

**NOTICE OF INTENT TO JOIN A CONSOLIDATED  
INCORRECT REDUCTION CLAIM**

**1. TITLE OF CONSOLIDATED INCORRECT  
REDUCTION CLAIM**

Municipal Storm Water and Urban Runoff Discharges  
20-0304-I-08

**2. JOINT-CLAIMANT INFORMATION**

City of Downey  
Name of Local Agency or School District  
Anil Gandhi  
Joint-Claimant Contact  
Finance Director  
Title  
1111 Brookshire Avenue  
Street Address  
Downey, CA 90241  
City, State, Zip  
562-904-7265  
Telephone Number  
562-904-7270  
Fax Number  
agandhy@downeyca.org  
E-Mail Address

**3. AMOUNT OF INCORRECT REDUCTION**

*Please specify the fiscal year and amount of reduction. More than one fiscal year may be claimed.*

<u>Fiscal Year</u>	<u>Amount of Reduction</u>
2002-03	\$48,381.00
2003-04	\$16,877.00
2004-05	\$79,780.00
2005-06	\$41,883.00
<b>TOTAL:</b>	<b>\$186,921.00</b>

**4. FINAL STATE AUDIT REPORT OR OTHER  
WRITTEN NOTICE OF ADJUSTMENT**

Please include a copy of the final state audit report, letter, remittance advice, or other written notice of adjustment from the Office of State Controller that explains the reason(s) for the reduction or disallowance.

**5. REIMBURSEMENT CLAIMS**

Please include a copy of the subject reimbursement claims submitted to the Office of State Controller.

<i>For CSM Use Only</i>	
Filing Date	<b>RECEIVED</b> February 4, 2021 <b>Commission on State Mandates</b>
19-0304-I-04 (20-0304-I-08)	
Consolidated IRC #	

**6. OPTING OUT PROCEDURES FOR A  
CLAIMANT-INITIATED CONSOLIDATION**

To opt out of a consolidated incorrect reduction claim, a joint-claimant shall file a written notice with the Commission within fifteen (15) days of service of the Office of State Controller's comments. A copy of the notice must be served on all parties and interested parties on the mailing list. Proof of service shall be filed with the notice pursuant to section 1181.2.

No later than one (1) year after opting out, or within the statute of limitations under section 1185(b) of the Commission's regulations, whichever is later, a claimant that opts out of a consolidated claim shall file an individual incorrect reduction claim pursuant to Commission requirements in order to preserve its right to challenge a reduction made by the Controller on that same mandate.

If a claimant opts out of a consolidated incorrect reduction claim and an individual incorrect reduction claim for that entity is already on file with the Commission, the individual filing is automatically reinstated.

**7. CLAIM CERTIFICATION**

Joint-Claimant authorizes the original claimant in the above-named incorrect reduction claim to act as its representative in this consolidated incorrect reduction claim, which is filed pursuant to Government Code section 17558.7. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this intent to join a consolidated incorrect reduction claim is true and complete to the best of my own knowledge or information or belief.

Anil Ghandy  
Name & Title of Authorized Local Agency/School District Official

*Anil n Ghandy*  
Signature

3/2/21  
Date

SECTION 4  
FINAL STATE AUDIT REPORT FOR CITY  
OF DOWNEY

# **CITY OF DOWNEY**

Audit Report

## **MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES PROGRAM**

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

*July 1, 2002, through June 30, 2014*



**BETTY T. YEE**  
California State Controller

June 2017



**BETTY T. YEE**  
California State Controller

June 30, 2017

The Honorable Fernando Vasquez  
Mayor of the City of Downey  
11111 Brookshire Avenue  
Downey, CA 90241

Dear Mayor Vasquez:

The State Controller's Office audited the costs claimed by the City of Downey for the legislatively mandated Municipal Storm Water and Urban Runoff Discharges Program (Los Angeles Regional Water Quality Control Board, Order No. 01-182, Permit CAS004001, Part 4F5c3) for the period of July 1, 2002, through June 30, 2014.

The city claimed \$716,563 for the mandated program. Our audit found that \$63,911 is allowable and \$652,652 is unallowable. The costs are unallowable because the city claimed reimbursement for costs not incurred and did not offset the revenues used to fund mandated activities. The State made no payments to the city. The State will pay \$63,911, contingent upon available appropriations.

This final audit report contains an adjustment to costs claimed by the city. If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on the State Mandates (Commission). Pursuant to Section 1185, subdivision (c), of the Commission's regulations (*California Code of Regulations*, Title 3), an IRC challenging this adjustment must be filed with the Commission no later than three years following the date of this report, regardless of whether this report is subsequently supplemented, superseded, or otherwise amended. You may obtain IRC information on the Commission's website at [www.csm.ca.gov/forms/IRCForm.pdf](http://www.csm.ca.gov/forms/IRCForm.pdf).

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, by telephone at (916) 323-5849.

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

JVB/rg

cc: Anil H. Gandhi, Director  
Finance and Information Technology, City of Downey  
Mohammad Mostahkami, P.E., Director  
Public Works, City of Downey  
Yvette M. Abich Garcia, City Attorney  
City of Downey  
James Fructuoso, Assistant Finance Director  
Finance and Information Technology, City of Downey  
Daniel Mueller, Principal Engineer  
Public Works, City of Downey  
Chris Hill, Principal Program Budget Analyst  
Local Government Unit, California Department of Finance  
Steven Pavlov, Finance Budget Analyst  
Local Government Unit, California Department of Finance  
Anita Dagan, Manager  
Local Government Programs and Services Division  
State Controller's Office

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# Audit Report

## Summary

The State Controller's Office (SCO) audited the costs claimed by the City of Downey for the legislatively mandated Municipal Storm Water and Urban Runoff Discharges Program (Los Angeles Regional Water Quality Control Board, Order No. 01-182, Permit CAS004001, Part 4F5c3) for the period of July 1, 2002, through June 30, 2014.

The city claimed \$716,563 for the mandated program. Our audit found that \$63,911 is allowable and \$652,652 is unallowable. The costs are unallowable because the city claimed reimbursement for costs not incurred and did not offset the revenues used to fund mandated activities. The State made no payments to the city. The State will pay \$63,911, contingent upon available appropriations.

## Background

The California Regional Water Quality Control Board, Los Angeles Region (Board), adopted a 2001 storm water permit (Permit CAS004001) that requires local jurisdictions to:

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

On July 31, 2009, the Commission on State Mandates (Commission) determined that part 4F5c3 of the permit imposes a state mandate reimbursable under Government Code (GC) section 17561 and adopted the Statement of Decision. The Commission further clarified that each local agency subject to the permit and not subject to a trash total maximum daily load (TMDL) is entitled to reimbursement.

The Commission also determined that the period of reimbursement for the mandated activities begins July 1, 2002, and continues until a new National Pollutant Discharge Elimination System (NPDES) permit issued by the Board is adopted. On November 8, 2012, the Board adopted a new NPDES permit, Order No. R4-2012-0175, which became effective on December 28, 2012.

The program's parameters and guidelines establish the state mandate and define the reimbursement criteria. The Commission adopted the parameters and guidelines on March 24, 2011. In compliance with GC section 17558, the SCO issues claiming instructions to assist local agencies, school districts, and community college districts in claiming mandated program reimbursable costs.

## Objectives, Scope, and Methodology

We conducted this performance audit to determine whether costs claimed represent increased costs resulting from the Municipal Storm Water and Urban Runoff Discharges Program for the period of July 1, 2002, through June 30, 2014.

The legal authority to conduct this audit is provided by GC sections 12410, 17558.5, and 17561. We did not audit the city's financial statements. We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We limited our review of the city's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures. Our audit scope did not assess the efficiency or effectiveness of program operations.

The objectives of our audit were to determine whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

To achieve our audit objectives, we:

- Reviewed the annual claims filed with the SCO to identify any mathematical errors and performed analytical procedures to determine any unusual or unexpected variances from year-to-year;
- Completed an internal control questionnaire and performed a walk-through of the claim preparation process to determine what information was used, who obtained it, and how it was obtained;
- Assessed whether computer-processed data provided by the city to support claimed costs was complete and accurate and could be relied upon;
- Researched the city's location in relation to the Los Angeles River watershed, the San Gabriel River watershed, and the Los Cerritos Channel and Alamitos Bay watershed and gained an understanding of the trash TMDL effective dates;
- Reviewed the documentation provided to support the one-time costs claimed;
- Determined whether the city claimed reimbursement using the correct unit cost rate;
- Reviewed the documentation provided to support the number of transit stops containing trash receptacles. Corroborated the supporting documentation with physical inspections of a number of current transit stops;
- Reviewed the documentation provided to support the city's process in performing weekly transit stop trash collections; and
- Determined whether the city realized any revenue from the statutes that created the mandated program or reimbursements from any federal, state or non-local source.



**Conclusion**

Our audit found instances of noncompliance with the requirements outlined in the Objectives section. These instances are described in the accompanying Schedule (Summary of Program Costs) and in the Findings and Recommendations section of this report.

For the audit period, the city claimed \$716,563 for costs of the Municipal Storm Water and Urban Runoff Discharges Program. Our audit found that \$63,911 is allowable and \$652,652 is unallowable. The State made no payments to the city. The State will pay \$63,911, contingent upon available appropriations.

**Views of Responsible Officials**

We issued a draft audit report on May 23, 2017. Anil Gandhi, Director of Finance and Information Technology, responded by letter dated June 5, 2017 (Attachment), disagreeing with the audit results. This final audit report includes the city's response.

**Restricted Use**

This report is solely for the information and use of the City of Downey, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

June 30, 2017

**Schedule—**  
**Summary of Program Costs**  
**July 1, 2002, through June 30, 2014**

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2002, through June 30, 2003</u>				
One-time activities:				
Salaries and benefits	\$ 1,126	\$ 1,126	\$ -	
Materials and supplies	+ 18,129	+ 18,129	+ -	
Related indirect costs	+ 85	+ 85	+ -	
Total one-time activities	<u>19,340</u>	<u>19,340</u>	<u>-</u>	
Ongoing activities:				
Unit cost rate	6.74	6.74	-	
Number of transit receptacles	× 151	× 151	× -	
Annual number of trash pickups	× 52	× 52	× -	
Total ongoing activities	<u>52,922</u>	<u>52,922</u>	<u>-</u>	
Total one-time and ongoing activities	72,262	72,262	-	
Less offsetting revenues and reimbursements	-	(48,381)	(48,381)	Finding 2
Total program costs	<u>\$ 72,262</u>	23,881	<u>\$ (48,381)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 23,881</u>		
<u>July 1, 2003, through June 30, 2004</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74	\$ -	
Number of transit receptacles	× 151	× 151	× -	
Annual number of trash pickups	× 52	× 52	× -	
Total ongoing activities	<u>52,922</u>	<u>52,922</u>	<u>-</u>	
Less offsetting revenues and reimbursements	-	(16,877)	(16,877)	Finding 2
Total program costs	<u>\$ 52,922</u>	36,045	<u>\$ (16,877)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 36,045</u>		
<u>July 1, 2004, through June 30, 2005</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74	\$ -	
Number of transit receptacles	× 239	× 239	× -	
Annual number of trash pickups	× 52	× 52	× -	
Total ongoing activities	<u>83,765</u>	<u>83,765</u>	<u>-</u>	
Less offsetting revenues and reimbursements	-	(79,780)	(79,780)	Finding 2
Total program costs	<u>\$ 83,765</u>	3,985	<u>\$ (79,780)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 3,985</u>		

## Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2005, through June 30, 2006</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74	\$ 6.74	
Number of transit receptacles	× 239	× 239	× 239	
Annual number of trash pickups	× 52	× 26	× (26)	
Total ongoing activities	83,765	41,883	(41,882)	Finding 1
Less offsetting revenues and reimbursements	-	(41,883)	(41,883)	Finding 2
Total program costs	<u>\$ 83,765</u>	-	<u>\$ (83,765)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		
<u>July 1, 2006, through June 30, 2007</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74	\$ 6.74	
Number of transit receptacles	× 239	× 239	× 239	
Annual number of trash pickups	× 52	× -	× (52)	
Total program costs	<u>\$ 83,765</u>	-	<u>\$ (83,765)</u>	Finding 1
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		
<u>July 1, 2007, through June 30, 2008</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74	\$ 6.74	
Number of transit receptacles	× 239	× 239	× 239	
Annual number of trash pickups	× 52	× -	× (52)	
Total program costs	<u>\$ 83,765</u>	-	<u>\$ (83,765)</u>	Finding 1
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		
<u>July 1, 2008, through June 30, 2009</u>				
Ongoing activities:				
Unit cost rate	\$ 6.74	\$ 6.74	\$ 6.74	
Number of transit receptacles	× 143.75	× 144	× 144	
Annual number of trash pickups	× 52	× -	× (52)	
Total program costs	<u>\$ 50,382</u>	-	<u>\$ (50,382)</u>	Finding 1
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		

## Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2009, through June 30, 2010</u>				
Ongoing activities:				
Unit cost rate	\$ 6.78	\$ 6.78	\$ 6.78	
Number of transit receptacles	× 112	× 112	× 112	
Annual number of trash pickups	× 52	× -	× (52)	
Total program costs	<u>\$ 39,487</u>	-	<u>\$ (39,487)</u>	Finding 1
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		
<u>July 1, 2010, through June 30, 2011</u>				
Ongoing activities:				
Unit cost rate	\$ 6.80	\$ 6.80	\$ 6.80	
Number of transit receptacles	× 112	× 112	× 112	
Annual number of trash pickups	× 52	× -	× (52)	
Total program costs	<u>\$ 39,603</u>	-	<u>\$ (39,603)</u>	Finding 1
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		
<u>July 1, 2011, through June 30, 2012</u>				
Ongoing activities:				
Unit cost rate	\$ 7.15	\$ 7.15	\$ 7.15	
Number of transit receptacles	× 112	× 112	× 112	
Annual number of trash pickups	× 52	× -	× (52)	
Total program costs	<u>\$ 41,642</u>	-	<u>\$ (41,642)</u>	Finding 1
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		
<u>July 1, 2012, through June 30, 2013</u>				
Ongoing activities:				
Unit cost rate	\$ 7.31	\$ 7.31	\$ 7.31	
Number of transit receptacles	× 112	× 112	× 112	
Annual number of trash pickups	× 52	× -	× (52)	
Total program costs	<u>\$ 42,573</u>	-	<u>\$ (42,573)</u>	Finding 1
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		

## Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference <sup>1</sup>
<u>July 1, 2013, through June 30, 2014</u>				
Ongoing activities:				
Unit cost rate	\$ 7.32	\$ 7.32	\$ (7.32)	
Number of transit receptacles	× 112	× -	× (112)	
Annual number of trash pickups	× 52	× -	× (52)	
<b>Total program costs</b>	<u>\$ 42,632</u>	-	<u>\$ (42,632)</u>	Finding 1
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ -</u>		
<u>Summary: July 1, 2002, through June 30, 2014</u>				
One-time activities	\$ 19,340	\$ 19,340	\$ -	
Ongoing activities	697,223	231,492	(465,731)	
<b>Total one-time and ongoing activities</b>	716,563	250,832	(465,731)	
Less offsetting revenues and reimbursements	-	(186,921)	(186,921)	
<b>Total program costs</b>	<u>\$ 716,563</u>	63,911	<u>\$ (652,652)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 63,911</u>		

<sup>1</sup> See the Findings and Recommendations section.

## Findings and Recommendations

### FINDING 1— Overstated ongoing maintenance costs

The city claimed \$697,223 for the ongoing maintenance of transit stop trash receptacles for the audit period. We found that \$231,492 is allowable and \$465,731 is unallowable. The costs are unallowable because the city claimed reimbursement for costs not incurred.

The city claimed reimbursement for the ongoing maintenance costs using the Commission-adopted reasonable reimbursement methodology (RRM). Under the RRM, the unit cost (which is \$6.74 during the period of July 1, 2002, through June 30, 2009, and is, thereafter, adjusted annually by the implicit price deflator) is multiplied by the number of city-wide transit stop trash receptacles and by the number of annual trash collections.

A summary of the claimed, allowable, and audit adjustment amounts are as follows:

Fiscal Year	Amount Claimed				Amount Allowable				Audit Adjustment
	Number of Trash Receptacles	No. of Annual Trash Collections	Unit Cost Rate	Total	Number of Trash Receptacles	No. of Annual Trash Collections	Unit Cost Rate	Total	
2002-03	151	52	\$ 6.74	\$ 52,922	151	52	\$ 6.74	\$ 52,922	\$ -
2003-04	151	52	6.74	52,922	151	52	6.74	52,922	-
2004-05	239	52	6.74	83,765	239	52	6.74	83,765	-
2005-06	239	52	6.74	83,765	239	26	6.74	41,883	(41,882)
2006-07	239	52	6.74	83,765	239	-	6.74	-	(83,765)
2007-08	239	52	6.74	83,765	239	-	6.74	-	(83,765)
2008-09	143,75	52	6.74	50,382	144	-	6.74	-	(50,382)
2009-10	112	52	6.78	39,487	112	-	6.78	-	(39,487)
2010-11	112	52	6.80	39,603	112	-	6.80	-	(39,603)
2011-12	112	52	7.15	41,642	112	-	7.15	-	(41,642)
2012-13	112	52	7.31	42,573	112	-	7.31	-	(42,573)
2013-14	112	52	7.32	42,632	-	-	-	-	(42,632)
<b>Total ongoing costs</b>				<b>\$ 697,223</b>				<b>\$ 231,492</b>	<b>\$ (465,731)</b>

### Agreement with CalMet Services, Inc.

For the period of January 1, 2006, through June 30, 2014, the city claimed \$465,731 for ongoing maintenance of transit stop trash receptacles. We found that none of the costs claimed are allowable because the services rendered by CalMet Services, Inc., were provided at no cost to the city.

On January 1, 2006, the city entered into an agreement with CalMet Services, Inc. for the collection, transportation, and disposal of solid waste. The contract term is from January 1, 2006, through March 31, 2016.

The agreement with CalMet Services, Inc. (Article IV., Section 4.1, (M) – Solid Waste Collection from City Facilities and Operations) states:

The Contractor will Collect Solid Waste from the City Facilities and Bus Bench Locations specified in Appendix D. More locations may be added to this list. The size of Containers for each site and the existing frequency of collection are shown on Appendix D ... *No charges will be made to the City for the services described in the Section. [Emphasis added].*

The parameters and guidelines (Section IV. Reimbursable Activities) state:

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.

#### Recommendation

No recommendation is applicable for this finding as the period of reimbursement expired on December 27, 2012, with the adoption of a new permit.

#### City's Response

Finding No. 1 disallows all reimbursement for costs incurred subsequent to January 1, 2006, the effective date of the CalMet contract. Finding No. 1 makes this disallowance based on a provision in the CalMet contract that provided that no charge will be made to the City for the cost of collective solid waste from the trash receptacles in question (CalMet Contract, Article IV., section 4.1(M)).

Finding No. 1 erroneously disallows reimbursement, however, for the *maintenance, repair and replacement* of the trash receptacles. The Parameters and Guidelines provide that the City is entitled to be reimbursed for:

1. Collection and disposal of trash at a disposal/recycling facility;
2. Inspection of receptacles and pads for wear, cleaning, emptying, and other maintenance needs;
3. Maintenance of receptacles and pads, including painting, cleaning, and repairing receptacles and replacing liners; and
4. Replacing individual damaged or missing receptacles and pads.

Parameters and Guidelines, adopted March 24, 2011, at p.4. The services provided by CalMet under the contract, however, addressed only the first of the four lines for which the City is entitled to reimbursement. The City is still entitled to a subvention of funds for the other three activities.

It appears that Finding No. 1 disallowed reimbursement for the maintenance, repair, and replacement of the trash receptacles because, under the reasonable reimbursement methodology, the unit cost is multiplied by the annual number of trash collections. This procedure for determining reimbursement, however, does not supersede the Parameter and Guideline's provision that the City is entitled to reimbursement not only for the collection of the trash, but also the maintenance, repair, and replacement of the trash receptacles (Parameters and Guidelines at p.4). Therefore, even if the Controller's office is going to disallow the costs from the collection, which the City does not concede is appropriate, the Controller's office still must allow reimbursement for the maintenance, repair, and replacement of the trash receptacles, services which the CalMet contract did not cover.

The City has incurred \$19,424 in personnel costs for these other mandates from January 1, 2006 to June 30, 2014. (The backup documentation support the employee time devoted to these mandates has

been previously provided to you.) The City also incurred capital costs for the replacement of receptacles when required. The audit must either modify the unit cost to continue to reflect reimbursement for the maintenance, repair and replacement of the trash receptacles, or allow the City to claim the actual costs. If the Controller's office believes that it does not have the authority under the Parameters and Guidelines to modify the unit cost or allow the City to be reimbursed for actual costs, then it should provide reimbursement at the full unit cost minus the savings the City realized as a result of the CalMet contract.

#### SCO's Comments

The finding and recommendation remain unchanged.

#### **Trash Collection Activities**

In regards to the CalMet contract, the city states that it "does not concede" that the costs for the trash collection are unallowable; however, the city has not provided any documentation to support that it incurred a cost for the trash collection activities of the transit stop trash receptacles for the period of January 1, 2006, through June 30, 2014. In addition, the city's comment that it "does not concede" is in conflict with its statement at the end of the response to Finding 1 that the SCO "should provide reimbursement at the full unit cost minus the savings the City realized as a result of the CalMet contract."

#### **Repair, Maintenance, and Replacement of Trash Receptacles**

The city believes that the SCO should allow reimbursement for repair, maintenance, and replacement of the trash receptacles as it "has incurred \$19,424 in personnel costs for these other mandates from January 1, 2006 to June 30, 2014. (The backup documentation support the employee time devoted to these mandates has been previously reported to you). The City also incurred capital costs for the replacement of receptacles when required."

In regards to the \$19,424 in personnel costs, the city provided no documentation to support this exact amount for the period of July 1, 2006, through June 30, 2014. During audit fieldwork, the city provided us with incomplete maintenance work logs for 2002 through 2010. While the maintenance work logs do document that city employees sporadically replaced damaged receptacles, there is no time associated with this activity. In reviewing the city's adopted budget for FY 2006-07 through FY 2013-14, we can confirm that the salaries and benefits for one to two maintenance workers was posted to the Transit (Prop A) Fund (Fund No. 55) for each fiscal year; however, there is no breakdown that specifies the length of time the maintenance workers spent repairing, maintaining, and replacing the trash receptacles. In addition, the salaries and benefits for the maintenance workers were paid for with Proposition A funds, which would have been offset if the costs had been found to be allowable (see Finding 2).

In regards to the capital costs, the city provided purchase orders and payment requests from eight projects completed between 2002 and 2012. The purchase orders and the payment requests did not identify any salaries



and benefits. The scope of the eight projects included furnishing and installing trash receptacles, one among several activities. After analyzing the documents provided, we found that the purchase orders and payment requests are insufficient because they do not clarify that the trash receptacles were installed at transit stops, and if they were, whether the receptacles are replacement receptacles or newly installed receptacles at new transit locations. Additionally, the projects were funded with restricted resources such as Proposition A, county grants, state gas taxes, and contributions from private sources and would have been offset if the costs had been found to be allowable (see Finding 2).

The city states that the SCO “must either modify the unit cost to continue to reflect reimbursement for the maintenance, repair, and replacement of the trash receptacles, or allow the city to claim actual costs.” We have no authority to modify a unit cost rate which has been adopted and included in the regulations. In addition, reimbursement for maintenance, repair, and replacement of the trash receptacles is allowable only through the Commission-adopted RRM.

To conclude, the city states, “If the Controller’s office believes that it does not have the authority under the Parameters and Guidelines to modify the unit cost or allow the City to be reimbursed for its actual costs, then it should provide reimbursement at full unit cost minus the savings the City realized as a result of the CalMet contract.” We disagree. The parameters and guidelines state that to claim reimbursement, the unit cost rate is multiplied by the number of city-wide transit stop trash receptacles and by the number of annual trash collections. The parameters and guidelines provide no alternative to this methodology.

The city was a test claimant for this mandate (03-TC-21) and one of eight respondents to the survey used to develop the unit cost rate of \$6.74. The city was aware of what was included in the development of the unit cost rate and the application of the adopted unit cost rate.

**FINDING 2—  
Unreported offsetting  
revenues and  
reimbursements**

The city did not offset any revenues or reimbursements on its claim forms for the audit period. We found that the city should have offset \$186,921 for the audit period.

The following table summarizes the unreported offsetting revenues for the audit period:

Fiscal Year	Offset Reported	Unreported Offset	Audit Adjustment
2002-03	\$ -	\$ (48,381)	\$ (48,381)
2003-04	-	(16,877)	(16,877)
2004-05	-	(79,780)	(79,780)
2005-06	-	(41,883)	(41,883)
2006-07	-	-	-
2007-08	-	-	-
2008-09	-	-	-
2009-10	-	-	-
2010-11	-	-	-
2011-12	-	-	-
2012-13	-	-	-
2013-14	-	-	-
Total	<u>\$ -</u>	<u>\$ (186,921)</u>	<u>\$ (186,921)</u>

#### Proposition A Local Return Program

The city adopted its Bus Bench Program for maintaining the city's bus benches and trash receptacles. The bus bench program is fully funded by Proposition A.

