter also stated that the RRM rate should be applied to the entire initial reimbursement period without a COLA. The Cities do not object to this comment. Changes have been made to the attached proposed Ps&Gs to reflect the comment.

\* \* \*

The Cities appreciate this opportunity to respond to the comments on the proposed Ps&Gs. If you or Commission staff has any questions regarding this response, please call or e-mail me at the number and e-mail address noted above.

Very truly yours,



David W. Burhenn

Encl.  
cc: Mailing List (w/encl.)

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PROPOSED PARAMETERS AND  
GUIDELINES REVISED TO INCORPORATE  
COMMENTS OF STATE CONTROLLER'S  
OFFICE AND DEPARTMENT OF FINANCE

**PARAMETERS AND GUIDELINES**

California Regional Water Quality Control Board,  
Los Angeles Region, Executive Order Number 01-182,  
December 13, 2001, Permit Number CAS004001,  
Part 4, Section F.5.c. 3.

(Revised to Address Comments of State Controller's Office and Department of Finance)

***Transit Trash Receptacles***

**I. Summary of the Mandate**

The consolidated test claim, filed by the County of Los Angeles and several cities, alleged various activities related to the placement and maintenance of trash receptacles and inspection of various facilities to reduce stormwater pollution in compliance with a permit issued by the Los Angeles Regional Water Quality Control Board, Permit No. 01-182, CAS004001 ("Permit").

The Commission found on July 31, 2009 that the activity called for in Part 4.F.5.c.3. of the Permit was a reimbursable state mandate on local agencies subject to the Permit but not subject to a trash total maximum daily load ("TMDL"):

"Place trash receptacles at all transit stops within its jurisdiction that have shelters no later than August 1, 2002, and at all transit stops within its jurisdiction no later than February 3, 2003. All trash receptacles shall be maintained as necessary."

The Commission found that this requirement was not a federal mandate under the Clean Water Act and that it was a state mandate requiring a new program or higher level of service that could not be funded through fee authority within the meaning of Government Code section 17556, subdivision (d).

The Commission also found that the other issues raised by the consolidated test claim, relating to Parts 4.C.2.a., 4.C.2.b. and 4.E. of the Permit and requiring inspections of various facilities, while not federal mandates under the Clean Water Act, were not reimbursable state mandates because the claimants had fee authority within the meaning of Government Code section 17556(d), sufficient to pay for the inspections.

**II. Eligible Claimants**

The County of Los Angeles, Los Angeles County Flood Control District and all cities covered under the Permit, to the extent that the same are not or were not subject to coverage under a trash TMDL requirement.

### III. Period of Reimbursement

The Permit and the test claim executive order took effect on December 18, 2001. The requirement to install trash receptacles commenced with the effective date of the Permit and required installation of trash receptacles by February 3, 2003. The Permit imposes a continuing requirement to maintain the trash receptacles.

Government Code section 17557, as amended by Statutes of 1998, Chapter 681 (which became effective on September 22, 1998), states that a test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.

On September 30, 2003, the County of Los Angeles and the Cities of Arcadia, Baldwin Park, Bellflower, Cerritos, Covina, Downey, Monterey Park, Pico Rivera, Signal Hill, South Pasadena and West Covina filed test claims for this mandated program, establishing eligibility for reimbursement. The Commission originally refused jurisdiction of the test claims pursuant to Government Code section 17516. After litigation, the California Court of Appeal for the Second District held that the provisions of Government Code section 17516 were unconstitutional and issued a writ directing the Commission to fully consider the test claims. The test claims were re-filed in October and November 2007 and were considered by the Commission to be filed as of September 30, 2003.

Thus, the reimbursement period is considered to have begun on July 1, 2002.

Costs for one fiscal year shall be included in each claim. Pursuant to Government Code section 17561(d)(1), all claims for reimbursement of initial fiscal years' costs shall be submitted to the State Controller within 120 days of the issuance date of claiming instructions.

