

BURHENN & GEST LLP
624 SOUTH GRAND AVENUE
SUITE 2200
LOS ANGELES, CALIFORNIA 90017-3321
(213) 688-7715
FACSIMILE (213) 688-7716

WRITER'S DIRECT NUMBER
(213) 629-8788

WRITER'S E-MAIL ADDRESS
dburhenn@burhenngest.com

February 25, 2011

Via E-mail (CSM Dropbox)

Mr. Drew Bohan
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Comments of City Claimants on Proposed Parameters and Guidelines

Municipal Storm Water and Urban Runoff Discharges

03-TC-04, 03-TC-19, 03-TC-20, 03-TC-21

Los Angeles Regional Quality Control Board Order No. 01-182

Permit CAS004001; Part 4F5c3

County of Los Angeles, Cities of Artesia, Beverly Hills, Carson, Norwalk,
Rancho Palos Verdes, Westlake Village, Azusa, Commerce, Vernon, Bellflower,
Covina, Downey, Monterey Park, Signal Hill, Co-claimants

Dear Mr. Bohan:

I am writing to set forth the comments of the Cities of Artesia, Azusa, Bellflower, Beverly Hills, Carson, Commerce, Covina, Downey, Monterey Park, Rancho Palos Verdes and Signal Hill ("Cities") on the above-referenced Proposed Parameters and Guidelines ("Ps &Gs") issued by Commission on State Mandates ("Commission") staff and set for adoption at the Commission hearing on March 24, 2011. This letter also addresses the comments and recommendations of the State Controller's Office ("SCO") as set forth in a letter dated February 18, 2011 from Jay Lal, Manager, Local Reimbursement Sections.

Before turning to our specific comments, the Cities would like to thank Commission staff for their hard and careful work in evaluating the test claims at issue in this matter and in formulating detailed and thoughtful staff reports on issues of great complexity.

BURHENN & GEST LLP

Mr. Drew Bohan
February 25, 2011
Page 2

A. Summary of Comments

The Cities generally are satisfied with the provisions of the Ps & Gs as proposed by Commission staff, with the significant exception of staff's decision not to include a Reasonable Reimbursement Methodology ("RRM") component in the Ps & Gs for repetitive maintenance tasks. While staff concluded that the proposed RRM in the Cities' and the County of Los Angeles' proposed Ps & Gs "appears to be complete," staff identified two items, the cleaning of graffiti and an unidentified "other" item in the City of Bellflower cost survey, as creating a deficiency in the record that did not support the RRM as proposed. Draft Staff Analysis, page 27.

Both of these items are addressed by supplemental evidence. First, regarding graffiti removal, the attached Declarations of Alan Mudge and Gino Sotelo set forth that this element was in fact not used by the contractors employed by the County of Los Angeles in determining their charge for trash receptacle cleaning. Thus, the inclusion of graffiti cleaning does not invalidate the RRM's proposed weighted average uniform cost allowance. Second, regarding the City of Bellflower cost survey, the Declaration of Bernardo Iniguez, submitted herewith, demonstrates that the cost item in question concerned the initial purchase of trash receptacles. The Cities agree that this cost was inadvertently included and cannot be used to calculate a weighted average uniform cost in an RRM, as it was a one-time cost. The proposed weighted average uniform cost allowance has therefore been adjusted to remove this cost, resulting in a change from **\$6.75** to **\$6.74** per transit stop. Please see Transit Trash Collection Unit (Per Pickup) Adjusted (2 10 11) Cost Survey Results, attached hereto, which sets forth the basis for this calculation.

Additionally, the Cities also believe that time cost studies must be included as an alternative to support actual labor costs. The Draft Staff Analysis does not indicate why time cost studies were removed from the proposed Ps & Gs.

For convenience, the Cities have attached a revised Draft Ps & Gs in "redline" format to reflect these requested changes. Other minor clarifying changes also have been made to the Ps & Gs, as noted below.

B. Comments on Ps & Gs

The following comments on the proposed Ps & Gs submitted by Commission staff are set forth in the attached redline. Minor typographical corrections are not discussed herein, but are included in the redline.