Proposition A is a one-half cent sales tax approved by Los Angeles County voters in 1980. As a condition of voter approval, the sales tax revenue is restricted to benefiting public transit.

The proposition A Local Return Guidelines, section II. Project Eligibility, identify reimbursement for bus stop improvement and maintenance projects such as installation, replacement, and/or maintenance as follows:

#### 2. BUS STOP IMPROVEMENTS AND MAINTENANCE (Codes 150, 160, & 170)

Examples of eligible Bus Stop Improvement and Maintenance projects include installation/replacement and/or maintenance of:

- Concrete landings – in street for buses and at sidewalk for passengers
- Bus turn-outs
- Benches
- Shelters
- Trash receptacles
- Curb cuts
- Concrete or electrical work directly associated with the above items

#### One-time activities

We found that the city should have offset \$17,699 in Proposition A funds used to purchase trash receptacles.

For FY 2002-03, the city claimed reimbursement of \$19,340 to purchase and install 50 transit stop trash receptacles. We reviewed the city's adopted budget and confirmed that \$17,699 of the amount claimed was posted to the Bus Bench Program and funded with Proposition A funds. As the city used Proposition A funds, which are authorized to be used on the mandated activities, it did not have to rely solely on discretionary general funds to pay for the mandated activities.

#### **Ongoing activities**

We found that the city should have offset \$169,222 in Proposition A funds used to pay for the ongoing maintenance of transit stop trash receptacles during the audit period.

As stated in Finding 1, we found that from July 1, 2002 through December 31, 2005, \$231,492 in ongoing maintenance costs of transit stop trash receptacles is allowable. We reviewed the city's adopted budget and confirmed that \$169,222 was posted to the Bus Bench Program and funded with Proposition A funds. As the city used Proposition A funds, which are authorized to be used on the mandated activities, it did not have to rely solely on discretionary general funds to pay for the mandated activities.

The parameters and guidelines, section VIII. Offsetting Revenues and Reimbursements, state:

Any offsetting revenue 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.

#### **Recommendation**

No recommendation is applicable for this finding as the period of reimbursement expired on December 27, 2012, with the adoption of a new permit.

#### **City's Response**

Excerpts of the city's response letter is as follows:

Finding No. 2 reduces the City's claim in the amount of \$186,921 based on the assertion that the City used Proposition A funds for the purchase and maintenance of the trash receptacles. Finding No. 2 is also erroneous. The Parameters and Guidelines provide that reimbursement for this mandate received from any "federal, state or non-local source" shall be identified and deducted from the City's claim. Proposition A is not a federal, state or non-local source within the meaning of the Parameters and Guidelines.

##### **1. Proposition A**

Proposition A is a one-half cent sales tax approved by Los Angeles County voters in 1980. The tax is imposed on the sale of tangible personal property at every retailer in the County and upon the storage, use or other consumption in the County of tangible personal property

purchased from any retailer for storage, use or other consumption in the County. See Los Angeles County Metropolitan Transportation Authority Administrative Code, sections 3-05-020 and 3-05-030.

Proposition A provides that twenty-five percent of the sales tax revenue will be returned to local jurisdictions for local transit purposes. These funds are generally referred to as "Local Return funds."

Under guidelines adopted by the Metropolitan Transportation Authority for the use of Local Return funds, the city has discretion as to the use of those funds as long as the eligible uses is for bus stop improvement and maintenance. Local Return Guidelines, Section II.A.2. The City was not required, however, to use the funds for that purpose. Instead, the City had the discretion to use the funds for any appropriate project.

*The guidelines specifically provide the Proposition A Local Return funds may be used as an advance with respect to a project, with the funds subsequently being returned to the Proposition A account when the advance is reimbursed from another source. The guidelines specifically provide, "Local Return funds may be used to advance a project which will subsequently be reimbursed by federal, state or local grant funding, or private funds, if the project itself is eligible under the Local Return Guidelines." In that case, the reimbursement must be returned to the appropriate Proposition A Local Return fund. Guidelines, Section 4.C.10.*

2. The Draft Audit's Conclusion that Proposition A Funds Constituted Reimbursement from a Federal, State, or Non-Local Source is Erroneous

Finding No. 2 disallows \$186,921 of the City's costs based on the assertion that the Proposition A funds advanced by the City should be offset against the City's claim. In support of this disallowance, Finding No. 2 cites the Parameter and Guidelines provision quoted above, that "reimbursement for this mandate received from any federal, state or non-local source shall be identified and deducted from this claim." This finding is erroneous for several reasons.

First, Proposition A is a local tax. It is therefore not a federal or state source.

Second, Proposition A is not a non-local source. It is a local sales tax imposed on local citizens.

Third, it was entirely proper for the City to use Proposition A funds as an advance, with the exception that the funds would be paid back to the Proposition A account to be used for other transit purposes when the City recovers the funds pursuant to its Test Claim. As discussed, Proposition A guidelines specifically provided that "Local Returns funds may be used to advance a project which will subsequently be reimbursed by federal, state or local grant funding, or private funds, if the project itself is eligible under the Local Return Guidelines." In this regard, Proposition A did not require the City to use Proposition A funds for the installation and maintenance of trash receptacle; the City had discretion to use Proposition A funds as an advance and then to use those funds for other transit projects upon their recovery pursuant to the Test Claim. (It should be noted that the draft audit on page 9 contain an erroneous statement that the City adopted a Bus Bench Program that was fully funded by Proposition A. Instead, the City included a statement in its budget about its obligation to install and maintain trash receptacles.)

Thus, it cannot be said that the City's lawful use of Proposition A funds to advance the installation and maintenance of the trash receptacles, with the understanding that, upon reimbursement through the Test Claim, those funds would be returned to the appropriate Proposition A fund for use on other transit projects, was reimbursement from a non-local source. Because the Proposition A funds will be returned to the Proposition A fund to be used for other purposes, the advances (not payment) of those funds was not a reimbursement.

To find differently would be contrary to article XIII, section 6, of the California Constitution. That section was adopted to protect local government's tax revenues. There would be no reduction of the City's claim if the City had used other sales tax revenue to pay for the installation and maintenance of the trash receptacles. Proposition A funds are no different. They are also derived from a one-half cent sales tax, no different from any other sales tax.

The authorities that the Controller's office shared with the City in conjunction with the exit interview are not to the contrary. *County of Fresno v. State of California* held that Article XIII, section 6 was designed to protect the tax revenues of local governments from state mandates that would require expenditures of such revenues." *County of Fresno v. State of California (1991)* 53 Cal.3d 482, 487. Based on this holding, the Controller's office noted that "costs" within the mean of Article XIII, section 6, excludes expenses recoverable from sources other than taxes. Here, however, Proposition A is a local sales tax, one which falls directly within the protection of Article XIII B, section 6. Reimbursement of these tax revenues is therefore not inconsistent with the *County of Fresno*.

The Commission's decision in *Animal Adoption*, Commission on State Mandates Case No. 13-9811-I-02, is also inapplicable. This Improper Reduction Claim addressed the use of Proposition F funds, which were funds obtained through bonds issued pursuant to a ballot measure. Again, that is not the case here. Proposition A is a local sales tax.

The Commission's decisions in the *Two-Way Traffic Signal Program* and that *Behavioral Intervention Plans* claims are likewise inapplicable. In *Two-Way Signal* the funds were derived from a state gas tax, not a local sales tax which Article XIII B, section 6 is meant to protect. Similarly, in *Behavioral Intervention Plans*, the funds were also state funds, not sales taxes. As the Commission said in *Behavioral Intervention Plans* "when funds other than the local proceeds of taxes are thus applied, the Controller may reduce reimbursement accordingly. Commission on State Mandates Case No. CSM4464, State of Decision at 54 (2013) (emphasis added).

#### C. Finding No. 2 is an Unlawful Retroactive Application of the Parameters and Guidelines

There is another reason why Finding No. 2 is erroneous. The City commenced the advancement of Proposition A funds on or around July 1, 2002, the commencement of the first audit period, or shortly thereafter. As discussed above, at the time the City advanced the Proposition A funds for the installation and maintenance of the trash receptacles, the Proposition A guidelines specifically provided that the City could advance these funds and then return them to its Proposition A account when the expenditures were reimbursed.

The Parameters and Guidelines, on the other hand, were not adopted until March 24, 2011. It would be arbitrary and capricious to find that the Parameters and Guidelines retroactively prohibited an advancement of Proposition A funds in a way that was lawful when those funds were advanced.

In this regard, as a general rule a regulation will not be given a retroactive effect unless it merely clarifies existing law. *People ex rel. Deukmejian v. CHE, Inc.* (1983) 150 Cal.App.3d 123, 135. Retroactivity is not favored in the law. *Aktar v. Anderson* (1957) 58 Cal.App.4<sup>th</sup> 1166, 1179. Regulations that “substantially change the legal effect of past events” cannot be applied retroactively. *Santa Clarita Organization for Planning and the Environment v. Abercrombie* (2015) 240 Cal.App.4<sup>th</sup> 300, 315.

That rule applies here. At the time the City advanced its Proposition A funds to use for the installation and maintenance of the trash receptacles, it was operating under the understanding, consisting with Proposition A Guidelines, that the City could advance those funds and then return them to the Proposition A account for other use once the City obtained a subvention of funds from the state. To retroactively apply the Parameters and Guidelines, adopted in 2011, to preclude a subvention, i.e., to now fund that the City did not use its Proposition A fund as an advance only, substantially changes the legal effect of these past events. Such an application is unlawful.

#### SCO’s Comments

The finding and recommendation remain unchanged. We will respond to the city’s comments in the sequence presented.

#### **1. Proposition A**

The city quotes section 4.C. of the Proposition A and C Local Return Guidelines which allows Local Return funds to be advanced on a project subsequently reimbursed from “federal, state or local grant funding.” The Proposition A and Proposition C Local Return Guidelines state that Local Return funds may be advanced only for other grant funding. A mandate payment is a subvention of funds to reimburse local governments for the costs of the program, which is different than a grant. For grants, an applicant must submit an application or proposal on how being awarded the money will benefit the community. An applicant will not always be awarded the grant. Therefore, we disagree with any comments regarding the advancement of Proposition A funds pending mandate reimbursement from the State.

#### **2. The Draft Audit’s Conclusion that Proposition A Funds Constituted Reimbursement from a Federal, State, or Non Local Source is Erroneous**

The city states, “There would be no reduction of the City’s claim if the City had used other sales tax revenue to pay for the installation and maintenance of the trash receptacles. Proposition A funds are no different. They are also derived from a one-half cent sales tax, no different from any other sales tax.” We disagree.

There are two types of sale taxes: unrestricted general sales tax and special supplementary sales tax. An unrestricted general sales tax can be spent for any general governmental purpose, including public employee salaries and benefits. A special supplementary sales tax is dedicated for a specific purpose. Proposition A is a special supplementary sales tax approved by Los Angeles County voters in 1980. Proposition A sales tax revenue is restricted to benefiting public transit. For example, the Proposition A funds cannot be used to purchase a new ambulance or pay for park landscaping, unlike unrestricted general sales tax. As such, we do not agree that the Proposition A funds “are no different from any other sales tax.”

### **3. Finding No. 2 is an Unlawful Retroactive Application of the Parameters and Guidelines**

The city states that “it commenced the advancement of Proposition A funds on or around July 1, 2002, the commencement of the first audit period, or shortly thereafter.” We disagree.

The city has not provided us with any documentation to support that the Metropolitan Transportation Authority (MTA) approved the advancement of the Proposition A funds. We reviewed both the city’s financial statements and adopted budgets for the Transit Fund (Fund No. 55) for FY 2002-03 through FY 2005-06 and found no footnotes indicating that the Proposition A funds were advanced. Our review of the City Manager’s Transmittal Letter in the FY 2003-04 adopted budget states that the Proposition A Local Return funds are being used for its intended purposes, which is to “to support” the “bus bench maintenance program,” as follows:

Transit (Prop A) Fund. This fund accounts for the special revenues the City receives pursuant to a County ballot measure. The City uses the funds to support the City’s senior citizen and handicapped bus operation. It also includes special recreation transportation programs and our *bus bench maintenance program*. Unlike the Water and Golf Course Funds, this fund is not fee supported. Revenues from the Proposition A sales tax provides about \$1,500,000 *to support these programs*. The programs are operated under regulations issued by Metropolitan Transportation Authority. [Emphasis added]

The city concludes that it is “arbitrary and capricious to find that the Parameters and Guidelines retroactively prohibited an advancement of Proposition A funds in a way that was lawful when those funds were advanced.” We disagree. The city claimed reimbursement for eligible mandated costs that were funded by Proposition A. However, the parameters and guidelines state that costs funded by non-local sources (e.g. Proposition A) must be offset from claimed costs. Also, the MTA guidelines, rather than the parameters and guidelines, “prohibit” advancement.