If the total costs for a given year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

### IV. Reimbursable Activities

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed, except where reasonable reimbursement methodology ("RRM") rates are adopted for the repetitive task of trash collection set forth in Section IV.C(2)(a) below. Claimants may elect to use either actual costs or RRM rates for the trash collection task.

#### A. Actual Costs

Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question.

Source documents may include, but are not limited to, employee time records, including time survey forms, time logs, sign-in sheets, and invoices, receipts and unit cost studies using source documents.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct" and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

Claimants also may use time studies to support labor (salary, benefit and associated indirect) costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office ("SCO"). The reimbursable time recorded on each time survey form must be for specific reimbursable activities as detailed herein. Further time study guidance is available from the State Controller's Office web site at [www.sco.ca.gov](http://www.sco.ca.gov).

B. Reasonable Reimbursement Methodology

With respect to costs incurred as identified in Section IV.C(2)(a) below, Claimants may elect to be reimbursed using a RRM methodology. Under this RRM, the annual standard or unit cost for each trash collection or "pick-up" is multiplied by the annual number of trash collections (number of receptacles times pickup events for each receptacle) to compute reimbursement for trash collection activities.

The standard unit RRM rate per trash collection is \$6.75 and applies to the entire initial reimbursement period (2002-03 through 2008-09) without a cost of living adjustment. The RRM rate will be increased in 2009-2010 and subsequent years by the implicit price deflator for that respective year.

C. Scope of Reimbursable Activities

The claimant is only allowed to claim, and to be reimbursed for, increased costs for the reimbursable activities identified below. Increased costs are limited to the costs of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

1. Installation of Trash Receptacles These activities include: planning (identifying transit stops, evaluating and selecting trash receptacle and pad type, evaluation of placement of trash receptacles and pads and specification and drawing preparation); preliminary engineering work (construction contract preparation and specification review, bid advertising and award process);



construction and installation of trash receptacles (including fabrication and installation of pads for receptacles and foundations and construction management); and, construction and installation of replacement trash receptacles/pads on a non-individual basis. The five transit trash installation claiming categories are:

- a. Identify locations of all transit stops within the jurisdiction required to have a trash receptacle pursuant to the Permit.
- b. Evaluate and select receptacle and pad type, evaluate proper placement of receptacles and prepare specifications and/or drawings.
- c. Contract preparation, specification review process, bid advertising, and review and award of bid.
- d. Purchase receptacles/pads and/or construct receptacles/pads and install receptacles/pads.
- e. Repeat steps (c-d) when necessary for replacement of receptacles/pads on non-individual basis.

2. Maintenance of Trash Receptacles These activities include collection of trash, inspection of receptacles, maintenance (repairing, painting, etc.) and replacing or moving individual trash receptacles and/or pads, as needed. The five transit trash maintenance claiming categories are:

- a. Collection of trash on routine basis, including trash collection and disposal at disposal/recycling facility.
- b. Inspection of receptacles for wear, cleaning, and other maintenance needs.
- c. Maintenance of receptacles and pads, including painting, cleaning and repair of receptacles and pads, replacement of liners, and cost of paints, cleaning supplies and liners.
- d. Replacement of individual damaged or missing receptacles or pads, including costs of purchase and installation of replacement receptacles or pads and disposal/recycling of replaced receptacles or pads.
- e. Movement (including replacement if required) of receptacles and pads to reflect changes in transit stops, including costs of removal and restoration of property at former receptacle location and installation at new location.

D. Methods for Claiming Costs

Eligible claimants must use the actual cost method to claim costs for the tasks reflected in Sections IV.C(1)(a-e) and IV.C(2)(b-e) above.

Eligible claimants may use either the actual cost or RRM methods to claim costs for the collection of trash reflected in Section IV.(C)(2)(a) above.