Mr. Drew Bohan
February 25, 2011
Page 3

1. Section II, Eligible Claimants

In this section, the Cities request that the discussion of local agency permittees subject to the Ballona Creek and Los Angeles River trash TMDLs be clarified to state that such permittees are eligible to claim reimbursement to the extent that they are not subject to the *Ballona Creek* or *Los Angeles River* trash TMDLs. The addition of the names of the trash TMDLs is meant as a clarification.

2. Section III, Period of Reimbursement

The only requested change in this section is the deletion of the word “Actual” on page 3, since the RRM option is a viable one, as corrected.

3. Section IV, Reimbursable Activities

This section contains several requested changes that address the Cities’ position that the RRM option should be included for repetitive maintenance tasks. As noted above, Commission staff determined that the proposed “RRM appears to be complete except for two essential pieces of data.” The first of these related to graffiti cleaning, with staff commenting that the record was “insufficient . . . as to how graffiti removal effects the permit’s purpose of keeping pollutants out of storm water” and that “[a]ssuming that a portion of the ‘cleaning’ costs include graffiti removal, the costs would be inflated because they reflect activities beyond the scope of the mandate.” Staff referred to a declaration from William Yan, Associate Civil Engineer with the County of Los Angeles, which set forth that trash receptacles must be cleaned of various items, including graffiti.

In response to staff’s comment, the Declarations of Alan Mudge and Gino Sotelo (attached hereto) establish that in calculating the rate for the cleaning of trash receptacles for the County, graffiti cleanup was *not* included, as this task is very infrequently performed and thus did not rise to a separate cost item. Thus, this task was not included as a basis for the RRM weighted average unit cost for trash receptacle maintenance and staff’s concern that the cost of cleaning might be inflated by graffiti removal has been addressed.¹

¹ Although graffiti cleaning costs are not included as an element of the RRM weighted average unit cost, we note that this task could fairly be a cost associated with the mandate, since the receptacle is present solely for the purpose of complying with the mandate. If the receptacle is a target for graffiti, the cost for removing graffiti would not have been incurred but for the mandate, which required the receptacle to be installed.

BURHENN & GEST LLP

Mr. Drew Bohan
February 25, 2011
Page 4

Staff's second concern related to an item in the City of Bellflower's cost survey entitled "other" that had not been identified, thus making it "impossible to tell whether the surveyed costs go beyond the scope of the mandate." In response to this comment, the Cities have attached the Declaration of Bernardo Iniguez of the City of Bellflower, indicating that this item represented the cost of initially purchasing trash receptacles. Since this is a one-time cost, and not part of repetitive maintenance activities, it has been removed from the RRM calculations, as set forth in the attached Transit Trash Collection Unit (Per Pickup) Adjusted (2 10 11) Cost Survey Results.

With the clarification of these two issues, the Cities believe that they have fully addressed the record deficiencies identified by staff and that a RRM option should be included in the Ps & Gs. (We note that the Department of Finance supported an RRM option in its comments filed on July 23, 2010.) The attached redline reflects the re-inclusion of the RRM option for the maintenance activities identified in Section IV.B of the Ps & Gs.

Additionally, the Cities note that the proposed Ps & Gs do not include a provision for time studies for repetitive tasks. Since the Ps & Gs allow claimants to use actual cost data for the repetitive tasks of trash receptacle maintenance, time studies must be an available option to support labor costs in an actual cost claim. The Cities have included a paragraph in Section IV allowing such studies.

4. Section V, Claim Preparation and Submission

The first sentence of this section has been amended to reflect that actual costs that are claimed must be supported by source documentation as described in section IV. Obviously, costs sought under an RRM do not fall under this requirement.

C. Response to State Controller's Office Comments

The SCO's comments on Section III of the Ps & Gs, slightly modified for consistency, have been incorporated into the attached redline. The SCO raises two principal comments on Section IV. The first comment adds two categories of documents, time sheets and calendars, to the list of evidence corroborating source documents. These have been incorporated into the redline. The SCO also recommends deleting "training packets" from this list. The Cities do not agree to this deletion, as training packets can serve as corroborative evidence. Moreover, they have been included as such evidence in the recent Commission-approved Ps & Gs for the Crime Victim Rights test claim, 05-PGA-28 (CSM-96-358-01) (adopted July 29, 2010).