**Attachment—  
City’s Response to  
Draft Audit Report**

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# City of Downey

June 5, 2017

VIA EMAIL: [jspano@sco.ca.gov](mailto:jspano@sco.ca.gov) and U.S. MAIL

Jim L. Spano, Chief  
Mandated Costs Audit Bureau  
State Controller's Office  
Division of Audits  
P.O. Box 942850  
Sacramento, CA 94250

Re: *City of Downey, Draft Audit Report*

Dear Mr. Spano:

Thank you for the opportunity to comment on the Draft Audit Report for the costs claimed by the City of Downey under the Municipal Storm Water and Urban Runoff Discharge Program (Los Angeles Regional Water Quality Control Board Order No. 01-182) for the period of July 1, 2002 through June 30, 2014. For the reasons set forth below, we submit that the draft audit is erroneous in several respects.

## I. The City's Claim

The City has sought \$716,563 in reimbursement for the cost of installing and maintaining trash receptacles at transit locations from July 1, 2002, through June 30, 2014. On July 31, 2009, the Commission on State Mandates found that the installation and maintenance of these trash receptacles is a state mandate for which the City is entitled to reimbursement. On March 24, 2011, the Commission issued Parameters and Guidelines setting forth reimbursement criteria. The City filed its claim in accordance with the Parameters and Guidelines and the State Controller's office's claiming instructions.

## II. The Draft Audit

The draft audit finds that \$652,652 of the City's costs are not reimbursable. The draft audit bases this conclusion on two findings. Finding No. 1 disallows reimbursement for all costs incurred after the City's entry into a solid waste collection and disposal contract with CalMet Services, Inc., in the amount of \$465,731. Finding No. 2 disallows \$186,921 on the grounds that the City used this amount in Proposition A funds to pay for the installation and maintenance of the trash receptacles.

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### Future Unlimited

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CIVIC CENTER  
1111 BROOKSHIRE AVE.  
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[www.downeyca.org](http://www.downeyca.org)

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[www.downeylibrary.org](http://www.downeylibrary.org)

POLICE DEPARTMENT  
10911 BROOKSHIRE AVE.  
PO BOX 7016  
DOWNEY, CALIFORNIA  
90241-7016  
562-861-0771

PARKS & RECREATION  
7850 QUILL DR.  
DOWNEY, CALIFORNIA  
90242  
562-904-7230

UTILITIES DIVISION  
6252 STEWART A GRAY RD.  
DOWNEY, CALIFORNIA  
90241-7016  
562-904-7202

MAINTENANCE SERVICES  
12324 BELFLOWER BLVD.  
DOWNEY, CALIFORNIA  
90242  
562-904-7184

**A. Finding No. 1**

Finding No. 1 disallows all reimbursement for costs incurred subsequent to January 1, 2006, the effective date of the CalMet contract. Finding No. 1 makes this disallowance based on a provision in the CalMet contract that provided that no charge will be made to the City for the cost of collecting solid waste from the trash receptacles in question (CalMet Contract, Article IV., section 4.1(M)).

Finding No. 1 erroneously disallows reimbursement, however, for the *maintenance, repair and replacement* of the trash receptacles. The Parameters and Guidelines provide that the City is entitled to be reimbursed for:

1. Collection and disposal of trash at a disposal/recycling facility;
2. Inspection of receptacles and pads for wear, cleaning, emptying, and other maintenance needs;
3. Maintenance of receptacles and pads, including painting, cleaning and repairing receptacles and replacing liners; and
4. Replacing individual damaged or missing receptacles and pads.

Parameters and Guidelines, adopted March 24, 2011, at p. 4. The services provided by CalMet under the contract, however, addressed, only the first of the four items for which the City is entitled to reimbursement. The City is still entitled to a subvention of funds for the other three activities.

It appears that Finding No. 1 disallowed reimbursement for the maintenance, repair, and replacement of the trash receptacles because, under the reasonable reimbursement methodology, the unit cost is multiplied by the annual number of trash collections. This procedure for determining reimbursement, however, does not supersede the Parameter and Guideline's provision that the City is entitled to reimbursement not only for collection of the trash, but also the maintenance, repair, and replacement of the trash receptacles (Parameters and Guidelines at p. 4). Therefore, even if the Controller's office is going to disallow the cost for the collection, which the City does not concede is appropriate, the Controller's office still must allow reimbursement for the maintenance, repair, and replacement of the trash receptacles, services which the CalMet contract did not cover.

The City has incurred \$19,424 in personnel costs for these other mandates from January 1, 2006 to June 30, 2014. (The backup documentation supporting the employee time devoted to these mandates has been previously provided to you.) The City also incurred capital costs for the replacement of receptacles when

required. The audit must either modify the unit cost to continue to reflect reimbursement for the maintenance, repair and replacement of the trash receptacles, or allow the City to claim the actual costs. If the Controller's office believes that it does not have the authority under the Parameters and Guidelines to modify the unit cost or allow the City to be reimbursed for its actual costs, then it should provide reimbursement at the full unit cost minus the savings the City realized as a result of the CalMet contract.

#### **B. Finding No. 2**

Finding No. 2 reduces the City's claim in the amount of \$186,921 based on the assertion that the City used Proposition A funds for the purchase and maintenance of the trash receptacles. Finding No. 2 is also erroneous. The Parameters and Guidelines provide that reimbursement for this mandate received from any "federal, state or non-local source" shall be identified and deducted from the City's claim. Proposition A is not a federal, state or non-local source within the meaning of the Parameters and Guidelines.

##### **1. Proposition A**

Proposition A is a one-half cent sales tax approved by Los Angeles County voters in 1980. The tax is imposed on the sale of tangible personal property at every retailer in the County and upon the storage, use or other consumption in the County of tangible personal property purchased from any retailer for storage, use or other consumption in the County. See Los Angeles County Metropolitan Transportation Authority Administrative Code, Sections 3-05-020 and 3-05-030.

Proposition A provides that twenty-five percent of the sales tax revenue will be returned to local jurisdictions for local transit purposes. These funds are generally referred to as "Local Return funds."

Under guidelines adopted by the Metropolitan Transportation Authority for the use of Local Return funds, the City has discretion as to the use of those funds as long as the use complies with the guidelines and is for public transit purposes. One of the eligible uses is for bus stop improvements and maintenance. Local Return Guidelines, Section II.A.2. The City was not required, however, to use the funds for that purpose. Instead, the City had the discretion to use the funds for any appropriate project.

*The guidelines specifically provide that Proposition A Local Return funds may be used as an advance with respect to a project, with the funds subsequently being returned to the Proposition A account when the advance is reimbursed from another source. The guidelines specifically provide, "Local Return funds may be used to advance a project which will subsequently be reimbursed by federal, state or local grant funding, or private funds, if the project itself is eligible under the Local Return Guidelines." In that case, the reimbursement must be returned to the appropriate Proposition A Local Return fund. Guidelines, Section 4.C.10.*

**2. The Draft Audit's Conclusion that Proposition A Funds Constituted Reimbursement from a Federal, State or Non-Local Source Is Erroneous**

Finding No. 2 disallows \$186,921 of the City's costs based on the assertion that the Proposition A funds advanced by the City should be offset against the City's claim. In support of this disallowance, Finding No. 2 cites the Parameter and Guidelines provision quoted above, that "reimbursement for this mandate received from any federal, state or non-local source shall be identified and deducted from this claim." This finding is erroneous for several reasons.

First, Proposition A is a local tax. It is therefore not a federal or state source.

Second, Proposition A is not a non-local source. It is a local sales tax imposed on local citizens.

Third, it was entirely proper for the City to use Proposition A funds as an advance, with the expectation that the funds would be paid back to the Proposition A account to be used for other transit purposes when the City recovers the funds pursuant to its Test Claim. As discussed, Proposition A guidelines specifically provide that "Local Return funds may be used to advance a project which will subsequently be reimbursed by federal, state or local grant funding, or private funds, if the project itself is eligible under the Local Return Guidelines." In this regard, Proposition A did not require the City to use Proposition A funds for the installation and maintenance of trash receptacles; the City had discretion to use Proposition A funds as an advance and then to use those funds for other transit projects upon their recovery pursuant to the Test Claim. (It should be noted that the draft audit on page 9 contains the erroneous statement that the City adopted a Bus Bench Program that was fully funded by Proposition A. Instead, the City included a statement in its budget about its obligation to install and maintain trash receptacles.)

Thus, it cannot be said that the City's lawful use of Proposition A funds to advance the installation and maintenance of the trash receptacles, with the understanding that, upon reimbursement through the Test Claim, those funds would be returned to the appropriate Proposition A fund for use on other transit projects, was reimbursement from a non-local source. Because the Proposition A funds will be returned to the Proposition A fund to be used for other purposes, the advancement (not payment) of those funds was not a reimbursement.

To find differently would be contrary to article XIII B, section 6, of the California Constitution. That section was adopted to protect local government's tax revenues. There would be no reduction of the City's claim if the City had used other sales tax revenue to pay for the installation and maintenance of the trash receptacles. Proposition A funds are no different. They are also derived from a one-half cent sales tax, no different from any other sales tax.

The authorities that the Controller's office shared with the City in conjunction with the exit interview are not to the contrary. *County of Fresno v. State of California*

held that Article XIII B, section 6 was designed "to protect the tax revenues of local governments from state mandates that would require expenditures of such revenues." *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487. Based on this holding, the Controller's office noted that "costs" within the meaning of Article XIII B, section 6, excludes expenses recoverable from sources other than taxes. Here, however, Proposition A is a local sales tax, one which falls directly within the protection of Article XIII B, section 6. Reimbursement of these tax revenues is therefore not inconsistent with the *County of Fresno*.

The Commission's decision in *Animal Adoption*, Commission on State Mandates Case No. 13-9811-I-02, is also inapplicable. This Improper Reduction Claim addressed the use of Proposition F funds, which were funds obtained through bonds issued pursuant to a ballot measure. Again, that is not the case here. Proposition A is a local sales tax.

The Commission's decisions in the *Two-Way Traffic Signal Program* and the *Behavioral Intervention Plans* claims are likewise inapplicable. In *Two-Way Signal* the funds were derived from a *state* gas tax, not from a local sales tax which Article XIII B, section 6 is meant to protect. Similarly, in *Behavioral Intervention Plans*, the funds were also state funds, not sales taxes. As the Commission said in *Behavioral Intervention Plans* "when funds *other than local proceeds of taxes* are thus applied, the Controller may reduce reimbursement accordingly. Commission on State Mandates Case No. CSM4464, Statement of Decision at 54 (2013) (emphasis added).

**C. Finding No. 2 is an Unlawful Retroactive Application of the Parameters and Guidelines**

There is another reason why Finding No. 2 is erroneous. The City commenced the advancement of Proposition A funds on or around July 1, 2002, the commencement of the first audit period, or shortly thereafter. As discussed above, at the time the City advanced the Proposition A funds for the installation and maintenance of the trash receptacles, the Proposition A guidelines specifically provided that the City could advance these funds and then return them to its Proposition A account when the expenditures were reimbursed.

The Parameters and Guidelines, on the other hand, were not adopted until March 24, 2011. It would be arbitrary and capricious to find that the Parameters and Guidelines retroactively prohibited an advancement of Proposition A funds in a way that was lawful when those funds were advanced.

In this regard, as a general rule a regulation will not be given retroactive effect unless it merely clarifies existing law. *People ex rel. Deukmejian v. CHE, Inc.* (1983) 150 Cal.App.3d 123, 135. Retroactivity is not favored in the law. *Akbar v. Anderson* (1997) 58 Cal.App.4<sup>th</sup> 1166, 1179. Regulations that "substantially change the legal effect of past events" cannot be applied retroactively. *Santa Clarita*

*Organization for Planning and the Environment v. Abercrombie* (2015) 240 Cal.App.4<sup>th</sup> 300, 315.

That rule applies here. At the time the City advanced its Proposition A funds to use for the installation and maintenance of the trash receptacles, it was operating under the understanding, consistent with the Proposition A Guidelines, that the City could advance those funds and then return them to the Proposition A account for other use once the City obtained a subvention of funds from the state. To retroactively apply the Parameters and Guidelines, adopted in 2011, to preclude a subvention, *i.e.*, to now find that the City could not use its Proposition A funds as an advance only, substantially changes the legal effect of these past events. Such an application is unlawful.