V. **Claim Preparation and Submission**

Each claim for reimbursement must be timely filed and must identify each cost element for which reimbursement is claimed under this mandate. Claimed costs must be identified to each reimbursable activity identified in Section IV of these Parameters and Guidelines.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. **Salaries and Benefits**

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed. Reimbursement for personnel services includes compensation paid for employee fringe benefits. Employee fringe benefits include regular compensation paid to an employee during periods of authorized absences (e.g., annual leave, sick leave) and the employer's contributions to social security, pension plans, insurance, and workers' compensation insurance. Fringe benefits are eligible for reimbursement when distributed equitably to all job activities performed by the employee.

2. **Materials and Supplies**

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. **Contracted Services**

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during

the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element V.(A)(1), Salaries and Benefits, for each applicable reimbursable activity.

6. Training

The cost of training an employee to perform the mandated activities, as specified in Section IV of these Parameters and Guidelines, is eligible for reimbursement. Identify the employee(s) by name and job classification. Provide the title and subject of the training session, the date(s) attended, and the location. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem.

B. Indirect Costs

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (“OMB”) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (“ICRP”) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs

shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or

2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

## **VI. Record Retention**

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency is subject to the initiation of an audit by the State Controller no later than three years after the date that the actual reimbursement claim was filed or last amended, which is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

**VII. Offsetting Savings and Other Reimbursements**

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. Any reimbursement for this mandated received from any source, including state or federal reimbursement, shall be identified and deducted from a claim.

**VIII. State Controller's Claiming Instructions**

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted Parameters and Guidelines from the Commission, to assist local agencies in claiming costs to be reimbursed. The claiming instructions shall be derived from the Statement of Decision and the Parameters and Guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute notice of the right of the local agencies to file reimbursement claims based upon the Parameters and Guidelines adopted by the Commission.

**IX. Remedies Before the Commission**

Upon request of a local agency, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the Parameters and Guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the Parameters and Guidelines as directed by the Commission.

Requests may be made to amend the Parameters and Guidelines pursuant to Government Code section 17557(d) and title 2, California Code of Regulations, section 1183.2.

Pursuant to title 2, California Code of Regulations, section 1183.2, Parameters and Guidelines amendments filed before the deadline for initial claims as specified in the claiming instructions shall apply to all years eligible for reimbursement as defined in the original Parameters and Guidelines. A Parameters and Guidelines amendment filed after the initial claiming deadline must be submitted on or before January 15 following a fiscal year in order to establish eligibility for reimbursement for the fiscal year.

**X. Legal and Factual Basis for Parameters and Guidelines**

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the Parameters and Guidelines. The support for the legal and

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factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.

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DECLARATION OF WILLIAM YAN OF  
COUNTY OF LOS ANGELES  
DEPARTMENT OF PUBLIC WORKS

(Also submitted as Exhibit 1 to Review of  
County of Los Angeles to State Agency  
Comments)

County of Los Angeles  
Transit Trash Receptacle Installation Requirements  
Municipal Storm Water and Urban Runoff Discharges Test Claim  
California Regional Water Quality Control board  
Executive Order Number 01-182, December 13, 2001  
Permit Number CAS004001, Part 4, Section F.5.c.3.

**Declaration of William Yan**

William Yan makes the following declaration and statement under oath:

I, William Yan, Associate Civil Engineer, in the Program Development Division of the Los Angeles County Department of Public Works, declare that I have examined the review prepared by Nona Martinez of the State Department of Finance (Finance) regarding the proposed revised parameters and guidelines (Ps&Gs) and reasonable reimbursement methodology (RRM) submitted by the County of Los Angeles (County) and various municipalities (claimants) for Claim no. 03-TC-04, 03-TC-20, and 03-TC-21 "Municipal Storm Water and Urban Runoff Discharges".

I declare that it is my information or belief that Finance's conclusion, that "... a fair and accurate RRM rate, if agreed upon by all relevant parties, would be an efficient way to streamline the reimbursement process", supports the claimants' objective of developing an acceptable RRM rate.