The second comment on Section IV deletes categories of reimbursable activities found to constitute a state mandate. The Cities disagree with this comment. Staff has agreed that the tasks set forth under Section IV.A (1-5) and IV.B (1-4) are appropriate for

BURHENN & GEST LLP

Mr. Drew Bohan
February 25, 2011
Page 5

reimbursement. To ensure that the claimants, and the State, understand in detail the items that are acceptable for reimbursement, these tasks should continue to be identified in the Ps & Gs.

* * *

The Cities appreciate this opportunity to provide comments on the proposed Ps & Gs and look forward to the hearing on March 24. The Cities respectfully request that the proposed Ps & Gs be revised as set forth in the attached redline document and submitted to the Commission for its approval.

Please call me or e-mail if you or your staff have any questions concerning these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "David W. Burhenn", with a long horizontal flourish extending to the right.

David W. Burhenn

Encl.

Municipal Storm Water and Urban Runoff Discharges Test Claim

DECLARATIONS OF ALAN MUDGE,
GINO SOTELO AND BERNARDO
INIGUEZ, SUBMITTED IN SUPPORT OF
CITY CLAIMANTS' COMMENTS ON
PROPOSED Ps & Gs



County of Los Angeles
Transit Trash Receptacle Cleaning Contracts
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 Alan Mudge

Alan Mudge makes the following declaration and statement under oath:

I, **Alan Mudge, General Manager**, of ShelterClean, Inc. declare that I am responsible for ensuring trash receptacles at bus stops and the 10-foot area around each trash receptacle are thoroughly cleaned of any graffiti, stickers, posters, litter, dust, dirt, weeds, and any residue in the performance of maintenance services, to implement the (above) captioned Permit requirements.

I declare that the County of Los Angeles (County) is charged three separate rates for cleaning: (1) the bus bench, (2) the bus stop shelter, and (3) the trash receptacle.

I declare that it is my information or belief that the costs of graffiti removal are included in the rates for cleaning benches and shelters as these fixtures provide the flat surfaces necessary for graffiti display.

I declare that it is my information and belief that graffiti is very rarely found on the trash receptacle.

I declare that it is my information or belief that the very infrequent task of removing graffiti from trash receptacles result in little or no costs to ShelterClean, Inc.

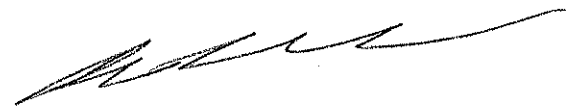
Consequently, I declare that the negligible costs of graffiti removal are not used by **ShelterClean, Inc.**, in developing the rate for cleaning trash receptacles charged to the County in the Maintenance Program For Non-Advertising Bus Stop Amenities – South County (Agreement No. 076721).

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.

2-17-11

Date and Place



Signature



12375 Mills Ave. Suite #7 Chino CA. 91710
Contractor License # 936393 B, C-33, D-38,42,49,63

**County of Los Angeles
Transit Trash Receptacle Cleaning Contracts
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 Gino Sotelo

Gino Sotelo makes the following declaration and statement under oath:

I, **Gino Sotelo, General Operations Manager**, of Sureteck Industrial & Commercial Services, Inc. declare that I am responsible for ensuring trash receptacles at bus stops and the 10-foot area around each trash receptacle are thoroughly cleaned of any graffiti, stickers, posters, litter, dust, dirt, weeds, and any residue in the performance of maintenance services, to implement the (above) captioned Permit requirements.

I declare that the County of Los Angeles (County) is charged three separate rates for cleaning: (1) the bus bench, (2) the bus stop shelter, and (3) the trash receptacle.

I declare that it is my information or belief that the costs of graffiti removal are included in the rates for cleaning benches and shelters as these fixtures provide the flat surfaces necessary for graffiti display.

I declare that it is my information and belief that graffiti is very rarely found on the trash receptacle.

I declare that it is my information or belief that the very infrequent task of removing graffiti from trash receptacles result in little or no costs to Sureteck Industrial & Commercial Services, Inc.

DECLARATION OF GINO SOTELO

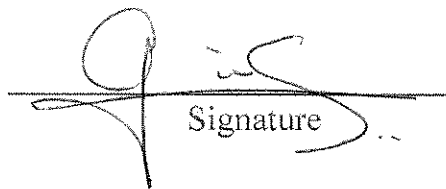
Page 1 of 2

Consequently, I declare that the negligible costs of graffiti removal are not used by **Sureteck Industrial & Commercial Services**, in developing the rate for cleaning trash receptacles charged to the County in the Maintenance Program For Non-Advertising Bus Stop Amenities –North County (Agreement No. 074400).