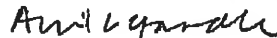
### III. Conclusion

For the foregoing reasons, the draft audit should be modified. The City is entitled to reimbursement for time and resources expended in maintaining and repairing the trash receptacles during the entire audit period, including from January 1, 2006 forward, and there should be no offset for the City's advancement of Proposition A funds, which upon reimbursement will be returned to the Proposition A account.

Please call me at (562) 904-7265 if you have any questions.

Sincerely,

CITY OF DOWNEY



Anil Gandhi  
Director of Finance and Information Technology

c: Lisa Kurokawa, Audit Manager [lkurokawa@sco.ca.gov](mailto:lkurokawa@sco.ca.gov)

**State Controller's Office  
Division of Audits  
Post Office Box 942850  
Sacramento, CA 94250-5874**

**<http://www.sco.ca.gov>**

SECTION 5  
REIMBURSEMENT CLAIMS



Claim for Payment Pursuant to Government Code Section 17561 MUNICIPAL STORM WATER & URBAN RUNOFF DISCHARGES			For State Controller Use Only	
			(19) Program Number: 000314	Program
			(20) Date Filed ___/___/___	<b>314</b>
			(21) LRS Input ___/___/___	
(01) Claimant Identification Number 9819258				
(02) Claimant Name City of Downey			(22) FORM-1 (04)(A)(1)(g)	
Mailing Address 1111 Brookshire Blvd.			(23) FORM-1 (04)(A)(2)(g)	
Street Address or P.O. Box				
City Downey			(24) FORM-1 (04)(A)(3)(g)	
State CA Zip Code 90241			(25) FORM-1 (04)(A)(4)(g)	19,254
Type of Claim	Estimated Claim	Reimbursement Claim	(26) FORM-1 (04)(A)(5)(g)	
	(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(27) FORM-1,(06)	7,852
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(28) FORM-1,(07)	85
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(29) FORM-1,(08)	10
Fiscal Year of Cost (06)		(12) 2002-03	(30) FORM-1,(11)	
Total Claimed (07)		(13) \$72,262	(32) FORM-1,(12)	
Less: 10% Late Penalty, but not to exceed \$1,000 (if applicable)		(14)	(32)	
Less: Estimated Claim Payment Received		(15)	(32)	
Net Claimed Amount		(16) \$72,262	(33)	
Due from State (08)		(17) \$72,262	(34)	
Due to State (09)		(18)		

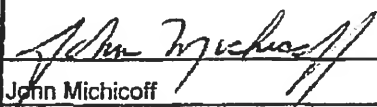
**(38) CERTIFICATION OF CLAIM**

In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1093, inclusive.

I further certify that there was no application for nor any grant or payment received, other than from the claimant, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documents currently maintained by the claimant.

The amount for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statement. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

**Signature of Authorized Representative**

  
 John Michicoff  
 Finance Director

Date Signed 9/21/11  
 Telephone Number (562) 904-7265  
 Email Address jmichicoff@downeyca.org

<b>Name of Contact Person for Claim</b>	<b>Telephone Number</b>	<b>E-Mail Address</b>
Annette S. Chinn (CRS)	(916) 939-7901	AChinnCRS@aol.com

MANDATED COSTS MUNICIPAL STORM WATER & URBAN RUNOFF DISCHARGES CLAIM SUMMARY						Prog 314 FORM 1
(01) Claimant City of Downey		(02) Type of Claim Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>		Fiscal Year 2002-03 <small>(see FAM-27 for estimate)</small>		
(03) Department					Public Works	
(04) Reimbursable Activities	(a) Salaries	(b) Benefits	(c) Materials and Supplies	(d) Contract Services	(e) Fixed Assets	(g) Total
<b>A. ONE-TIME ACTIVITIES</b>						
1. ID of locations that are required to have receptacle						
2. Select/Eval./& preparation of specs and drawings						
3. Prep of contract specs, review process/award bid						
4. Purchase or construct and install receptacle & pad	\$853	\$273	\$18,129			\$19,254
5. Move/restore at old locations & install at new locations						
(05) Total Direct Costs	\$853	\$273	\$18,129			\$19,254
<b>B. ON GOING ACTIVITY: Maintain Trash Receptacles and Pads</b>						
(06) Annual number of trash collections						7852
(07) Total Ongoing Costs (Line (06) x RRM rate)						\$52,922
(08) Indirect Cost Rate (applied to salaries)	(from ICRP) (Applied to Salaries)					10.0%
(09) Total Indirect Costs	Line (06) x line (05)(a) or line(06) x [line (05)(a) + line(05)(b)]					\$85
(10) Total Direct and Indirect Costs	Line (05)(d) + line (07)					\$72,262
(11) Less: Offsetting Savings, if applicable						
(12) Less: Other Reimbursements, if applicable						
(13) Total Claimed Amount	Line (08)- (line(09) + Line(10))					\$72,262

**MANDATED COSTS  
MUNICIPAL STORM WATER & URBAN RUNOFF DISCHARGES  
ACTIVITY COST DETAIL**

**FORM 2**

(01) Claimant: **City of Downey** (02) Fiscal Year Costs Were Incurred: **2002-03**

(03) Reimbursable Components: Check only one box per form to identify the component being claimed

- |  |  |
|--|--|
| <input type="checkbox"/> ID locations that are required to have a trash receptacle | <input checked="" type="checkbox"/> Purchase or construct/install receptacles and pads |
| <input type="checkbox"/> Select/eval. & prep of specifications & drawings          | <input type="checkbox"/> Move/restore at old location and install at new location      |
| <input type="checkbox"/> Prep of contracts/specs review, process, award bid...     |  |

(04) Description of Expenses: Complete columns (a) through (f)

(a) Employee Names, Job Class., Functions Performed and Description of Expenses	(b) Hourly Rate or Unit Cost	Benefit Rate	Hours Worked or Quantity	Salaries	Benefits	(d) Material and Supplies	(e) Contract Services	(f) Fixed Assets	(c) Total Salaries & Benefits
<u>Seating Component MGF, Anaheim, CA</u> Purchased 50 trash receptacles for Transit stops						\$17,699			
<u>Maintenance Worker II</u> - Installation of 50 trash receptacles per State Mandate - Equipment Useage Charge \$8.59 per receptacle	\$17.05	32.0%	50.00	\$853	\$273	\$430			\$1,125
<b>(05) Total</b>			<b>50.00</b>	<b>\$853</b>	<b>\$273</b>	<b>\$18,129</b>			<b>\$1,125</b>



State of California  
Business, Transportation, and Housing Agency

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Department of Transportation  
Division of Construction

# Labor Surcharge & Equipment Rental Rates

*(Cost of Equipment  
Ownership)*



Effective April 1, 2002 Through March 31, 2003

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**ELECTRIC GENERATORS & LIGHT [ ELGEN ]  
PLANTS**

**DELAY FACTOR = 0.22 OVERTIME FACTOR = 0.80**  
Rates are for gas or diesel power and alternating or direct current.

**GENERATOR [ GEN ]**

Rated in accordance with Mfr's output in kilowatts.

OVER	TO	Code	Rate
0	1	000-001	\$0.37
1	3	001-003	\$0.82
3	7.5	003-008	\$1.74
7.5	15	008-015	\$3.94
15	25	015-025	\$6.12
25	50	025-050	\$6.45
50	100	050-100	\$11.00
100	200	100-200	\$21.30
200	300	200-300	\$34.87
300	400	300-400	\$48.32
400	500	400-500	\$61.01

**LIGHTS [ LITE ]**

Includes trailer, pole and generator.

Model	Code	Rate
2 Light Set	2 LIGHT	\$2.15
4 Light Set	4 LIGHT	\$4.78

**ELECTRIC POWERED HAND TOOLS [ ELTOL ]**

**DELAY FACTOR = 0.64 OVERTIME FACTOR = 0.35**  
Includes electric powered, hand held tools not listed elsewhere in this book. Expendable bits, blades, discs, wheels, etc. shall be paid by separate invoice. Rated in accordance with Mfr's suggested retail price.

**TOOLS [ TOOL ]**

OVER	TO	Code	Rate
450	600	045-060	\$0.23
600	800	060-080	\$0.31
800	1000	080-100	\$0.39

**FORK LIFT TRUCKS [ FKLFT ]**

**DELAY FACTOR = 0.35 OVERTIME FACTOR = 0.67**  
Includes attachments and accessories. Listed in accordance with the Mfr's maximum rated capacity in kilograms(pounds).

**FORK LIFT TRUCKS [ FLT ]**

OVER	TO	Code	Rate
454 (1000)	1814 (4000)	010-040	\$13.97
1814 (4000)	2722 (6000)	040-060	\$18.54
2722 (6000)	3629 (8000)	060-080	\$21.08
3629 (8000)	5443 (12000)	080-120	\$28.20
5443 (12000)	7258 (16000)	120-160	\$31.00
7258 (1600)	9072 (20000)	160-200	\$36.71
9072 (20000)	11340 (25000)	200-250	\$37.49
11340 (25000)	13608 (30000)	250-300	\$40.69

13608 (30000)	18144 (40000)	300-400	\$54.12
18144 (40000)	22680 (50000)	400-500	\$68.29
22680 (50000)	34020 (75000)	500-750	\$95.27

**GRADERS [ GRADR ]**

**DELAY FACTOR = 0.24 OVERTIME FACTOR = 0.78**

Includes ripper and scarifier attachments and all accessories. Electronic blade control and specialty cutting tools shall be paid separately.

**BLADE-MOR [ BMOR ]**

Model	Code	Rate
727	2173	\$10.99
747	2178	\$17.11

**CATERPILLAR [ CAT ]**

Model	Code	Rate
120G 87V serial	2685	\$38.92
130G 74V serial	2695	\$44.09
12E 99E serial	2710	\$19.89
12F 73G serial	2768	\$29.84
12F 13K serial	2826	\$25.83
12F 89H serial	2884	\$26.36
12G 61M serial	2890	\$45.96
12H	2895	\$50.50
14E 72G serial	3174	\$32.10
14G	3180	\$68.83
14H	3185	\$76.14
140 14U serial	3250	\$33.25
140G 72V serial	3260	\$48.61
140H	3265	\$53.93
16 49G serial	3290	\$43.06
16 49G800 serial	3348	\$62.68
16 G93U serial	3360	\$98.17
16H	3380	\$105.11

**JOHN DEERE [ DEER ]**

Model	Code	Rate
JD-570A	3890	\$25.40
JD-570B	3892	\$32.47
JD-670	3900	\$28.47
JD-670A	3905	\$35.23
JD-770	3910	\$32.39
JD-770A, 770A-H	3915	\$41.60
JD-770B	3916	\$52.12

**GALION [ GALN ]**

Model	Code	Rate
A-400E	4940	\$33.71
T-400A	4980	\$30.85
T-500C	5150	\$35.73
T-500L	5204	\$31.96
T-500M	5210	\$36.76

**OVER 37.3 kW (50 HP) [ >50 ]**

Including, but not limited to the following:

- Bobcat-- 853, 863, 873, 943, 953, 980
- Case-- 1845C
- Deere-- 5300, 5400, 6200, 6300, 6400, 8875
- Ford-- L783, L785, 250C, 260C
- Gehl-- SL5625, SL6625, SL6635
- Hydra-Mac-- 1850, 2650, 2650D
- JCB-- 185Robot
- Massey-Ferguson-- MF40E, MF50EX
- Mustang-- 960, 2060
- New Holland-- 4630, 5030, 5640, 6640, 7740, 7840, 8240, 8340, L865,
- LX865, LX885, 345D, 545D
- Ramrod-- 1750, 1950
- Thomas-- T-173HL, T-173HLS, T173HLS II, T-203HD, T-233HD
- Trak-- 1700HD, 1700C, 1700CX, 1700XHP

Model	Code	Rate
with loader or dozer	A	\$15.88
auger, w/ or w/o loader or dozer	B	\$16.24
backhoe, w/ or w/o loader or dozer	C	\$17.45

**TRAFFIC CONTROL & SAFETY DEVICES [ TRAF A ]  
(HOURLY RATES)**

DELAY FACTOR = 0.43 OVERTIME FACTOR = 0.61

**CHANGEABLE MESSAGE [ CMSN ]  
SIGN**

Model	Code	Rate
Generator	GEN1	\$9.37
Generator w/ cell remote	GEN2	\$10.35
Solar	SOL1	\$7.54
Solar w/ cell remote	SOL2	\$8.52

**FLASHING ARROW SIGN [ FLAS ]**

Including supplies, replacements and servicing.