I declare that the League of California Cities and the California State Association of Counties (CSAC) filed their joint endorsement of claimants' \$6.75 unit cost RRM calculation with the Commission on State Mandates (Commission) on May 24, 2010 and indicated that "... the League and CSAC are in full support of this calculation".

I declare that it is my information or belief that Finance's recommendation to have the same \$6.75 RRM rate apply to the entire initial reimbursement period (2002-03 through 2008-09) without a cost of living adjustment is reasonable and proper because the \$6.75 RRM rate "... is based on local costs incurred over a seven year period".

I declare that it is my information or belief that Finance's recommendation to have "... the proposed RRM rate ... increase in 2009-2010 and subsequent years by the implicit price deflator for that respective year" is necessary to ensure that 2009-2010 and subsequent year RRM reimbursements are not diminished by inflation.



I declare that it is my information or belief that routine cleaning of trash receptacles and the 10-foot area around each trash receptacle is reasonably necessary to implement the mandate, contrary to the opinion of Finance's Nona Martinez that "... cleaning costs ... are not reasonably necessary to implement the mandate".

I declare that it is my information or belief that trash receptacles and the 10-foot area around each trash receptacle must be thoroughly cleaned of any graffiti, stickers, posters, litter, dust, dirt, weeds and any residue in order to prevent the flow of any waste to enter the storm drain and/or street gutters.

I declare that it is my information or belief that the County provides 48 to 52 visits per year to clean trash receptacles and the 10-foot area around each trash receptacle.

I declare that it is my information and belief that during each cleaning visit the County routinely cleans, washes and removes all graffiti, stickers, posters, litter, dust, dirt and weeds from each trash receptacle and immediate 10-foot area around each trash receptacle. The trash receptacle is to be maintained in a continual like new condition.

I declare that it is my information and belief that during each cleaning visit the County shall carry an adequate supply of clean aluminum liners during the cleaning visits to ensure that liners are kept in a clean condition. County shall not allow any waste or liquid from trash receptacles or liners to enter the storm drains and/or street gutters during the cleaning of trash receptacles and liners.

I declare that it is my information or belief that the costs of providing the (above) cleaning activities were calculated from two separate Bus Stop Amenities Maintenance contracts (North and South County) using three variables: (1) the average number of trash receptacles, (2) the unit cleaning cost per visit, and (3) the frequency of cleanings per month.

I declare that I have analyzed the annual cleaning cost increases of \$7,275 (from 2005-06 to 2006-07) and of \$32,501 (from 2006-07 to 2007-08) that are questioned by Finance's Nona Martinez in her July 23, 2010 commentary.

I declare that it is my information or belief that the (above) increases were due to the following factors:

FY2005-06 to FY2006-07: \$7,275 increase

- North County: The cost increase was due to the living wage adjustments which increased the unit cost from \$3.25 to \$3.38 per visit. We were also charged for 48 cleaning visits per receptacle in FY2005-06 versus 52 cleaning visits in FY 2006-07.
- South County: The cost increase was due to the living wage adjustments which increased the unit cost from \$3.25 to \$3.38 per visit and an increase in the number of number of trash receptacles. We were also charged for 48 cleaning visits per receptacle versus in FY2005-06 versus 52 cleaning visits in FY 2006-07.

FY2006-07 to FY2007/08: \$32,501 increase

- North County: The cost increase was due to the revised Living Wage Program which increased the unit cost from \$3.38 to \$4.59 per visit. With the award of a new contract, the unit cost increased again from \$4.59 to \$8.00 per visit.
- South County: The cost increase was due to the revised Living Wage Program which increased the unit cost from \$3.38 to \$4.43 per visit.