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.

2/15/11
Date


Signature

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF BERNARDO INIGUEZ

I, BERNARDO INIGUEZ, hereby declare and state as follows:

1. I am Environmental Services Manager for the City of Bellflower, California (“City”), one of the Claimants before the Commission on State Mandates regarding Municipal Storm Water and Urban Runoff Discharges, a mandate of the Los Angeles Regional Water Quality Control Board. I participated in the City’s response to a “Unit Cost Survey” concerning costs incurred by the City in performing the cleaning and maintenance of trash receptacles.

2. I have personal and first-hand knowledge of the matters set forth in this declaration and could, if called upon, testify competently thereto.

3. In the column on the Unit Cost Survey prepared for the City, one amount was included in the “Other” column on the survey form. This amount, for \$3,421, was for the initial purchase of trash receptacles.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 15, 2011 at Bellflower, California.



Bernardo Iniguez

Municipal Storm Water and Urban Runoff Discharges Test Claim

TRANSIT TRASH COLLECTION UNIT
[PER PICKUP] ADJUSTED (2 10 11)
COST SURVEY RESULTS, SUBMITTED
IN SUPPORT OF CITY CLAIMANTS'
COMMENTS ON PROPOSED Ps & Gs

Transit Trash Collection Unit [Per Pickup] Adjusted (2 10 11) Costs Survey Results (Note a)
Los Angeles Regional Quality Control Board Order No. 01-182, Permit CAS004001, Part 4F5c3

Respondent Survey	Fiscal Years							(X) Average # Pickups (Note b)	(Y) @ year	(XY=Z) Unit Cost @ Pickup	M Weighted # Units (Note d)	M/Total=D Ave. Adjustment % of Total	DXZ Result
	2008-09	2007-08	2006-07	2005-06	2004-05	2003-04	2002-03						
1 Los Angeles County Beverly Hills [in watershed] Norwalk [e]	\$893	\$1,241	\$1,152	\$1,122	\$1,127	\$1,132	(Note c)	\$1,111	156	\$7.12	2,513	34.81%	\$2.48
2 Downey	\$347	\$321	\$320	\$290	\$272	\$581	\$602	\$390	52	\$7.51	1,497	20.74%	\$1.56
3 Carson [2.37x52 wks=134]	\$311	\$299	\$708	\$144	\$144	\$144	\$144	\$271	134	\$2.02	1,434	19.86%	\$0.40
4 Bellflower	\$526	\$522	\$528	\$530	\$504	\$486	\$430	\$504	52	\$9.69	1,323	18.33%	\$1.78
5 Azusa	\$1,504	\$1,504	\$1,504 [f]					\$1,504	104	\$14.46	39	0.54%	\$0.08
6 Artesia Commerce [in watershed] Covina [e]	\$1,299	\$1,299	\$1,271	\$1,271	\$1,361	\$1,224	\$1,180	\$1,272	104	\$12.23	63	0.87%	\$0.11
7 Signal Hill	\$398	\$384	\$374	\$374	\$374	\$353	\$343	\$371	52	\$7.14	350	4.85%	\$0.35
Average by Respondent													
Average by Year	\$754	\$796	\$837	\$622	\$630	\$653	\$540	\$775			7,219	100.00%	

Notes

- [a] This survey table presents data by fiscal year and by respondent. A weighted mean average per pickup cost of \$6.75 was found.
- [b] Average annual unit cost per trash receptacle over the reimbursement period. Totals were divided by the number of nonzero years.
- [c] During FY 02-03, trash receptacles were installed over a 3-month period. During the installation period, the cleaning and trash pick-up service was first handled in-house and later by contract. Because the number of trash receptacles was not a fixed number during this period and the maintenance service was handled in-house and by contract, it is difficult to accurately annualize the unit cost for FY 02-03.
- [d] The number of units is the sum of all trash receptacles reported by respondents in each average annual cost year [above].
- [e] Survey results were inconclusive. In Norwalk's case, contractor billed city for the combined costs of trash collection and bus stop cleaning. In Covina's case, contractor used numerous metrics to bill city, including per ton disposal costs by refuse type. \$6,517 was incurred during four months of 2006-07. Annualized cost was \$19,551 for 13 receptacles or 1,504 per receptacle.
- [f]