Model	Code	Rate
Roof mounted	RM	\$0.67
Trailer mounted	TM	\$1.88

**TRAFFIC CONTROL & SAFETY DEVICES [ TRAF C ]  
(DAILY RATES)**

DELAY FACTOR = 0.73 OVERTIME FACTOR = 1.00

Includes supplies and servicing. The following allowance is entered on the extra work by using days instead of hours worked. Crash cushion barrels and K-rail sections are now listed with Non-Operated items[NONOP].

**(1) BARRICADES [ 1BAR ]**

- (A) 750 mm to 900 mm high & 600 mm to 900 mm wide (30 to 36 inches high & 24 to 36 inches wide)
- (B) 1500 mm high by 1200 mm wide min. (60" high by 48" wide min.)

Model	Code	Rate
each with flasher	A1	\$0.34
each without flasher	A2	\$0.18
each	B3	\$0.77

**(2) TRAFFIC CONES [ 2TC ]**

Lost or destroyed are no longer paid on invoice.

Model	Code	Rate
450 mm (18") high, per 100	A100	\$6.21
700 mm (28") high, per 100	B100	\$10.83

700 mm (28") high w/ refl sleeve, per 100	D100	\$16.66
1,050 mm (42") high w/ refl sleeve, per 100	E100	\$27.71

**(3) PORTABLE DELINEATOR [ 3DEL ]**

Lost or destroyed are no longer paid on invoice.

Model	Code	Rate
per 100	100	\$17.76

**(4) ILLUMINATED SIGNS [ 4SIG ]**

Model	Code	Rate
incl 900 mm x900 mm (3'x3') sign & batteries	12V	\$4.28

**(5) FLASHING BEACON [ 5BEA ]**

Model	Code	Rate
portable 12 volt	12V	\$4.37

**(6) FLAG/SIGN STAND [ 6FSS ]**

Model	Code	Rate
incl sign, stand & 3 flags	EACH	\$1.98

**(7) DELINEATOR DRUM [ 7DDR ]**

Model	Code	Rate
Del. drum w/ base per 100	100	\$43.77

**TRAILERS, EQUIPMENT, LOW BED [ TRAIL ]**

DELAY FACTOR = 0.47 OVERTIME FACTOR = 0.58

Includes all attachments and accessories related to hauling. The rates cover drop deck type with and without folding/removable gooseneck or oscillating trunion. Pilot vehicles are extra. Listed in accordance with number of axles and tires per axle. Includes jeeps, booster axles, and dollies. All loads shall be hauled legally or within Caltrans Permit Policy.

**LOW BED A [ LB-A ]**

2 axle		
Model	Code	Rate
4 Tires per axle	100	\$11.16
8 Tires per axle	200	\$14.07

**LOW BED B [ LB-B ]**

3 axle		
Model	Code	Rate
4 Tires per axle	300	\$14.95
8 Tires per axle	400	\$17.32

**LOW BED C [ LB-C ]**

4 axle		
Model	Code	Rate
4 Tires per axle	500	\$24.06
8 Tires per axle	600	\$29.87

**LOW BED D [ LB-D ]**

6 axle		
Model	Code	Rate
8 Tires per axle	700	\$47.80

T 850	8875	\$157.26
V 430	8950	\$15.59
V 430A	8951	\$17.98
V 434 / M 434	9000	\$14.98
V 440	9015	\$18.16
V 450	9017	\$23.51
V 454	9020	\$19.23
V 1550	9025	\$7.73

**TRUCK, TRUCK TRAILERS, EXCL. DUMP [ TRUCK ]  
TRUCKS & EQPT TRAIL**

**DELAY FACTOR = 0.24 OVERTIME FACTOR = 0.78**  
Includes all attachments and accessories related to hauling, with and without trailers as needed. Includes water trucks, freight trucks and passenger vehicles, including 4wd option. Listed by Mfr's Gross Vehicle Weight in Kilograms(pounds). For tractor-trailer units, the gross vehicle weight of the cargo carrying unit or units will control. In the case of water trucks, the tank capacity expressed in kilograms (pounds) of water plus 20%, will determine the gross vehicle weight. For attachment allowance, see attachment class.

<b>TRUCKS [ T&amp;TT ]</b>			
<u>OVER</u>	<u>TO</u>	Code	Rate
Cars, trucks 680 kg (3/4 T) & lighter			
2727 (6000)	5443 (12000) No small pickups	00-06	\$9.39
5443 (12000)	9072 (20000)	06-12	\$11.61
9072 (20000)	12701(28000)	12-20	\$14.76
12701 (28000)	16330 (36000)	20-28	\$16.49
16330 (36000)	21773 (48000)	28-36	\$22.52
21773 (48000)	27216 (60000)	36-48	\$26.53
27216(60000) & Over		48-60	\$31.76
		60	\$39.94

**TRUCKS, OFF-HIGHWAY [ TRUOF ]**

**DELAY FACTOR = 0.35 OVERTIME FACTOR = 0.67**  
Includes all attachments and accessories. Includes end dump, belly dump and earthmover types. Listed in accordance with Mfr's rated capacity in tonnes (tons). In the case of earthmover types, rated by Mfr's volumetric capacity, a factor of 1.4 tonnes per cubic meter (1-1/2 tons per cubic yard) of truck capacity shall be used.

<b>TRUCK OFF-HIGHWAY [ TRU ]</b>			
<u>OVER</u>	<u>TO</u>	Code	Rate
9.1 (10)	13.6 (15)	10-15	\$24.90
16.3 (18)	20.0 (22)	18-22	\$45.82
20.0 (22)	24.5 (27)	22-27	\$56.53
24.5 (27)	29.0 (32)	27-32	\$65.10
29.0 (32)	36.3 (40)	32-40	\$86.77
36.3 (40)	49.9 (55)	40-55	\$124.13
49.9 (55)	60.8 (67)	55-67	\$140.35

**TRUCKS, DUMP, ON-HIGHWAY [ TRUON ]**

**DELAY FACTOR = 0.27 OVERTIME FACTOR = 0.75**  
Includes all end dump, side dump and belly dump types; including all attachments and accessories.

<b>TRUCK ON-HIGHWAY [ TRUN ]</b>			
<u>Model</u>		Code	Rate
2 axles		2AXL	\$25.35
3 axles		3AXL	\$35.78
4 axles		4AXL	\$42.21
5 axles		5AXL	\$45.28

**WELDING EQUIPMENT [ WELD ]**

**DELAY FACTOR = 0.28 OVERTIME FACTOR = 0.75**

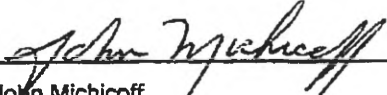
**ARC WELDING MACHINES [ AWM ]**  
Diesel, gas or electric powered. Includes helmets, holders, cable and all attachments and accessories. Rate capacity in amps.

<u>OVER</u>	<u>TO</u>	Code	Rate
0	250	0-250	\$2.55
250	500	250-500	\$4.81
over	500	500	\$5.41

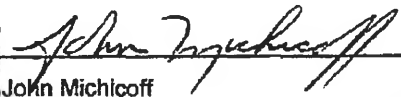
**GAS WELDING OUTFIT [ GWO ]**  
Includes regulator, 7.6 meters (25 feet) of hose, torch, goggles, lighter and attachments and accessories. Gas and rod shall be paid separately.

<u>Model</u>		Code	Rate
ALL		ALL	\$0.21



<b>Claim for Payment</b> <b>Pursuant to Government Code Section 17561</b> <b>MUNICIPAL STORM WATER &amp; URBAN RUNOFF DISCHARGES</b>			For State Controller Use Only		
			(19) Program Number: 000314	Program <b>314</b>	
(01) Claimant Identification Number			9819258		
(02) Claimant Name			City of Downey		
Mailing Address			1111 Brookshire Blvd.	(22) FORM-1 (04)(A)(1)(g)	
Street Address or P.O. Box					
City			Downey	(23) FORM-1 (04)(A)(2)(g)	
State			CA		
Zip Code			90241		
Type of Claim	Estimated Claim		Reimbursement Claim		(24) FORM-1 (04)(A)(3)(g)
	(03) Estimated	<input type="checkbox"/>	(09) Reimbursement	<input checked="" type="checkbox"/>	(25) FORM-1 (04)(A)(4)(g)
	(04) Combined	<input type="checkbox"/>	(10) Combined	<input type="checkbox"/>	(26) FORM-1 (04)(A)(5)(g)
	(05) Amended	<input type="checkbox"/>	(11) Amended	<input type="checkbox"/>	(27) FORM-1,(06)
Fiscal Year of Cost	(06)	(12)	2003-04	(28) FORM-1,(07)	7,852
Total Claimed	(07)	(13)	\$52,922	(29) FORM-1,(08)	
Less: 10% Late Penalty, but not to exceed \$1,000 (if applicable)			(14)	(30) FORM-1,(11)	
Less: Estimated Claim Payment Received			(15)	(32) FORM-1,(12)	
Net Claimed Amount		(16)	\$52,922	(32)	
Due from State	(08)	(17)	\$52,922	(33)	
Due to State	(09)	(18)		(34)	
<b>(38) CERTIFICATION OF CLAIM</b>					
<p>In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.</p> <p>I further certify that there was no application for nor any grant or payment received, other than from the claimant, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documents currently maintained by the claimant.</p> <p>The amount for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statement. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p>					
Signature of Authorized Representative					
 John Michicoff			Date Signed <u>9/21/11</u>		
Finance Director			Telephone Number (562) 904-7265		
			Email Address jmichicoff@downeyca.org		
Name of Contact Person for Claim		Telephone Number		E-Mail Address	
Annette S. Chinn (CRS)		(916) 939-7901		AChinnCRS@aol.com	

<b>MANDATED COSTS MUNICIPAL STORM WATER &amp; URBAN RUNOFF DISCHARGES CLAIM SUMMARY</b>						<b>Prog 314 FORM 1</b>
<b>(01) Claimant</b> City of Downey		<b>(02) Type of Claim</b> Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>		<b>Fiscal Year</b> 2003-04 <small>(see FAM-27 for estimate)</small>		
<b>(03) Department</b>					Public Works	
<b>(04) Reimbursable Activities</b>	(a) Salaries	(b) Benefits	(c) Materials and Supplies	(d) Contract Services	(e) Fixed Assets	(g) Total
<b>A. ONE-TIME ACTIVITIES</b>						
1. ID of locations that are required to have receptacle						
2. Select/Eval./& preparation of specs and drawings						
3. Prep of contract specs, review process/award bid						
4. Purchase or construct and install receptacle & pad						
5. Move/restore at old locations & install at new locations						
<b>(05) Total Direct Costs</b>						
<b>B. ON GOING ACTIVITY: Maintain Trash Receptacles and Pads</b>						
<b>(06) Annual number of trash collections</b>						7852
<b>(07) Total Ongoing Costs (Line (06) x RRM rate)</b>						\$52,922
<b>(08) Indirect Cost Rate (applied to salaries)</b>	<small>(from ICRP) (Applied to Salaries)</small>					
<b>(09) Total Indirect Costs</b>	<small>Line (08) x line (05)(a) or line(08) x [line (05)(a) + line(05)(b)]</small>					
<b>(10) Total Direct and Indirect Costs</b>	<small>Line (05)(a) + line (07)</small>					\$52,922
<b>(11) Less: Offsetting Savings, if applicable</b>						
<b>(12) Less: Other Reimbursements, if applicable</b>						
<b>(13) Total Claimed Amount</b>	<small>Line (08)- (line(08) + Line(10))</small>					\$52,922

<b>Claim for Payment</b> <b>Pursuant to Government Code Section 17561</b> <b>MUNICIPAL STORM WATER &amp; URBAN RUNOFF DISCHARGES</b>			For State Controller Use Only	
			(19) Program Number: 000314	Program <b>314</b>
(01) Claimant Identification Number			9819258	
(02) Claimant Name			City of Downey	
Mailing Address			1111 Brookshire Blvd.	(22) FORM-1 (04)(A)(1)(g)
Street Address or P.O. Box				
City			Downey	(23) FORM-1 (04)(A)(2)(g)
State			CA	
Zip Code			90241	
Type of Claim	Estimated Claim	Reimbursement Claim	(24) FORM-1 (04)(A)(3)(g)	
	(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(25) FORM-1 (04)(A)(4.) (g)	
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(26) FORM-1 (04)(A)(5)(g)	
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(27) FORM-1,(06)	12,428
Fiscal Year of Cost	(06)	(12) 2004-05	(28) FORM-1,(07)	
Total Claimed	(07)	(13) \$83,765	(29) FORM-1,(08)	
Less: 10% Late Penalty, but not to exceed \$1,000 (if applicable)		(14)	(30) FORM-1,(11)	
Less: Estimated Claim Payment Received		(15)	(32) FORM-1,(12)	
Net Claimed Amount		(16) \$83,765	(32)	
Due from State	(08)	(17) \$83,765	(33)	
Due to State	(09)	(18)	(34)	
<b>(38) CERTIFICATION OF CLAIM</b>				
<p>In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.</p> <p>I further certify that there was no application for nor any grant or payment received, other than from the claimant, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documents currently maintained by the claimant.</p> <p>The amount for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statement. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p>				
Signature of Authorized Representative				
 John Michicoff			Date Signed	9/21/11
Finance Director			Telephone Number:	(562) 904-7265
			Email Address	jmichicoff@downeyca.org
Name of Contact Person for Claim		Telephone Number	E-Mail Address	
Annette S. Chinn (CRS)		(916) 939-7901	AChinnCRS@aol.com	