I declare that it is my information or belief that the major cause of the (above) increases was a change in the unit cost for cleaning as noted below:

Both the North County and the South County maintenance contracts included a clause which allowed for a Living Wage Adjustment for the first (April 2006- March 2007) and second (April 2007- March 2008) option years of the contract. The increases were 2.5% and 1.87% respectively. In addition, the rates were increased again. Prior to the end of the second option year, the County Board of Supervisors adopted a revised Living Wage Program (Los Angeles County Code Sections 2.201.010-2.201.100); this further increased the price by about 30% effective July 1, 2007.

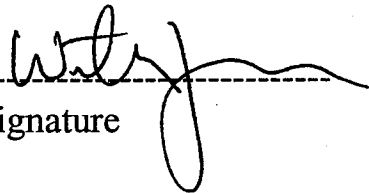
In addition, on March 2008, the County awarded a new contract for the North County Maintenance Program, which included an increase in the unit cleaning cost from \$4.59 to \$8.00.

Accordingly, I declare that it is my information or belief that the (above) cleaning activities are reasonably necessary in implementing the reimbursable Municipal Storm Water and Urban Runoff Discharges" mandate as defined in Commission's Statement of Decision on test claims 03-TC-04, 03-TC-20, 03-TC-21 and that associated cleaning costs are reasonable, proper and fairly stated.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and as to those matters I believe them to be true.

8/16/10 ALHAMBRA, CA  
Date and Place

  
Signature

PROOF OF SERVICE

I am employed in Los Angeles County. I am over the age of 18 and not a party to this action. My business address is 624 S. Grand Avenue, 22<sup>nd</sup> Floor, Los Angeles, California 90017.

On August 26, 2010 I served the foregoing document, described as

RESPONSE TO COMMENTS ON REVISED PARAMETERS AND GUIDELINES;  
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES;  
CLAIM NOS. 03-TC-04, 03-TC-20, 03-TC-21

- the original of the document  
 true copies of the document

in separate sealed envelopes addressed as follows:

See Attached Service List

**BY U.S. MAIL:** I sealed and placed such envelope for collection and mailing to be deposited on the same day at Los Angeles, California. The envelopes were mailed with postage thereon fully prepaid. I am readily familiar with Burhenn & Gest LLP's practice of collection and processing corresponding for mailing. Under this practice, documents are deposited with the U.S. Postal Service on the same day that is stated in the proof of service, with postage fully prepaid at Los Angeles, California in the ordinary course of business.

**BY FEDERAL EXPRESS:** I am familiar with the firm's practice of collecting and processing correspondence for delivery via Federal Express. Under that practice, it would be picked up by Federal Express on that same day at Los Angeles, California and delivered to the parties as listed on this Proof of Service the following business morning.

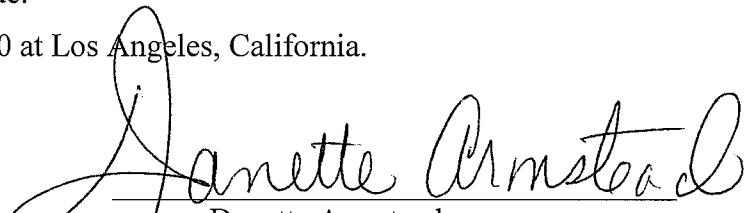
**BY FACSIMILE:** I caused the above referenced document to be transmitted via facsimile to the parties as listed on this Proof of Service.

**BY PERSONAL SERVICE:** I personally delivered such envelope by hand to the office of the addressee(s).

**STATE:** I declare under penalty of perjury under the laws of the state of California that the above is true and correct.

**FEDERAL:** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on August 26, 2010 at Los Angeles, California.

  
Danette Armstead

Commission on State Mandates

Original List Date:  
Last Updated: 8/6/2010  
List Print Date: 08/23/2010  
Claim Number: 03-TC-04, 20, 21  
Issue: Municipal Stormwater and Runoff Discharges

Agenda Mailing List

**TO ALL PARTIES AND INTERESTED PARTIES:**

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Ms. Jill Kanemasu State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 322-9891  Fax:
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