Municipal Storm Water and Urban Runoff Discharges Test Claim

REDLINE OF PROPOSED Ps & Gs
CONTAINING COMMENTS OF CITY
CLAIMANTS

Hearing Date: March 24, 2011
J:\mandates\2003\tc\03tc04\psgs\draft Ps&Gs

DRAFT PARAMETERS AND GUIDELINES

Los Angeles Regional Quality Control Board Order No. 01-182
Permit CAS004001
Part 4F5c3

Municipal Storm Water and Urban Runoff Discharges

03-TC-04, 03-TC-20, 03-TC-21

County of Los Angeles, Claimant (03-TC-04);
Cities of Artesia, Beverly Hills, Carson, Norwalk, Rancho Palos Verdes, Westlake Village,
Azusa, Commerce, Vernon, Claimants (03-TC-20);
Bellflower, Covina, Downey, Monterey Park, Signal Hill, Claimants (03-TC-21)

I. SUMMARY OF THE MANDATE

This consolidated test claim was filed by the County of Los Angeles and several cities in the Los Angeles region, alleging that various sections of the 2001 storm water permit (Permit CAS004001) adopted by the Los Angeles Regional Water Quality Control Board constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution. On July 31, 2009, the Commission adopted a Statement of Decision, finding that part 4F5c3 of the permit imposes a reimbursable state-mandated program on specified local agencies. (California Regional Water Quality Control Board, Los Angeles Region, Order No. 01-182, Permit CAS004001 (12/13/01), part 4F5c3, page 49.) Part 4F5c3 states the following:

Permittees not subject to a trash TMDL [total maximum daily load¹] shall [¶]...[¶] Place trash receptacles at all transit stops within its jurisdiction that have shelters no later than August 1, 2002, and at all other transit stops within its

¹ “Under section 303(d) of the Clean Water Act, states, territories, and authorized tribes are required to develop lists of impaired waters. These are waters that are too polluted or otherwise degraded to meet the water quality standards set by states, territories, or authorized tribes. The law requires that these jurisdictions establish priority rankings for waters on the lists and develop TMDLs for these waters. A Total Maximum Daily Load, or TMDL, is a calculation of the maximum amount of a pollutant that a waterbody can receive and still safely meet water quality standards.” See <<http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/index.cfm>> as of February 2, 2011.

jurisdiction no later than February 3, 2003. All trash receptacles shall be maintained as necessary.²

The Commission found that each local agency subject to the permit and not subject to a trash total maximum daily load (TMDL), is entitled to reimbursement to: "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." All other activities pled in the test claim were denied by the Commission. The Statement of Decision was issued in September 2009.

II. ELIGIBLE CLAIMANTS

The following local agencies that incur increased costs as a result of this mandate are eligible to claim reimbursement:

- Local agency permittees identified in the Los Angeles Regional Quality Control Board Order No. 01-182, Permit CAS004001, that are *not* subject to a trash TMDL are eligible to claim reimbursement for the mandated activities.
- The following local agency permittees that are subject to the Ballona Creek trash TMDL are eligible to claim reimbursement for the mandated activities only to the extent they have transit stops located in areas not covered by the Ballona Creek trash TMDL requirements:

Beverly Hills, Culver City, Inglewood, Los Angeles (City), Los Angeles County
Santa Monica, West Hollywood

These local agency permittees are not eligible to claim reimbursement for the mandated activities for transit stops located in areas covered by the Ballona Creek trash TMDL requirements.

- From August 28, 2002, until September 22, 2008, the following local agency permittees that are subject to the Los Angeles River trash TMDL are eligible to claim reimbursement for the mandated activities:
 - Alhambra, Arcadia, Bell, Bell Gardens, Bradbury, Burbank, Calabasas, Carson, Commerce, Compton, Cudahy, Downey, Duarte, El Monte, Glendale, Hidden Hills, Huntington Park, Irwindale, La Canada Flintridge, Los Angeles (City), Los Angeles County, Lynwood, Maywood, Monrovia, Montebello, Monterey Park, Paramount, Pasadena, Pico Rivera, Rosemead, San Fernando, San Gabriel, San Marino, Santa Clarita, Sierra Madre, Signal Hill, Simi Valley, South El Monte, South Gate, South Pasadena, Temple City, Vernon.
- Beginning September 23, 2008, the following local agency permittees that are subject to the Los Angeles River trash TMDL are eligible to claim reimbursement for the mandated