**MANDATED COSTS  
MUNICIPAL STORM WATER & URBAN RUNOFF DISCHARGES  
CLAIM SUMMARY**

**Prog 314  
FORM  
1**

<b>(01) Claimant</b> City of Downey	<b>(02) Type of Claim</b> Reimbursement <input checked="" type="checkbox"/> Estimated <input type="checkbox"/>	<b>Fiscal Year</b> 2004-05 <small>(see FAM-27 for estimate)</small>
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<b>(03) Department</b>	Public Works
------------------------	--------------

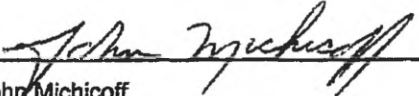
<b>(04) Reimbursable Activities</b>	(a) Salaries	(b) Benefits	(c) Materials and Supplies	(d) Contract Services	(e) Fixed Assets	(g) Total
-------------------------------------	-----------------	-----------------	-------------------------------	--------------------------	---------------------	--------------

<b>A. ONE-TIME ACTIVITIES</b>						
1. ID of locations that are required to have receptacle						
2. Select/Eval./& preparation of specs and drawings						
3. Prep of contract.specs, review process/award bid						
4. Purchase or construct and install receptacle & pad						
5. Move/restore at old locations & install at new locations						
<b>(05) Total Direct Costs</b>						

<b>B. ON GOING ACTIVITY: Maintain Trash Receptacles and Pads</b>						
<b>(06) Annual number of trash collections</b>						12428
<b>(07) Total Ongoing Costs (Line (06) x RRM rate)</b>						<b>\$83,765</b>

<b>(08) Indirect Cost Rate (applied to salaries)</b>	(from ICRP) (Applied to Salaries)	
<b>(09) Total Indirect Costs</b>	Line (06) x line (05)(e) or line(08) x [line (05)(a) + line(05)(b)]	
<b>(10) Total Direct and Indirect Costs</b>	Line (05)(d) + line (07)	<b>\$83,765</b>

<b>(11) Less: Offsetting Savings, if applicable</b>	
<b>(12) Less: Other Reimbursements, if applicable</b>	
<b>(13) Total Claimed Amount</b>	<b>\$83,765</b> <small>Line (08)-(line(08)+ Line(10))</small>

<b>Claim for Payment</b> <b>Pursuant to Government Code Section 17561</b> <b>MUNICIPAL STORM WATER &amp; URBAN RUNOFF DISCHARGES</b>			For State Controller Use Only	
			(19) Program Number: 000314	Program <b>314</b>
(01) Claimant Identification Number		9819258	(20) Date Filed ___/___/___	(21) LRS Input ___/___/___
(02) Claimant Name		City of Downey	(22) FORM-1 (04)(A)(1)(g)	
Mailing Address		1111 Brookshire Blvd.	(23) FORM-1 (04)(A)(2)(g)	
Street Address or P.O. Box				
City		Downey		
State		CA		
Zip Code		90241		
Type of Claim	Estimated Claim	Reimbursement Claim	(24) FORM-1 (04)(A)(3)(g)	
	(03) Estimated <input type="checkbox"/>	(09) Reimbursement <input checked="" type="checkbox"/>	(25) FORM-1 (04)(A)(4)(g)	
	(04) Combined <input type="checkbox"/>	(10) Combined <input type="checkbox"/>	(26) FORM-1 (04)(A)(5)(g)	
	(05) Amended <input type="checkbox"/>	(11) Amended <input type="checkbox"/>	(27) FORM-1,(06)	12,428
Fiscal Year of Cost	(06)	(12) 2005-06	(28) FORM-1,(07)	
Total Claimed	(07)	(13) \$83,765	(29) FORM-1,(08)	
Less: 10% Late Penalty, but not to exceed \$1,000 (if applicable)		(14)	(30) FORM-1,(11)	
Less: Estimated Claim Payment Received		(15)	(32) FORM-1,(12)	
Net Claimed Amount		(16) \$83,765	(32)	
Due from State	(08)	(17) \$83,765	(33)	
Due to State	(09)	(18)	(34)	
<b>(38) CERTIFICATION OF CLAIM</b>				
<p>In accordance with the provisions of Government Code 17561, I certify that I am the person authorized by the local agency to file claims with the State of California for this program, and certify under penalty of perjury that I have not violated any of the provisions of Government Code Sections 1090 to 1098, inclusive.</p> <p>I further certify that there was no application for nor any grant or payment received, other than from the claimant, for reimbursement of costs claimed herein; and such costs are for a new program or increased level of services of an existing program. All offsetting savings and reimbursements set forth in the Parameters and Guidelines are identified, and all costs claimed are supported by source documents currently maintained by the claimant.</p> <p>The amount for Estimated Claim and/or Reimbursement Claim are hereby claimed from the State for payment of estimated and/or actual costs set forth on the attached statement. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</p>				
<b>Signature of Authorized Representative</b>				
		Date Signed	9/21/11	
John Michicoff		Telephone Number	(562) 904-7265	
Finance Director		Email Address	jmichicoff@downeyca.org	
<b>Name of Contact Person for Claim</b>		<b>Telephone Number</b>	<b>E-Mail Address</b>	
Annette S. Chinn (CRS)		(916) 939-7901	AChinnCRS@aol.com	

**MANDATED COSTS  
MUNICIPAL STORM WATER & URBAN RUNOFF DISCHARGES  
CLAIM SUMMARY**

**Prog 314  
FORM  
1**

(01) Claimant: City of Downey  
 (02) Type of Claim: Reimbursement  Estimated   
 Fiscal Year: 2005-06 (see FAM-27 for estimate)

(03) Department: Public Works

(04) Reimbursable Activities	(a) Salaries	(b) Benefits	(c) Materials and Supplies	(d) Contract Services	(e) Fixed Assets	(g) Total
------------------------------	--------------	--------------	----------------------------	-----------------------	------------------	-----------

**A. ONE-TIME ACTIVITIES**

1. ID of locations that are required to have receptacle						
2. Select/Eval./& preparation of specs and drawings						
3. Prep of contract specs, review process/award bid						
4. Purchase or construct and install receptacle & pad						
5. Move/restore at old locations & install at new locations						
(05) Total Direct Costs						

**B. ON GOING ACTIVITY: Maintain Trash Receptacles and Pads**

(06) Annual number of trash collections	12428
(07) Total Ongoing Costs (Line (06) x RRM rate)	\$83,765

(08) Indirect Cost Rate (applied to salaries)	(from ICRP) (Applied to Salaries)	
(09) Total Indirect Costs	Line (06) x line (05)(a) or line(06) x [line (05)(e) + line(05)(b)]	
(10) Total Direct and Indirect Costs	Line (05)(d) + line (07)	\$83,765

(11) Less: Offsetting Savings, if applicable	
(12) Less: Other Reimbursements, if applicable	
(13) Total Claimed Amount	Line (08) - [(line(06) + Line(10))] <b>\$83,765</b>

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento 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 10, 2021, I served the:

- **Notice of Complete Notice of Intent to Join a Consolidated Incorrect Reduction Claim, Consolidation of Claims, Schedule for Comments, and Tentative Hearing Date issued February 10, 2021**
- **Notice of Intent to Join a Consolidated Incorrect Reduction Claim filed by the City of Downey on February 4, 2021**

*Municipal Storm Water and Urban Runoff Discharges*, 19-0304-I-04, 20-0304-I-08 and 20-0304-I-09

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

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006

City of Downey, Claimant

Fiscal Years: 2008-2009, 2009-2010, 2010-2011, 2011-2012


City of Glendora, Claimant

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013

County of Los Angeles, Claimant

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 10, 2021 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 2/10/21

**Claim Number:** 20-0304-I-08 Consolidated with 19-0304-I-04 and 20-0304-I-09

**Matter:** Municipal Storm Water and Urban Runoff Discharges

**Claimants:** City of Downey  
City of Glendora  
County of Los Angeles

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

**Adaoha Agu**, *County of San Diego Auditor & Controller Department*  
Projects, Revenue and Grants Accounting, 5530 Overland Avenue, Ste. 410 , MS:O-53, San Diego,  
CA 92123  
Phone: (858) 694-2129  
Adaoha.Agu@sdcounty.ca.gov

**Socorro Aquino**, *State Controller's Office*  
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 322-7522  
SAquino@sco.ca.gov

**Arlene Barrera**, Auditor-Controller, *County of Los Angeles*  
**Claimant Contact**  
Auditor-Controller's Office, 500 West Temple Street, Room 525, Los Angeles, CA 90012  
Phone: (213) 974-8301  
abarrera@auditor.lacounty.gov

**Ray Beeman**, Chief Fiscal Officer, *City of Gardena*  
1700 West 162nd Street, Gardena, CA 90247  
Phone: (310) 217-9516  
rbeeman@cityofgardena.org

**Robbeyn Bird**, Finance Director, *City of West Covina*  
1444 West Garvey Ave South, West Covina, CA 91790  
Phone: (626) 939-8438  
RBird@westcovina.org

**Guy Burdick**, Consultant, *MGT Consulting*  
2251 Harvard Street, Suite 134, Sacramento, CA 95815



Phone: (916) 833-7775  
gburdick@mgtconsulting.com

**Allan Burdick**,  
7525 Myrtle Vista Avenue, Sacramento, CA 95831  
Phone: (916) 203-3608  
allanburdick@gmail.com

**Evelyn Calderon-Yee**, Bureau Chief, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 324-5919  
ECalderonYee@sco.ca.gov

**Gwendolyn Carlos**, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 323-0706  
gcarlos@sco.ca.gov

**Manuel Carrillo**, Director of Finance and Administrative Services, *City of Bell Gardens*  
7100 Garfield Ave, Bell Gardens, CA 90201  
Phone: (562) 806-7700  
MCarrillo@bellgardens.org

**George Chavez**, City Manager, *City of Beverly Hills*  
455 North Rexford Drive, Beverly Hills, CA 90210  
Phone: (310) 285-1014  
gchavez@beverlyhills.org

**Annette Chinn**, *Cost Recovery Systems, Inc.*  
705-2 East Bidwell Street, #294, Folsom, CA 95630  
Phone: (916) 939-7901  
achinnrcrs@aol.com

**Edgar Cisneros**, City Administrator, *City of Commerce*  
2535 Commerce Way, Commerce, CA 90040  
Phone: (323) 722-4805  
ecisneros@ci.commerce.ca.us

**Geoffrey Cobbett**, Treasurer, *City of Covina*  
Finance Department, 125 E. College Street, Covina, CA 91723  
Phone: (626) 384-5506  
gcobbett@covinaca.gov

**Kris Cook**, Assistant Program Budget Manager, *Department of Finance*  
915 L Street, 10th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
Kris.Cook@dof.ca.gov

**Viki Copeland**, *City of Hermosa Beach*  
1315 Valley Drive, Hermosa Beach, CA 90254  
Phone: N/A  
vcopeland@hermosabch.org

**Ray Cruz**, City Manager, *City of Santa Fe Springs*  
11710 East Telegraph Road, Santa Fe Springs, CA 90670

Phone: (562) 868-0511  
rcruz@santafesprings.org

**Gigi Decavalles-Hughes**, Director of Finance, *City of Santa Monica*  
Finance, 1717 4th Street, Suite 250, Santa Monica, CA 90401  
Phone: (310) 458-8281  
gigi.decavalles@smgov.net

**Steven Dobrenen**, Finance Director, *City of Cudahy*  
5220 Santa Ana Street, Cudahy, CA 90201  
Phone: (831) 386-5925  
sdobrenen@cityofcudahyca.gov

**Evangeline Domingo**, Financial Analyst, *City of Santa Clarita*  
23920 Valencia Blvd, Santa Clarita, CA 91355  
Phone: (661) 286-4145  
edomingo@santa-clarita.com

**Bob Elliot**, *City of Glendale*  
141 North Glendale Ave, Ste. 346, Glendale, CA 91206-4998  
Phone: N/A  
belliot@ci.glendale.ca.us

**Vic Erganian**, Deputy Finance Director, *City of Pasadena*  
Finance Department, 100 N. Garfield Ave, Room S348, Pasadena, CA 91109-7215  
Phone: (626) 744-4355  
verganian@cityofpasadena.net

**Paul Espinoza**, *City of Alhambra*  
111 South First Street, Alhambra, CA 91801  
Phone: N/A  
pespinoza@cityofalhambra.org

**Ken Farfsing**, City Manager, *City of Carson*  
701 E. Carson Street, Carson, CA 90745  
Phone: (310) 952-1700  
kfarfsing@carson.ca.us

**Donna Ferebee**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
donna.ferebee@dof.ca.gov

**Artie Fields**, City Manager, *City of Inglewood*  
1 Manchester Boulevard, Inglewood, CA 90301  
Phone: (310) 412-5301  
AFields@Cityofinglewood.org

**Art Gallucci**, City Manager, *City of Cerritos*  
18125 Bloomfield Ave, Cerritos, CA 90703  
Phone: (562) 916-1310  
agallucci@cerritos.us

**Anil Gandhi**, Finance Director, *City of Downey*  
**Claimant Contact**  
11111 Brookshire Avenue, Downey, CA 90241  
Phone: (562) 904-7265  
agandhy@downeyca.org

**Martha Garcia**, Director of Management Services, *City of Monterey Park*  
320 West Newmark Ave, Monterey Park, CA 91754  
Phone: (626) 307-1349  
magarcia@montereypark.ca.gov

**Susan Geanacou**, *Department of Finance*  
915 L Street, Suite 1280, Sacramento, CA 95814  
Phone: (916) 445-3274  
susan.geanacou@dof.ca.gov

**Howard Gest**, *Burhenn & Gest, LLP*  
**Claimant Representative**  
624 South Grand Avenue, Suite 2200, Los Angeles, CA 90402  
Phone: (213) 629-8787  
hgest@burhenngest.com

**Dillon Gibbons**, Legislative Representative, *California Special Districts Association*  
1112 I Street Bridge, Suite 200, Sacramento, CA 95814  
Phone: (916) 442-7887  
dillong@csda.net

**Jose Gomez**, Director of Finance and Administrative Services, *City of Lakewood*  
5050 Clark Avenue, Lakewood, CA 90712  
Phone: (562) 866-9771  
jgomez@lakewoodcity.org

**Troy Grunklee**, Director of Administrative Services, *City of La Puente*  
15900 East Main Street, La Puente, CA 91744  
Phone: (626) 855-1500  
tgrunklee@lapuente.org

**Heather Halsey**, Executive Director, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
heather.halsey@csm.ca.gov

**Chris Hill**, Principal Program Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
Chris.Hill@dof.ca.gov

**Linda Hollinsworth**, Finance Director/Treasurer, *City of Hawaiian Gardens*  
21815 Pioneer Blvd, Hawaiian Gardens, CA 90716  
Phone: (562) 420-2641  
lindah@hgcity.org

**Brittany Houston**, Finance Manager, *City of Santa Clarita*  
23920 Valencia Blvd, Santa Clarita, CA 91355  
Phone: (661) 255-4996  
bhouston@santa-clarita.com

**Diego Ibanez**, Director of Finance, *City of San Fernando*  
117 Macneil Street, San Fernando, CA 91340  
Phone: (818) 898-1212  
dibanez@sfcity.org

**Bernardo Iniguez**, Public Works Manager, *City of Bellflower*  
Department of Public Works, 16600 Civic Center Drive, Bellflower, CA 90706

Phone: (562) 804-1424  
biniguez@bellflower.org

**Chris Jeffers**, Interim City Manager, *City of South Gate*  
8650 California Ave, South Gate, CA 90280  
Phone: (323) 563-9503  
cjeffers@sogate.org

**Will Kaholokula**, Finance Director, *City of San Gabriel*  
425 South Mission Drive, San Gabriel, CA 91776  
Phone: (626) 308-2812  
wkaholokula@sgch.org

**Keith Kang**, Finance Director, *City of Palmdale*  
38300 Sierra Highway, Suite D, Palmdale, CA 93550  
Phone: (661) 267-5429  
kkang@cityofpalmdale.org

**Lisa Kurokawa**, Bureau Chief for Audits, *State Controller's Office*  
Compliance Audits Bureau, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 327-3138  
lkurokawa@sco.ca.gov

**Karina Lam**, *City of Paramount*  
16400 Colorado Avenue, Paramount, CA 90723  
Phone: N/A  
klam@paramountcity.com

**Kim-Anh Le**, Deputy Controller, *County of San Mateo*  
555 County Center, 4th Floor, Redwood City, CA 94063  
Phone: (650) 599-1104  
kle@smcgov.org

**Erika Li**, Chief Deputy Director, *Department of Finance*  
915 L Street, 10th Floor, Sacramento, CA 95814  
Phone: (916) 445-3274  
erika.li@dof.ca.gov

**Carmen Magana**, Director of Administrative Services, *City of Santa Clarita*  
23920 Valencia Blvd, Santa Clarita, CA 91355  
Phone: (661) 255-4997  
cmagana@santa-clarita.com

**Jill Magee**, Program Analyst, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
Jill.Magee@csm.ca.gov

**James Makshanoff**, City Manager, *City of Pomona*  
505 South Garey Ave, Pomona, CA 91766  
Phone: (909) 620-2051  
james\_makshanoff@ci.pomona.ca.us

**Elizabeth McGinnis**, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
Elizabeth.McGinnis@csm.ca.gov

**Jane McPherson**, Financial Services Director, *City of Oceanside*

300 North Coast Highway, Oceanside, CA 92054  
Phone: (760) 435-3055  
JmcPherson@oceansideca.org

**Bruce Moe**, City Manager, *City of Manhattan Beach*  
1400 Highland Ave., Manhattan Beach, CA 90266  
Phone: (310) 802-5302  
bmoe@citymb.info

**Lourdes Morales**, Senior Fiscal and Policy Analyst, *Legislative Analyst's Office*  
925 L Street, Suite 1000, Sacramento, CA 95814  
Phone: (916) 319-8320  
Lourdes.Morales@LAO.CA.GOV

**Debra Morton**, Manager, Local Reimbursements Section, *State Controller's Office*  
Local Government Programs and Services Division, Bureau of Payments, 3301 C Street, Suite 740,  
Sacramento, CA 95816  
Phone: (916) 324-0256  
DMorton@sco.ca.gov

**Geoffrey Neill**, Senior Legislative Analyst, Revenue & Taxation, *California State Association of Counties (CSAC)*  
1100 K Street, Suite 101, Sacramento, CA 95814  
Phone: (916) 327-7500  
gneill@counties.org

**Michelle Nguyen**, *Department of Finance*  
Education Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-0328  
Michelle.Nguyen@dof.ca.gov

**Andy Nichols**, *Nichols Consulting*  
1857 44th Street, Sacramento, CA 95819  
Phone: (916) 455-3939  
andy@nichols-consulting.com

**Jose Ometeotl**, Finance Director, *City of Lynwood*  
11330 Bullis Road, Lynwood, CA 90262  
Phone: (310) 603-0220  
jometeotl@lynwood.ca.us

**June Overholt**, Finance Director - City Treasurer, *City of Glendora*  
**Claimant Contact**  
116 E. Foothill Boulevard, Glendora, CA 91741-3380  
Phone: (626) 914-8241  
jOverholt@ci.glendora.ca.us

**Patricia Pacot**, Accountant Auditor I, *County of Colusa*  
Office of Auditor-Controller, 546 Jay Street, Suite #202, Colusa, CA 95932  
Phone: (530) 458-0424  
ppacot@countyofcolusa.org

**Arthur Palkowitz**, *Artiano Shinoff*  
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106  
Phone: (619) 232-3122  
apalkowitz@as7law.com

**Heather Parrish-Salinas**, Office Coordinator, *County of Solano*

Registrar of Voters, 675 Texas Street, Suite 2600, Fairfield, CA 94533  
Phone: (707) 784-3359  
HYParrishSalinas@SolanoCounty.com

**Marla Pendleton**, Director of Finance, *City of Lawndale*  
14717 Burin Avenue, Lawndale, CA 90260  
Phone: (310) 973-3200  
mpendleton@lawndalecity.org

**Keith Petersen**, *SixTen & Associates*  
P.O. Box 340430, Sacramento, CA 95834-0430  
Phone: (916) 419-7093  
kbsixten@aol.com

**Johnnie Pina**, Legislative Policy Analyst, *League of Cities*  
1400 K Street, Suite 400, Sacramento, CA 95814  
Phone: (916) 658-8214  
jpina@cacities.org

**Adam Pirrie**, Finance Director, *City of Claremont*  
207 Harvard Ave, Claremont, CA 91711  
Phone: (909) 399-5456  
apirrie@ci.claremont.ca.us

**Jai Prasad**, *County of San Bernardino*  
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018  
Phone: (909) 386-8854  
jai.prasad@atc.sbcounty.gov

**Hue Quach**, Administrative Services Director/Finance Director, *City of Arcadia*  
240 West Huntington Drive, Arcadia, CA 91066-6021  
Phone: (626) 574-5425  
hquach@arcadiaca.gov

**Mary Ann Ruprecht**, Finance Administrator, *City of Santa Clarita*  
23920 Valencia Blvd, Santa Clarita, CA 91355  
Phone: (661) 255-4926  
mruprecht@santa-clarita.com

**Camille Shelton**, Chief Legal Counsel, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
camille.shelton@csm.ca.gov

**Carla Shelton**, *Commission on State Mandates*  
980 9th Street, Suite 300, Sacramento, CA 95814  
Phone: (916) 323-3562  
carla.shelton@csm.ca.gov

**Hannah Shin-Heydorn**, City Manager, *City of Signal Hill*  
2175 Cherry Ave, Signal Hill, CA 90755  
Phone: (562) 989-7302  
hshinheydorn@cityofsignalhill.org

**Natalie Sidarous**, Chief, *State Controller's Office*  
Local Government Programs and Services Division, 3301 C Street, Suite 740, Sacramento, CA 95816

Phone: 916-445-8717  
NSidarous@sco.ca.gov

**Michelle Skaggs Lawrence**, City Manager, *City of Oceanside*  
300 North Coast Highway, Oceanside, CA 92054  
Phone: (760) 435-3055  
citymanager@oceansideca.org

**Christina Snider**, Senior Deputy County Counsel, *County of San Diego*  
1600 Pacific Highway, Room 355, San Diego, CA 92101  
Phone: (619) 531-6229  
Christina.Snider@sdcounty.ca.gov

**Dennis Speciale**, *State Controller's Office*  
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816  
Phone: (916) 324-0254  
DSpeciale@sco.ca.gov

**Jeffrey L. Stewart**, City Manager, *City of Bellflower*  
16600 Civic Center Drive, Bellflower, CA 90706  
Phone: (562) 804-1424  
jstewart@bellflower.org

**Ken Striplin**, City Manager, *City of Santa Clarita*  
23920 Valencia Blvd, Santa Clarita, CA 91355  
Phone: (661) 259-2489  
hmerenda@santa-clarita.com

**Jana Stuard**, Finance Director, *City of Norwalk*  
12700 Norwalk Blvd, Norwalk, CA 90650  
Phone: (562) 929-5748  
jstuard@norwalkca.gov

**Tracy Sullivan**, Legislative Analyst, *California State Association of Counties (CSAC)*  
1100 K Street, Suite 101, Suite 101, Sacramento, CA 95814  
Phone: (916) 327-7500  
tsullivan@counties.org

**Rose Tam**, Finance Director, *City of Baldwin Park*  
14403 East Pacific Avenue, Baldwin Park, CA 91706  
Phone: (626) 960-4011  
rtam@baldwinpark.com

**Brittany Thompson**, Budget Analyst, *Department of Finance*  
Local Government Unit, 915 L Street, Sacramento, CA 95814  
Phone: (916) 445-3274  
Brittany.Thompson@dof.ca.gov

**Albert Trinh**, Finance Manager, *City of South Pasadena*  
1414 Mission Street, South Pasadena, CA 91030  
Phone: (626) 403-7250  
FinanceDepartment@southpasadenaca.gov

**Eric Tsao**, *City of Torrance*  
Finance Department, 3031 Torrance Blvd., Torrance, CA 90503  
Phone: (310) 618-5850  
etsao@TorranceCA.gov

**Ana Mae Yutan**, Analyst, Finance Specialist, *City of Los Angeles*

150 N. Los Angeles Street, Los Angeles, CA 90012  
Phone: (213) 978-7682  
AnaMae.Yutan@lacity.org