² California Regional Water Quality Control Board, Los Angeles Region, Order No. 01-182, Permit CAS004001 (12/13/01), part 4F5c3, page 49.

activities only to the extent they have transit stops located in areas not covered by the Los Angeles River trash TMDL requirements:

Alhambra, Arcadia, Bell, Bell Gardens, Bradbury, Burbank, Calabasas, Carson, Commerce, Compton, Cudahy, Downey, Duarte, El Monte, Glendale, Hidden Hills, Huntington Park, Irwindale, La Canada Flintridge, Los Angeles (City), Los Angeles County, Lynwood, Maywood, Monrovia, Montebello, Monterey Park, Paramount, Pasadena, Pico Rivera, Rosemead, San Fernando, San Gabriel, San Marino, Santa Clarita, Sierra Madre, Signal Hill, Simi Valley, South El Monte, South Gate, South Pasadena, Temple City, Vernon.

Beginning September 23, 2008, these local agency permittees are not eligible to claim reimbursement for the mandated activities for transit stops located in areas covered by the Los Angeles River trash TMDL requirements.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557 states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year.

The County of Los Angeles filed a test claim on *Transit Trash Receptacles* (03-TC-04) on September 2, 2003. The Cities of Artesia, Beverly Hills, Carson, La Mirada, Monrovia, Norwalk, Rancho Palos Verdes, San Marino, and Westlake Village filed a test claim on *Waste Discharge Requirements* (03-TC-20) on September 30, 2003. The Cities of Baldwin Park, Bellflower, Cerritos, Covina, Downey, Monterey Park, Pico Rivera, Signal Hill, South Pasadena, and West Covina filed a test claim on *Storm Water Pollution Requirements* (03-TC-21) on September 30, 2003. Each test claim alleged that Part 4F5C3 of the Los Angeles Regional Water Quality Control Board Order No. 01-182, Permit CAS004001 was a reimbursable state-mandated program.

The filing dates of these test claims establish eligibility for reimbursement beginning July 1, 2002, pursuant to Government Code section 17557, subdivision (e), and continues until a new NPDES permit issued by the Regional Water Resources Control Board for Los Angeles County is adopted.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual Costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560, subdivision (a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. Pursuant to Government Code section 17560, subdivision (b), in the event that revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, subdivision (c), between November 15 and February 15, a local

agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564, subdivision (a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

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.B below. Claimants may elect to use either actual costs, including costs based on time studies (as set forth below) or RRM rates for repetitive trash collection tasks.

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 costs were incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

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.

With respect to costs incurred as identified in Section IV.B below, Claimants may elect to be reimbursed using an RRM methodology. Under this methodology, the annual standard or unit cost for each trash collection or “pickup” is multiplied by the annual number of trash collections (number of receptacles times pickup events for each receptacle) to compute the annual reimbursement for trash collection activities, subject to the limitation of no more than three pickups per week.

The standard unit RRM rate per trash collection is \$6.74 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.

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

For each eligible local agency, the following activities are reimbursable:

- A. Installation of Trash Receptacles (one-time per transit stop):
 1. Identify locations of all transit stops within the jurisdiction required to have a trash receptacle pursuant to the Permit.
 2. Selection of receptacle and pad type, evaluate proper placement of receptacles and prepare specifications and drawings.
 3. Contract preparation, specification review process, bid advertising, and review and award of bid.
 4. Purchase or construct receptacles and pads and install receptacles and pads.
 5. 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.
- B. Maintenance of Trash Receptacles and Pads (on-going as needed):
 1. Collect trash on routine basis, including trash collection and disposal at disposal/recycling facility. This activity is limited to no more than three times per week.
 2. Inspection of receptacles and pads for wear, cleaning, emptying and other maintenance needs.
 3. Maintenance of receptacles and pads, including painting, cleaning and repair of receptacles and replacement of liners, and cost of paints, cleaning supplies and liners. Graffiti removal is not reimbursable.
 4. Replacement of individual damaged or missing receptacles, including costs of purchase and installation of replacement receptacles and disposal/recycling of replaced receptacles or pads.

Eligible claimants must use the actual cost method to claim costs for the tasks reflected in Sections IV.A(1-5).

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

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for the reimbursable activities identified in section IV of this document. Actual costs that are claimed ~~Each reimbursable cost must be~~

supported by source documentation as described in section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for 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.

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 were 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 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 A.1, Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

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 (1) the 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 2 CFR Part 225 (Office of Management and Budget (OMB) Circular A-87). Claimants have the option of using 10% of 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 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) and the indirect shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225, Appendix A and B (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 distributions 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 2 CFR Part 225, Appendix A and B (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 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B)) shall be accomplished by (1) separate 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. RECORDS RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter³ 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 is filed or last amended, whichever 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. 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 REVENUES AND REIMBURSEMENTS

Any offsets 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. In addition, reimbursement for this mandate received from any federal, state or non-local source shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (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 and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1)(A), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon the request of a local agency or school district, 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 to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE 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 factual findings is found in

³ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

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

Commission on State Mandates

Original List Date:

Last Updated: 2/18/2011

List Print Date: 02/25/2011

Claim Number: 03-TC-04, 19, 20, 21

Issue: Municipal Stormwater and Urban Runoff Discharges

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.)

Mr. Wayne Shimabukuro	Tel: (909) 386-8850
County of San Bernardino	Email wayne.shimabukuro@atc.sbcounty.gov
Auditor/Controller-Recorder-Treasurer-Tax Collector	Fax: (909) 386-8830
222 West Hospitality Lane, 4th Floor	
San Bernardino, California 92415-0018	

Mr. Ray Taylor	Tel: (818) 706-1613
City of Westlake Village	Email Ray@wlv.org
31200 Oakcrest Drive	Fax:
Westlake Village, CA 91361	

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

Ms. Lisa Bond	Tel: (213) 626-8484
Richards, Watson & Gershon, LLP	Email lbond@rwglaw.com
355 South Grand Avenue, 40th Floor	Fax: (213) 626-0078
Los Angeles, CA 90071	

Ms. Jennifer L. Fordyce	Tel: (916) 324-6682
State Water Resources Control Board	Email jfordyce@waterboards.ca.gov
1001 I Street, 22nd floor	Fax: (916) 341-5199
Sacramento, CA 95814	

Mr. Andy Nichols	Tel: (916) 455-3939
Nichols Consulting	Email andy@nichols-consulting.com
1857 44th Street	Fax: (916) 739-8712
Sacramento, CA 95819	

Mr. Michael Lauffer State Water Resources Control Board 1001 I Street, 22nd Floor Sacramento, CA 95814-2828	Tel: (916)341-5183 Email mlauffer@waterboards.ca.gov Fax: (916)641-5199
Mr. Mark C. Whitworth City of Vernon 4305 Santa Fe Avenue Vernon, CA 90058	Tel: (323)583-8811 Email Kenomoto@ci.vernon.ca.us Fax:
Ms. Kimberley Nguyen MAXIMUS 3130 Kilgore Road, Suite 400 Rancho Cordova, CA 95670	Tel: (916)471-5516 Email kimberleynguyen@maximus.com Fax: (916)366-4838
Ms. Donna Ferebee Department of Finance (A-15) 915 L Street, 11th Floor Sacramento, CA 95814	Tel: (916)445-3274 Email donna.ferebee@dof.ca.gov Fax: (916)323-9584
Mr. Peter H. Chang California Department of Justice 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550	Tel: (916)324-8835 Email peter.chang@doj.ca.gov Fax: (916)324-8835
Mr. J. Bradley Burgess Public Resource Management Group 895 La Sierra Drive Sacramento, CA 95864	Tel: (916)595-2646 Email Bburgess@mgtamer.com Fax:
Ms. Angie Teng State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916)323-0706 Email ateng@sco.ca.gov Fax:
Ms. Marianne O'Malley Legislative Analyst's Office (B-29) 925 L Street, Suite 1000 Sacramento, CA 95814	Tel: (916)319-8315 Email marianne.Omalley@lao.ca.gov Fax: (916)324-4281
Ms. Carla Shelton Department of Finance 915 L Street, 7th Floor Sacramento, CA 95814	Tel: carla.shelton@dof.ca.gov Email carla.shelton@dof.ca.gov Fax:
Mr. Leonard Kaye Los Angeles County Auditor-Controller's Office 500 W. Temple Street, Room 603 Los Angeles, CA 90012	Tel: (213)974-9791 Email lkaye@auditor.lacounty.gov Fax: (213)617-8106

Mr. Jeff Carosone Department of Finance (A-15) 915 L Street, 8th Floor Sacramento, CA 95814	Tel: (916)445-8913 Email jeff.carosone@dof.ca.gov Fax:
Mr. Sergio Ramirez City of Foster City/Estero Municipal Improvement District 100 Lincoln Centre Drive Foster City, CA 94404	Tel: (650)286-3544 Email sramirez@fostercity.org Fax:
Mr. Jim Spano State Controller's Office (B-08) Division of Audits 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916)323-5849 Email jspano@sco.ca.gov Fax: (916)327-0832
Ms. Candice K. Lee Richards, Watson & Gershon, LLP 355 South Grand Avenue, 40th Floor Los Angeles, CA 90071	Tel: (213)626-8484 Email clee@rwglaw.com Fax: (213)626-0078
Ms. Susan Geanacou Department of Finance (A-15) 915 L Street, Suite 1280 Sacramento, CA 95814	Tel: (916)445-3274 Email susan.geanacou@dof.ca.gov Fax: (916)449-5252
Mr. Howard Gest Burhenn & Gest, LLP 624 S. Grand Ave., Suite 2200 Los Angeles, California 90017	Tel: (213)688-7715 Email hgest@burhenngest.com Fax: (213)688-7716
Mr. Thomas Howard State Water Resources Control Board P.O. Box 2815 Sacramento, CA 95812-2815	Tel: (916)341-5599 Email thoward@waterboards.ca.gov Fax: (916)341-5621
Mr. Richard Montevideo Rutan & Tucker, LLP 611 Anton Blvd., Suite 1400 Costa Mesa, CA 92626	Tel: (714)641-5100 Email rmontevideo@rutan.com Fax: (714)546-9035
Mr. David Wellhouse David Wellhouse & Associates, Inc. 9175 Kiefer Blvd, Suite 121 Sacramento, CA 95826	Tel: (916)368-9244 Email dwa-david@surewest.net Fax: (916)368-5723
Mr. Allan Burdick CSAC-SB 90 Service 2001 P Street, Suite 200 Sacramento, CA 95811	Tel: (916)443-9136 Email allan_burdick@mgtamer.com Fax: (916)443-1766

Ms. Juliana F. Gmur MAXIMUS 2380 Houston Ave Clovis, CA 93611	Tel: (916)471-5513 Email julianagmur@msn.com Fax: (916)366-4838
Ms. Harmeet Barkschat Mandate Resource Services, LLC 5325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: (916)727-1350 Email harmeet@calsdrc.com Fax: (916)727-1734
Ms. Evelyn Tseng City of Newport Beach 3300 Newport Blvd. P. O. Box 1768 Newport Beach, CA 92659-1768	Tel: (949)644-3127 Email etseng@city.newport-beach.ca.gov Fax: (949)644-3339
Ms. Annette Chinn Cost Recovery Systems, Inc. 705-2 East Bidwell Street, #294 Folsom, CA 95630	Tel: (916)939-7901 Email achinnrcs@aol.com Fax: (916)939-7801
Mr. Jay Lal State Controller's Office (B-08) Division of Accounting & Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916)324-0256 Email JLal@sco.ca.gov Fax: (916)323-6527
Ms. Jolene Tollenaar MGT of America 2001 P Street, Suite 200 Sacramento, CA 95811	Tel: (916)443-9136 Email jolene_tollenaar@mgtamer.com Fax: (916)443-1766

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Solano and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On February 25, 2011, I served the:

Co-Claimant Comments

Municipal Storm Water and Urban Runoff Discharges

03-TC-04, 03-TC-19, 03-TC-20, 03-TC-21

Los Angeles Regional Quality Control Board Order No. 01-182

Permit CAS004001; Part 4F5c3

County of Los Angeles, Cities of Artesia, Beverly Hills, Carson, Norwalk, Rancho Palos Verdes, Westlake Village, Azusa, Commerce, Vernon, Bellflower, Covina, Downey, Monterey Park, Signal Hill, Co-claimants

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 25, 2011 at Sacramento, California.


Heidi J. Palchik